



What is the Mental Ability to Make **Property** Decisions?

Someone is mentally able to make decisions about their property if they have **both understanding** and **appreciation** of their property.

Understanding:

- Knows information about their property, such as bills and money in savings
- Can add and subtract using a calculator or on paper
- Knows how to use their money to meet their needs, such as different ways to pay bills



Appreciation:

- Reasons for taking risks with their property make sense based on their **values**
- Values are beliefs that are important to the person
- **Example:** Person believes it is important to help people, so loans someone money knowing might not get it back. Loaned only a little money so can pay bills if loan not paid back



Ability to make decision

Worried about someone's mental ability to make **property** decisions?

If someone notices a person is not mentally able to make decisions about property, they can arrange one of the four kinds of SDMs for the person.

Some kinds of SDMs **might not be possible** in the person's situation. For example, arranging an attorney for property is not possible if the person would not understand the POA paper.



More Information :

This pamphlet was written by Grey-Bruce Community Legal Clinic in June 2025 to give general legal information.

Talk to a lawyer about what the law means for you. You may contact Grey-Bruce Community Legal Clinic if you need help to find a lawyer.



519-370-2200, ext. 21



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www.gblegalclinic.com/elder-law-project/

Elder Law Project



Capacity to Make Decisions about **Property** in Ontario

Ontario law says people **age 18 and older** are **capable** to make decisions about their **property** unless there is proof they are not capable. **Property** is money and things a person owns, such as furniture or a house.

Capacity to make decisions is based on **mental ability**. It is not based on physical ability or medical conditions.

Mental ability is **not always the same**. A person might be mentally able to make decisions some days but not other days. They might be able to make some decisions but not other decisions.

Types of Substitute Decision-Makers (SDMs)

If someone is not mentally able to make decisions about their property, they need a **SDM** to manage their property. There are **4 kinds of SDMs** for **property** in Ontario.



1. Trustee of Government Pensions:

Friends or family can ask to be trustee of someone's **government pension**, such as Old Age Security.

Trustee can **only handle government pensions** and not other property, such as a work pension, even if the person worked for the government.

Contact the government office that pays the pension to find out how to become trustee of someone's pension.

2. Guardian of Property:

Someone named by the **court** to manage another person's property.

Speak to a lawyer about the papers that must be given to the court to become someone's guardian.

3. Attorney for Property:

Attorney is someone named in a paper called a power of attorney (POA) to make decisions about the person's property who signed the POA. Attorney **does not mean a lawyer** in Ontario law.

A POA might say the attorney can make decisions anytime or might say the attorney may only make decisions if the person who signed the POA is not mentally able to make decisions.



Steps to Justice
Your guide to law in Ontario

A POA does not have to be done by a lawyer. People can **use a website** to make a POA: <https://stepstojustice.ca>



4. Statutory Guardian of Property:

The **Public Guardian and Trustee (PGT)** becomes someone's statutory guardian if a capacity assessor says the person is not mentally able to make decisions about their property.



PGT is a person who works for the Ontario government. PGT's staff make decisions for people not mentally able to make their own decisions about their property.

If the PGT's staff think the person's family or friends would be good SDMs, the family/friends can become statutory guardian instead of PGT.

Anyone can pay a **capacity assessor** to decide if the PGT should become a person's statutory guardian if the person does not have an attorney or guardian for property.

Call the PGT's office for information about hiring a capacity assessor:
1-800-891-0504