

QLS  
Symposium  
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# Defining Dementia Capability: A framework for legal practitioners

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## National Dementia Action Plan

2024–2034

### Action 7: **Build capability of the workforce to care for and support people living with dementia**

#### **Outcome statement for people living with dementia**

The people supporting me understand dementia and take time to learn about me and listen to my concerns. I am provided with care, support and information that meets my needs and is sensitive to my individual circumstances.

# Clinical Practice Guidelines and Principles of Care for People with Dementia

## Research questions

- **What does it mean for a lawyer to be 'dementia capable'?**
- What knowledge, skills, attitudes and behaviours are important so lawyers can meet the needs of people with dementia and other clients seeking to plan ahead for their future?
- What strategies would help lawyers to develop those attributes?

# Project participants & advisory group

## Participants

- Legal practitioners (n=22)
  - wills/estates/elder law specialists
  - serve on professional committees
  - community legal sector
- People with living experience (n=17)
  - person living with dementia
  - support person for someone with a diagnosis

## Advisory group (n=6)

- consumer and professional representatives





**Knowledge** →

**Legal rights & risks** →

**Capacity** →

**Communication** →

**Advocacy** →

## Dementia capability is vital for the legal profession

**Legal practitioner:** “We need to get a grip on our ageing population and the increasing numbers of clients with dementia. We need to have a much more detailed understanding of how to support clients with dementia.”

**Person living with dementia:** “having an educated legal group could make a big difference to a lot of people”

**Legal practitioner:** “There’s been an increase [in people with a dementia diagnosis] coming to us because their doctor has recommended it ... So that’s really good, but of course, it would be far better if they came before they had a diagnosis.”

# Knowledge

A dementia  
capable legal  
practitioner:

- Knows current information about dementia relevant to legal practice

A **person-centred approach** is required to identify and meet each client's unique needs and abilities.

## What we heard

**Person living with dementia:** “There's a stereotype that ... you're going to be really vague, and very old, and maybe not be able to communicate.”

**Legal practitioner:** “We can be misled by labels. ...We can think, well, all right, that person's got Alzheimer's therefore they're not capable of doing this, that or the other. Whereas, of course, it may well be that they are...”

## Legal rights and risks

### A dementia capable legal practitioner:

- Provides **comprehensive advice** on advance planning to enable clients to maintain choice and control in their lives
- Uses **preventive strategies** to reduce risks of exploitation and abuse
- Knows how to **identify and respond** to potential situations of exploitation or abuse
- Recognises the needs of **diverse persons** with dementia and provides relevant legal advice and assistance
- Is aware of and has **professional networks and referral pathways** to relevant services and programs

## What we heard

**Person living with dementia:** “From the minute a person is diagnosed... we need the legal side to come in, in a big way for people with dementia.”

**Legal practitioner:** “We’re thrown into the deep end where everything’s become urgent. If we had more skilled practitioners in the area, it wouldn’t get to that point. We don’t need to be dealing with a crisis all the time. We could actually ensure that these clients have the ability to put documents in place” to plan for the future.

# Capacity

A dementia  
capable legal  
practitioner:

- Understands **principles** of decision-making capacity
- Identifies when client capacity **may be in question** and carries out appropriate steps to assess client capacity
- Applies strategies that **support** decision-making for people with dementia
- Recognises and responds appropriately when they cannot act for a person due to a lack of capacity

## What we heard

**Person living with dementia:** “[My solicitor] has been very empathetic and understanding and helpful ... one of the things was checking on capacity. He said to me early on that he needed to do that, but he was very respectful.”

**Legal practitioner:** “We [the legal profession] have such significant challenges with people understanding capacity. [We think] this person’s got dementia and they don’t have capacity.”

# Communication

A dementia  
capable legal  
practitioner:

- Communicates **effectively** with clients
  - guided by the client's preferences
  - listens with empathy
  - focuses on the client in situations where a support person is present
- Uses **respectful** communication
  - inclusive and non-stigmatising language

## What we heard

**Person living with dementia:** “You can have lawyers who have plenty of knowledge, but if you haven’t got the empathy ... then the knowledge is pretty dry.”

**Person living with dementia:** “The emphasis should be on the communication. [The lawyer] taking time to make sure that they’re understood, and they don’t get carried away with too much technical language.”

# Advocacy

A dementia  
capable legal  
practitioner:

- Considers and acts on opportunities to **advocate** for changes to laws, legal systems and practices
  - promote the **rights** of people living with dementia
  - support **prevention** by reducing risk factors for dementia

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information



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## Dementia capability for the legal profession

A growing number of people in Australia are living with dementia. A dementia diagnosis is a common prompt for people to seek legal advice to put plans in place for their future. Proactive legal planning may cover matters related to property and finances, living arrangements, health and lifestyle matters.

**[www.dementialawnetwork.org/dementia-capability](http://www.dementialawnetwork.org/dementia-capability)**

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# Discussion



## Key practice tips

- ✓ If a client has a diagnosis of dementia, **find out more information** so you can better understand and meet the client's needs.
- ✓ Re FEPOAs: Urge **careful selection of attorneys** and always attempt to put **conditions** when drafting EPOAs.
- ✓ Be familiar with and use the *Queensland Handbook for Practitioners on Legal Capacity*.
- ✓ Be familiar with and use **Dementia Australia's language guidelines** so you can talk and write about dementia in a respectful way.
- ✓ Contribute to **law reform submissions**; have a say in improving laws, legal systems and practices.