

Rehab Workshop

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seirbhís tacaíochta
cinnteoireachta
decision support service



The Assisted Decision-Making (Capacity) Act 2015



Easy read guide





Number 64 of 2015

Assisted Decision-Making (Capacity) Act 2015



The Assisted Decision-Making (Capacity) Act 2015 is a new law that supports the rights of people to make their own decisions.

We call it “the 2015 Act”.

The 2015 Act helps us to do what it says in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

What does the 2015 Act do?

It replaces the wards of court system

It has guiding principles

There are new levels of decision supports for people who need help with making decisions now or in the future

It sets up the Decision Support Service (called the DSS)

It has codes of practice for people to follow



Why do we need a new law?



CHAP. 22.

An Act to amend the Law in Ireland relating to Commissions of Lunacy, and the proceeding under the same, and the management of the Estates of Lunatics; and to provide for the visiting and the protection of the Property of Lunatics in Ireland; and for other purposes.

[25th May 1871.]

The old law is called the Lunacy Regulation (Ireland) Act 1871. Under the old law a person can be made a ward of court.

The President of the High Court make decisions for wards.

The new law replaces the old wards of court system for adults. All adult wards will come out of wardship within 3 years. The court will decide whether they need supports under the new Act.

There will be no new adult wards of court.



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Decision-Making Capacity

Decision-making capacity is about being able to decide about a particular thing at the time that you need to decide it.

Functional Assessment of Capacity

Decision-making capacity is assessed in a way that is called a functional assessment.



Decision-making capacity means being able to:

- Understand the information about that decision
- Remember the information long enough to make that decision
- Use the information to make that decision and
- Tell others about the decision you made, in whatever way you communicate

The Guiding Principles



These are rules in the Act which decision supporters and others must follow.

These are some of the guiding principles:



- To begin with, it is presumed that every adult can make their own decisions
- A person must be given all the help they need so that they can make their own decisions
- A person's will and preference must be respected
- If a person wants to make a decision that seems unwise, that does not mean they are unable to make that decision
- Respect a person's right to decide what happens to them, their body and their property.
- Act in good faith and for the benefit of the person

What sorts of decisions can be supported under the 2015 Act?



Property and Affairs

- Property, for example, if you need to buy, sell, or rent a house
- How you spend your money and pay your bills and taxes
- Providing for others
- Applying for benefits
- Carrying on a business
- Legal matters

Personal Welfare



- Accommodation, for example, deciding where you live and who takes care of you
- Healthcare, for example, deciding if you should have medical or dental treatment
- Deciding about education or training courses
- Planning holidays and social activities
- Using social services such as attending day services



Decisions not covered by the 2015 Act

These include decisions about:

- Making a Will
- Marriage, divorce, or separation
- Adoption
- Sexual Relationships
- Being a member of a jury
- Guardianship



Decision Supporters under the Act

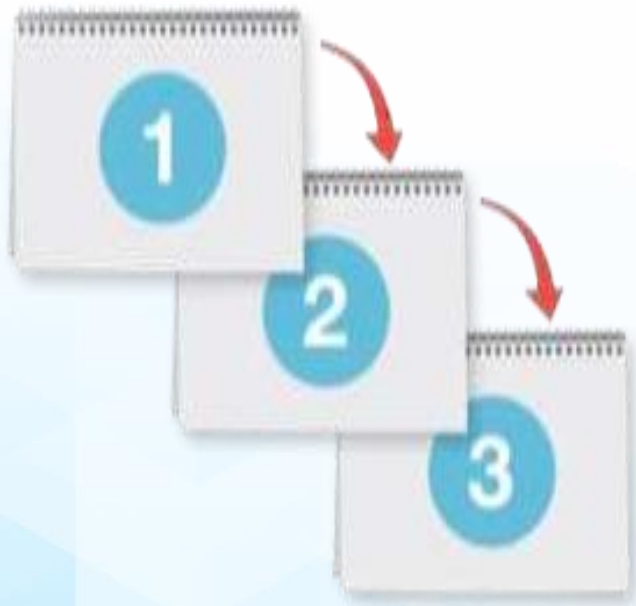


The Act puts in place new types of support.

This does not mean that everyone will need one of these arrangements.

That will depend on each person and the decisions that they need to make.





There are 3 different types of decision supports depending on how much help a person needs to make certain decisions.

A person can also plan for a time in the future when they might not be able to make certain decisions themselves.

The DSS calls all the people who help in these ways, 'decision supporters'

A Decision-Making Assistant is a Decision Supporter



Decision-Making Assistant

A person can choose to have a decision-making assistant to help them

The decision-making assistant helps by getting information and explaining it to the person.

The person still makes their own decisions.

A Co-Decision-Maker is a Decision Supporter



Co-Decision-Maker

If a person wants to make certain decisions jointly with another person, they can choose someone they trust to be their co-decision-maker.

This is called a co-decision-making agreement. They send this agreement to the DSS.

The person and their co-decision-maker then make those decisions and sign forms together.

The DSS checks to make sure that this arrangement is working well.

Decision-Making Representative

A Decision-Making Representative is a Decision Supporter



If a person can't make decisions even with supports, then an application can be made to the court.

The court can make a decision-making representation order.

The court order will say who the person's decision-making representative will be.

The court must listen to who the person wants as their decision-making representative.

The court will also say the types of decisions that a decision-making representative is allowed to make.

What can a Decision-Making Representative do?

A decision-making representative can only make decisions that the court sets out in the decision-making representation order.

The decision-making representative must still talk to the person and find out what they want to do.

The DSS checks to make sure that this arrangement is working well.





**An Bord Um
Chúnamh Dlíthiúil**
Legal Aid Board

Providing access to justice since 1979

If someone makes an application to court about your capacity, you can get help from the Legal Aid Board

The Legal Aid Board will also help people leaving wardship.

For more information please visit:

www.legalaidboard.ie

Planning ahead

Enduring Power of Attorney

It is a good idea to plan ahead.

An adult can choose someone they trust to make decisions for them at a future time if necessary.

These can be decisions about property and affairs or personal welfare or both.

This is written in a legal document called an Enduring Power of Attorney.

When you make an Enduring Power of Attorney under the new Act the DSS will keep it in their records.

It will only start to work if you become unable to make the decisions that are included in the document.



Planning ahead Advance Healthcare Directive



In an advance healthcare directive, a person can write down their wishes about their future medical treatment.

The advance healthcare directive only starts to work if the person is unable to make those decisions for themselves.

They can choose a person to make medical treatment decisions for them in the future.

Advance Healthcare Directive



The person they choose is called their 'designated healthcare representative'

The designated healthcare representative will make sure that people know about the person's advance healthcare directive and respect the person's wishes.

How will the DSS make sure that decision supporters are doing their job?



We supervise decision supporters to make sure they are acting as they should.

Co-decision-makers, decision-making representatives and attorneys must send us reports.

We will help them if they are finding this difficult.

If they do not send in their reports, we can follow up with them.



The DSS has help from our team of general visitors and special visitors.

We can ask them to visit the relevant person and other people to make sure that everything is being done properly.



The general visitor or special visitor will send us a report along with any documents that we may need.

If the decision supporter is not doing their job properly, they might be removed from their role.

DSS Register of Arrangements



We keep a register of decision support arrangements.

A register is a list of all the arrangements.

People or organisations can look at this list if they need to.

We will keep a record of any person or organisation who has been allowed to look at information on the register.

Complaints to the DSS



If any person is unhappy with the way a decision supporter is acting, or how a decision support arrangement has been set up, they can make a complaint to us.

The DSS will investigate and try to get things working again if that is possible.

The DSS might have to send the matter to the court.

The court can remove the decision supporter from their role.

DSS Codes of Practice

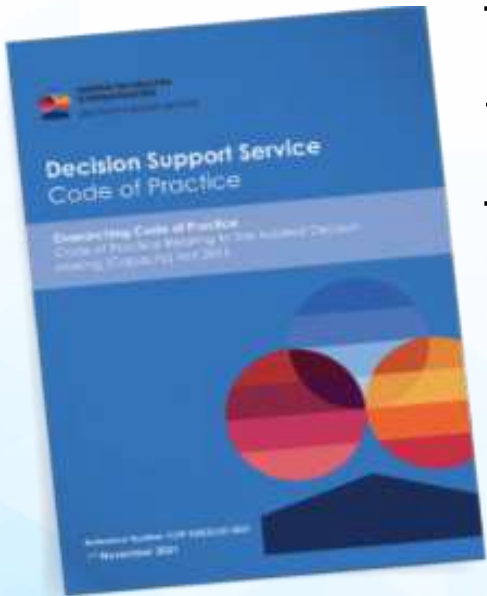
The Codes of Practice are a set of guidelines to tell people how to use the Act. You will find them on our website.

There is a code for everyone about supporting people to make their own decisions and the right way to assess capacity.

There are also Codes of Practice for:

- Decision supporters
- Healthcare staff
- Lawyers
- Advocates, and
- Financial services

This means that these people should know how follow the Act.





Our Information and Support Services Team is available to help with any questions about the service.

You can contact us by phone, email, letter or through our website. The phone number is:

01 2119750

We are happy to help with any questions or queries you may have.

The email address is:

queries@decisionsupportservice.ie

Our address is:
Decision Support Service,
Waterloo Exchange
Waterloo Road
Dublin 4
DO4 E5W7

Our website is:

www.decisionsupportservice.ie

Thank You



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This presentation is intended as an overview of certain parts of the Assisted Decision-Making (Capacity) Act 2015 and related matters and should not be relied on as legal advice or opinion



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