



Making banking easier

A guide written by Dosh on how to work
with banks to get what you need

March 2014





Introduction

This guide is about getting access to banking. It gives you general information about important laws including the Equality Act, Mental Capacity Act and banking laws.

It includes tips and information on how to get support from banks and the different type of accounts you can choose from.

It also tells you where you can get more information and help and how to deal with problems.



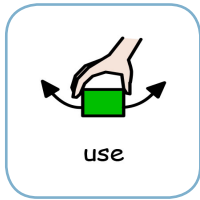
About bank accounts

This guide is about bank accounts. They are a way to look after and use your money through a bank or a building society.

Some people need support to open and use a bank account. This guide will help you to get the right bank account and the right support.

Bank accounts are used for lots of different things. You can put your benefit payments and other money into a bank account. You can use the money in the account to pay your bills and buy the things you like. You can also keep the money in the account to save it for things in the future, like a holiday.

Banks also do other things like loans, mortgages and investments. This guide does not talk about these things. If you want more information about these things, you can speak to a bank or use the links at the end of this guide.



Using this guide

You can read this guide yourself or with your family, support worker or financial advocate. You can use it to help plan a visit to the bank. You can also show it to the staff in the bank if you are having problems.

This guide includes:

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This guide was written by Dosh. Dosh supports people with a learning disability with their money. If you have questions about this guide or want support with your money, you can contact Dosh:

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EasyRead summary

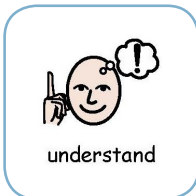


Banks and building societies look after money in different ways. One way is by letting you open a bank account where you can keep your money.



Sometimes people with a learning disability find it hard to open and use a bank account.

Tips on opening an account and getting support:



- Banks should support you by giving you good information and helping you to understand it.



- Banks have different types of accounts and different services to help people use their account and keep their money safe.



- Banks must not discriminate against people because of a disability or anything else about them.



- Banks should not assume you cannot have a bank account because of your disability.



- If a bank does not think you can decide something, they must do a mental capacity assessment. This is a way of checking if someone can make a decision.

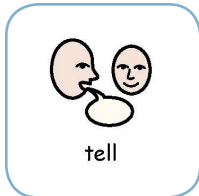


- Banks have to be careful about who opens an account and what information they share.

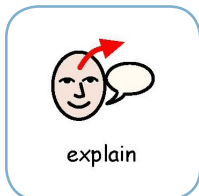


- If you are not happy with something a bank has done you should do the things on the next page. Keep following the list until the problem is fixed.

Fixing problems:



1. Tell them what support and changes you need to help you.



2. Ask them to explain their decision and what else they can do to help you.



3. Speak to the manager in the bank.

4. Speak to the bank's head office.



5. Make a formal complaint to the bank.

6. Report the problem to the Financial Ombudsman Service or Financial Conduct Authority.



7. Contact the Equality Advisory and Support Service helpline, Disability Law Service or Citizens Advice Bureau.

8. Think about taking the bank to court.



Look at the end of this booklet for more information and to contact these organisations.



Banking

Banks offer lots of different products and services, including bank accounts, where you keep your money. There are different types of bank account, including a basic bank account, a current account or a savings account.

Here you can read about how to get the right support with your bank account and what the banks should be doing to help you.

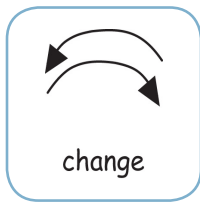
This guide does not tell you about other things that banks do like lending money to buy a house (a mortgage). If you have a bank account, the bank might write to you about these other things too. You should check carefully before you agree to anything new and talk about any changes with a friend.



Getting a bank account

Whenever you sign up to a bank account or another bank service, you should be careful. Make sure you understand what you are signing, how it will work and what it will cost you. Speak to someone you trust before you agree to anything with your bank.

If you are not sure, you might want to think about getting extra support with your bank account. Have a look at page 9 for more information about this.



Changing and closing your bank account

If you are not happy with your bank account any more, you should speak to your bank. You can choose to change or close your account if you want.

All banks have agreed to make changing or switching your bank account easy. If you find a new bank account you like, you can speak to this bank about helping you switch from your old account.

Sometimes your bank may make changes to your account. They should write to you about these and explain the changes.

Banks also sometimes shut down and stop offering bank accounts. Your money will normally still be safe, but it may take time to get it back.

You will have to write to the Financial Services Compensation Scheme to get your money and then put the money in a bank account with a different bank.



What should banks be doing?

When you talk to the bank about a bank account, they should:

- **start by assuming that you have capacity.**
- **have different types of accessible information** before you get a service (like advertising) and when you get the service (like in letters). They must tell you about these and make them available.
- **support you to understand the information they give you.**
- **offer different ways of accessing a service and tell you about these.** This should include internet and phone services.
- **have branches that you can visit.** Some banks have a branch near you, or let you use their services through the Post Office.
- **accept different things as proof of identity.** They can tell you what different things they accept as proof.
- **judge someone's capacity to make a decision by following the Mental Capacity Act,** if they are worried or unsure about someone's capacity.
- **explain why they will not give you a service or how they have decided that you do not have capacity.**
- **aim to use the least restrictive option for people who lack capacity.**
- **offer each person the best access to banking for them.** This could include different types of bank accounts that can be used with support if someone does not have the capacity to manage a bank account by themselves. These third party bank accounts are explained on the next page.



How can I get support with banking?

You do not have to tell your bank about your disability, but it will help if you tell them what adjustments and support you need.



With capacity

If you have the capacity to manage a bank account but still want some support, there are different things you can do, including:

Support from your bank: Banks can give you different types of support. For example, they can give you a chip and signature card, instead of a chip and PIN card. A PIN is a secret 4-digit number you usually have to remember to use your card.

They can give you information in different formats (like Easy Read) and they can explain things to you if they are hard to understand.

Third party mandate: You give another person temporary access to your bank account. The bank will have a form to let you do this.

Joint account: You share a bank account with another person and you both have full access to the money.

Basic bank account: You have your own bank account but it has some limits on what it can do. The details are different between the different banks.

They are for people with a low credit score, people that do not want an overdraft and people that want to limit how much they can spend and reduce the risks and costs of having a bank account.

Ordinary Power of Attorney: You give someone else control over all or part of your money and finances. This will stop if you lose capacity.

Lasting Power of Attorney for property and financial affairs:

You give someone power over your money and finances when you still have capacity.

They can help you manage your money if you would like them to, even if you have capacity to do so yourself.

**Without capacity****Appointee account:**

Your appointee (the person or group that manages your benefits for you) has a separate account for your benefit money (like the Dosh Client Account).

Lasting Power of Attorney for property and financial affairs:

You give someone power over your money and finances when you still have capacity.

Later, when you lose capacity to look after your own money, your attorney can step in and manage your money and property for you.

Court of Protection decision:

This is usually for a one-off or single decision, for example the court decides to let someone else sign a tenancy agreement for a house for you.

Court of Protection Deputy for property and financial affairs:

The court decides to appoint someone (your deputy) who can make decisions about your money for you, if you cannot make those decisions yourself.

Your deputy must work hard to support you to make decisions about your money yourself.

The deputy must only step in and make a decision for you, if you cannot make that decision, even with lots of help and support.

If you are interested in these options, speak to your bank to find out what they can offer you. The details of each account will be different between banks and it is a good idea to ask what other options they offer.

Remember, make sure you understand all the information about any banking service before you sign up for it.

If you want more information about making legal changes like power of attorney or the Court of Protection, visit the [gov.uk](https://www.gov.uk) website.



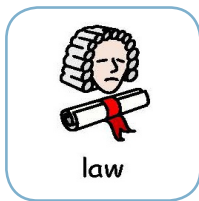
How can I deal with problems?

Follow each of these steps to get the right support and get help with any problems. These steps also tell you how to make a complaint. These steps apply to banks, building societies and other companies that let you pay for things like Paypal.

1. When you first go to the bank, speak to someone about what support you need, so that they understand your disability and how this might affect your banking.
2. If they make a decision that you do not like, ask the staff member or branch to explain how they made their decision. Tell them what the problem is, what it has caused and why you think they have done something wrong like discriminating against you. Ask them to explain their decision following the Equality Act or Mental Capacity Act.
3. If the problem is caused by a rule that applies to everyone but causes you particular problems because of your disability, this could be indirect discrimination. Ask if the bank has thought about how this rule will affect people with different needs and whether they have done anything about this.
4. The bank may not be able to speak to your supporter or advocate about your bank account, but if you want them to say something for you, the bank can listen to them and write down the problem.
5. If your local branch cannot help or you are not happy with their answer you can speak to the bank's head office. There may be a disability, accessibility or customer services team. Ask them what support they can give you, what their policies on disability are and what reasonable adjustments they can make.

6. If you are still not happy you can make a formal complaint to the bank. The Financial Conduct Authority (FCA) checks what the banks are doing, so the bank has to take your complaint very seriously.
7. If you are not happy with the answer you get from the bank you can go to the FCA or the Financial Ombudsman Service.
8. If you are still not happy, you can contact the Equality Advisory and Support Service helpline, the Disability Law Service, or your local Citizens' Advice Bureau for help.
9. If you feel you have been discriminated against, you can also think about taking the bank to court. You must do this within 6 months of the problem and you should talk to a solicitor about this first. You may be able to get legal aid, but it is not guaranteed.

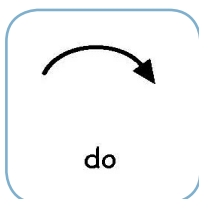
Contact information for these groups is on page 26.



What do banking laws say?

There are different laws that banks have to follow. They make sure that everyone's money is safe and that banks are being fair to everyone.

Sometimes banks will tell you that they have to do something because of banking laws. This section tells you what these banking laws are and helps you to understand them.



What you must do to get a bank account

This law tells banks what they must do to try to stop people using stolen money. They have to check the identity of everyone who uses their bank and keep a record of this. This is called **Customer Due Diligence (CDD)**.

They will need to check this before you open an account. They may also need to check this when you use your account in a branch, on the phone, or on the internet. Banks and individual people who work for banks can be fined if they do not do this.

The law is called the **Money Laundering Regulations 2007**. It says what documents the bank can use to check your identity. These can be your passport or a utility bill, but it can be other things too. You should ask your bank about the different things they accept.



How the banks should behave

Banks must give clear, relevant and easy to understand information so that people can make an informed decision.

They must also regularly give you a statement about how much money is in your account. They can give you this information in different ways and formats, like audio and plain English writing.

The Financial Conduct Authority (FCA) makes the rules for banks. The rules for bank accounts are in the **Banking - Conduct of Business Sourcebook (BCOBS)**. It is part of the FCA's Handbook which includes lots of other rules too.



Internet banking

Some banks let you use your bank account on the internet. They let you see how much money is in your account, where the money came from, and where it has gone.

You can use internet banking pay other people from your bank account. The same rules apply to internet banking as if you use the phone or visit a bank branch.



Electronic payments

You can use accounts and services to buy or sell things on the internet. Companies like Paypal provide the services. They are not banks, but the **Banking - Conduct of Business Sourcebook (BCOBS)** rules still apply to them.

They have to tell you all about their services before you use them, including what their charges are. The information they give you must be clear and easy to understand. The companies have to follow the rules in the **Payment Services Regulations 2009**.



Your private information

The law tells companies (like banks) who keep information about other people (like you) how they must keep it safe and when they can share it. This means they cannot tell someone from your family or your support worker anything about your bank account.

It is also really important that you keep all of your bank account details safe and private. The law protects confidential information about you with a law called the **Data Protection Act 1998**.

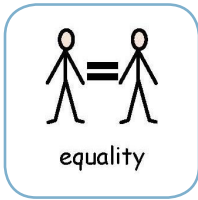


Making decisions

This law says how to make a decision (like opening a bank account) for someone if they cannot make the decision themselves. It says that 'anyone wanting access to money in a person's bank or building society will need formal legal authority¹.

This law is the **Mental Capacity Act 2005**. This means that banks cannot let someone from your family or your support worker use your bank account unless you have agreed this with your bank or a Court says they can.

¹Ministry of Justice (2007) Mental Capacity Act 2005 Code of Practice, London: The Stationery Office: 6.64.



What do equality laws say?

The Equality Act

The Equality Act 2010 is a law that says that anyone providing a service (including banks and building societies) must not discriminate against anyone with a “protected characteristic”. A protected characteristic is something about a person, like a disability.

This could include someone with a learning disability if their disability causes them lots of problems with doing things every day, like have difficulty reading and writing, or using the telephone.

There are different types of discrimination:

Direct discrimination: Treating someone worse because they are disabled. For example if a bank will not serve somebody just because they have a learning disability.

Indirect discrimination: Having a rule for everyone that causes more problems for disabled people. For example if a bank says that everyone must use telephone banking and does not have other options for people with speech or hearing problems.

Discrimination arising from disability: Treating someone worse because of something to do with their disability. For example if a bank will not serve someone because they have difficulties speaking (because of their learning disability).

Discrimination by association: Treating someone worse because they are connected with a disabled person. For example if a bank will not serve someone because they are with a disabled person.

Discrimination by perception: Treating someone worse because you think they are disabled. For example if a bank will not serve someone because they think they are disabled (even if they are not).

Harassment: Doing or saying things about a person's disability that upsets somebody. For example if a bank manager makes jokes about people with a disability.

Victimisation: Treating someone worse because they have complained that they have been discriminated against or helped someone else make a complaint. For example someone complains to a bank that they have been discriminated against and the bank says they will not have them as a customer anymore.

There are some exceptions to these laws. Banks may be allowed to have some rules or practices that cause more problems for disabled people if they can give a good reason for having them.

For example, a bank may refuse to serve a disabled person if it has a reasonable belief that the person does not have the capacity to make a particular decision. You can read more about this in the mental capacity section on page 20.

Please note, all the examples are about banks and disability because that is what this guide is about. This does not mean that these are the only examples of discrimination or that only banks do these things.



Reasonable adjustments

The Equality Act also says that service providers (for example banks) must make reasonable adjustments where a disabled person is put at a substantial disadvantage.

This means they must think about making changes when their services cause big problems for someone with a disability. This includes:

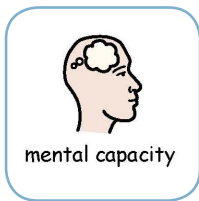
- the way they provide a service;
- physical access to the service; and
- special equipment or other extra help.

You do not have to tell your bank about your disability, but it will help if you tell them what adjustments and support you need.

The kinds of reasonable adjustments (changes) a person with a learning disability could expect the bank to make include:

- providing information in Easy Read and other accessible formats like large print or braille;
- improving access to the building; and
- spending extra time to help them understand the key features of a bank account.

How much a bank has to do depends on things like how big it is and how easy the changes are to make. A big, national bank must do more than a small, local credit union. If a change is easy to make and does not cost too much money, then the banks are more likely to have to do it.



The Mental Capacity Act

The Mental Capacity Act 2005 is a law about making decisions. Having mental capacity means being able to make a decision about something.

The five principles of the law are:

1. You should always assume that someone has capacity.
2. People should be supported to make their own decisions.
3. Making a bad or unwise decision does not mean you do not have capacity to make the decision.
4. If someone lacks capacity, decisions on their behalf should be made in their best interests.
5. If someone lacks capacity, any decision on their behalf should be the least restrictive on their rights and freedom.

The Mental Capacity Act applies to England and Wales. In Scotland, they have a different act called the Adults with Incapacity (Scotland) Act 2000. It is slightly different but still talks about supporting people to make decisions and what to do if they cannot make decisions. For more information on this, follow the links on page 25.



Judging capacity

For someone to lack capacity for a particular decision, they must have:

1. An impairment of mind or brain. This includes learning disabilities.
2. The impairment must mean that they cannot make the decision.

This second part is judged by a 'functional test'. This means a test of what the person can do. It is specific to the time and decision being made. The person must, on the balance of probabilities, be able to do all of these things to have capacity:

- Understand the relevant information.
- Remember the information long enough to make the decision.
- Use the information to think about the options.
- Communicate their decision in a way that other people can understand (with aids as necessary).

A judgement of capacity should not be based only on someone's age, how they look, their behaviour, or an assumption about their condition.

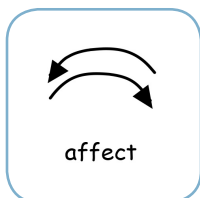
The assessment will be different for each decision. Someone could therefore have the capacity to make some decisions, but not others.



Who can make the judgement?

A judgement of capacity can be made by anyone, but it should be made by the person who is most relevant or closest to that decision. This includes bank staff when they have concerns about someone's capacity to look after their own bank account.

If it is a serious or complex decision, a fuller assessment should be made. This could be done by a doctor or another professional.



What can affect capacity?

The person should be supported to make a decision before they are said to lack capacity. This includes supporting them to access and understand the relevant information and communicate the decision.

Relevant information should be in an accessible format that suits the person making the decision. This could include:

- information written in Easy Read;
- information in large print, audio or braille
- using pictures;
- reading something together;
- talking about information;
- reading or discussing information several times;
- using a video.



Capacity to manage a bank account

You do not need to understand all the complex details of how banks work to have capacity to manage a bank account.

You must understand the basic information about how the account will work. You must also be able to use the account properly (with the right support).

It can be hard to prove that someone does or does not have capacity. There is no set test, but these questions could help you think about your capacity to manage a bank account:

- Do you understand what a bank account is used for? (For example, making payments and receiving benefits or wages)
- Do you understand what difference having a bank account will make to you?
- Do you understand what sort of account will be best for you?
- Do you understand how to use a bank account?
- Do you understand the importance of keeping your bank card and PIN safe and not sharing them?

Talk about these questions with a friend. Can you understand these things, if you get the right help and support?

If you already get support with your money, think about whether you could also use this to help with banking.

If you get formal support with your money, like an appointee or a power of attorney, people might think that you do not have any capacity with money and cannot open a bank account.

This may not be true, because each capacity assessment is different. Think about why banking is different and show that you understand bank accounts.



Different capacity assessments

Appointeeship

If someone does not have capacity to manage their benefits, they can have an appointee to do this for them. An appointee can only help with benefits. They cannot help someone to manage their savings or deal with any other money problems.

The Department for Work and Pensions (DWP) decides if someone needs an appointee by looking at their 'ability to manage their financial affairs and, more specifically, their ability to understand how to make and manage a claim to benefit².

This means that having capacity to manage benefits is different to having capacity to manage a bank account or make other decisions about your money. Each judgement of capacity is about a specific decision that needs to be made – for example deciding to open a bank account and making decisions about managing a bank account.

Although they are different, the 'functional test' for both will look at many of the same things.

Deputyship and Power of Attorney

If you have a Court of Protection deputy or lasting power of attorney, they will normally manage your money and bank accounts for you.

They may decide that you have capacity to manage some money, for example a basic bank account. They should discuss this with you and the bank.

²Department for Work and Pensions (2008) 'Part 5: Appointee', Agents, Appointees, Attorneys and Deputies Guide, <http://www.dwp.gov.uk/docs/part-05.pdf> (accessed 31/05/13).



resources

Resources

Easy Read information and support

- **BILD & Barclays** banking videos and EasyRead money links.
- The **Making Money Easier** resources from United Response.
- The **Money Matters to Me** website.
- Money Made Clear '**Help Looking After Your Money**'.

Banking



bank

- **British Bankers Association (2010)** 'Banking for people who lack capacity to make decisions'.
- **British Bankers Association (2013)** 'Guidance for people wanting to manage a bank account for someone else'.
- **Barclays (2012)** 'Banking Made Clear: Easy Read'.
- Financial Conduct Authority 'Know Your Rights' webpages
- Money Advice Service (2011) 'Help with managing your money if you, or someone you care for, lacks mental capacity'.

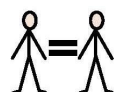
Proving identity



identity

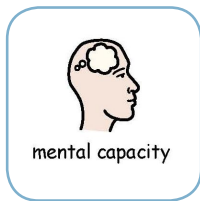
- **British Bankers Association (2009)** 'Proving your Identity'.
- **Money Advice Service** 'Identity Requirements for Basic Bank Accounts'.
- **Toynbee Hall** 'ID Handbook'.

The Equality Act



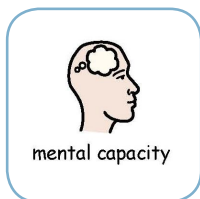
equality

- **Disability Law Service (2010)** 'Financial Services and the Equality Act'.
- **Equality and Human Rights Commission (2011)** 'Guide to the Equality Act: Easy Read'
- **Equality and Human Rights Commission (2011)** 'Equality Act 2010 Code of Practice'



The Mental Capacity Act

- **Ministry of Justice (2007)** Mental Capacity Act 2005 Code of Practice.
- **Ministry of Justice** 'The Mental Capacity Act: Easy Read Guide'.
- **Ministry of Justice** 'Mental Capacity Act' webpage.
- **Office of the Public Guardian (2009)** 'Making Decisions: A Guide for Advice Workers'.
- **Office of the Public Guardian (2009)** 'Making Decisions about your health, welfare or finances. Who decides when you can't?'



Adults with Incapacity (Scotland) Act

- **The Scottish Government** 'Adults with Incapacity' website
- **The Scottish Government** 'About the Adults with Incapacity (Scotland) Act 2000'



Research and guidance

- **ARC (2007)** 'Banking Matters to Me'.
- **ARC (2011)** 'Guidance on Money Management for people who may lack capacity to make some decisions about how their money is used'.
- **Gov.uk** 'Lasting Power of Attorney, being in care and your financial affairs' webpage & links, including Court of Protection.



Contact

Citizens Advice Bureau

Call: 08444 111 444

www.citizensadvice.org.uk

Disability Law Service

Helpline: 020 7791 9800

www.dls.org.uk/advice/index.html

Equality Advisory Support Service

Helpline: 0808 800 0082

www.equalityadvisoryservice.com

Financial Ombudsman Service

Call: 0800 023 4567 or 0300 123 9123

www.financial-ombudsman.org.uk

Find your Credit Union

www.findyourcreditunion.co.uk

Law Society of England and Wales

Call: 020 7742 1222

www.lawsociety.org.uk

Money Advice Service

Money Advice Line: 0300 500 5000

www.moneyadviceservice.org.uk



Thank you to our supporters

Dosh would like to thank the following organisations for their support and advice to make this banking guide:

Anthony Collins
solicitors



We would also like to thank Lloyds Banking Group for their support in producing this guide.

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