

# *Breaking Barriers: Enhancing Cancer Care for Individuals with Intellectual Disabilities*

Trinity Centre for Ageing and Intellectual Disability

14 May 2025

## Session 1: Ethics, Advocacy and PPI Assisted Decision–Making (Capacity) Act 2015 & the Decision Support Service

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cinnteoireachta

decision support service



# The Assisted Decision-Making (Capacity) Act 2015

We have an 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 Act began working on 26 April 2023

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





April 2023



## 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 High Court makes decisions for wards.



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[25th May 1871.]

The new law replaces the old wards of court system for adults. All adult wards are to come out of wardship by April 2026. The wardship court will decide whether they need supports under the new Act.





## 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:



- The starting point is 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 preferences** 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

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

## 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
- Taking part in research
- Using social services such as attending day services



## Decision Supporters under the Act

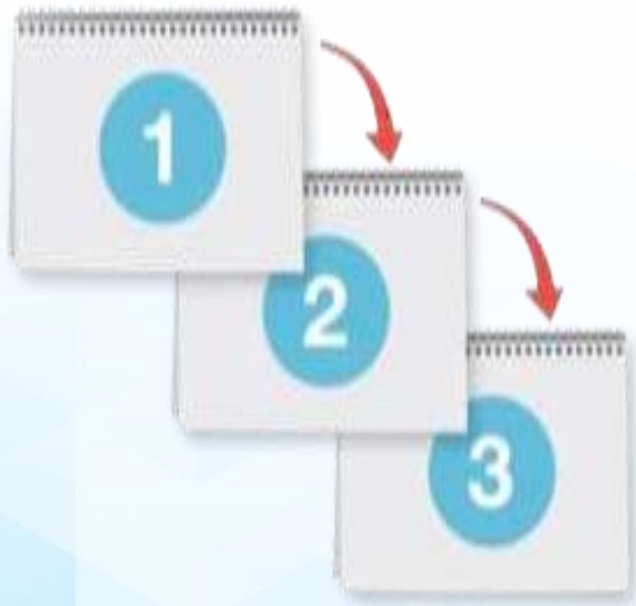


The Act makes available new types of support.

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 is not able to 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.



## 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 in future time if necessary.

These can be decisions about property and affairs or personal welfare or both but not decisions about treatment.

This is written in a 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.







## EPA Helpdesk In-Person Event Galway, November 2024

Dedicated EPA Helpdesk Freephone (01) 211 9750/  
email [EPAhelpdesk@decisionsupportservice.ie](mailto:EPAhelpdesk@decisionsupportservice.ie)







## Planning ahead Advance Healthcare Directive

A person who has capacity to decide is allowed to refuse treatment.

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.

## Approved template advance healthcare directive available on DSS website

### ADVANCE HEALTHCARE DIRECTIVE FORM

In this Advance Healthcare Directive form you can record your refusals and requests for healthcare treatments. You can also appoint a Designated Healthcare Representative and an alternative Designated Healthcare Representative to speak on your behalf should you lack capacity to make decisions about your healthcare treatment in the future.

This document is legally binding when signed and witnessed as explained in Section 5 of this form.

#### FORM

Under section 84(9) of the Assisted Decision-Making (Capacity) Act 2015 (as amended) the Minister for Health may for the guidance of persons wishing to make advance healthcare directives, specify forms of such directives, not inconsistent with this Part, that such persons may use or adapt in making their respective advance healthcare directives.

Under section 84(11), the Minister for Health may publish any forms of Advance healthcare directives that he or she has specified under sub-section (9) in such manner that he or she thinks appropriate, including by the use of a website on the internet.

This template advance healthcare directive has been approved by the Minister for Health and released for publication on the DSS website.

November 2023

#### SECTION 1: DETAILS OF THE PERSON MAKING THE ADVANCE HEALTHCARE DIRECTIVE (THE DIRECTIVE-MAKER) THESE DETAILS MUST BE COMPLETED

Name:	
Date of Birth:	
Contact Details (one or more of the following):	
a. Phone Number:	
b. Address:	
c. Email:	



## What does the Decision Support Service do?



We tell people about the 2015 Act

We provide information and guidance

We keep a register of decision support arrangements that people have put in place

We supervise decision supporters to make sure things are working well

We investigate complaints

We publish codes of practice





# DSS Register of Arrangements



We keep a register of decision support arrangements.

We register co-decision-making agreements  
decision-making representation orders made  
by the courts and enduring powers of attorney

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

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

## 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.

We can also investigate complaints about decision supporters to try to get things working well.

# DSS Codes of Practice

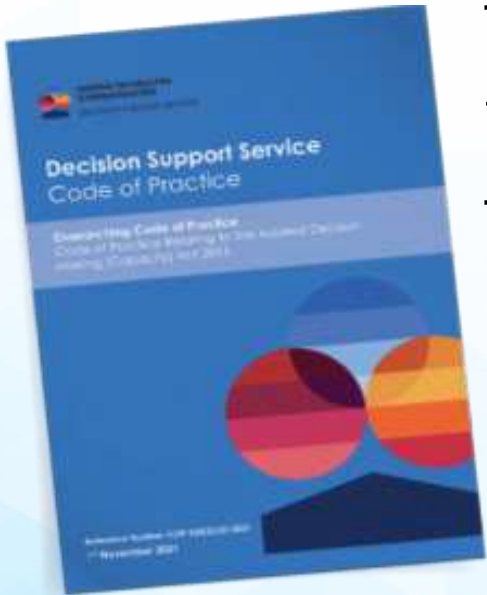
The Codes of Practice are a set of guidelines to tell people how to use the Act. You will find them on our website.

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

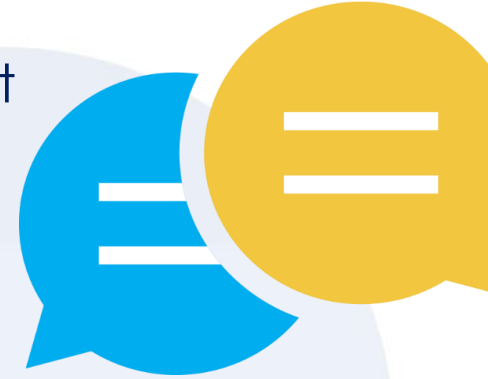
This means that these people should know how follow the Act.





# Considerations for healthcare professionals and service providers

- Please direct queries about the support framework to the DSS information service
- Anticipate interaction with decision supporters and understanding their remit
  - under the Act, including the guiding principles and
  - in specific decision support arrangements
- Access to DSS registers and obtaining copies when necessary
- Requests for formal capacity statements by healthcare professionals: DSS has collaborated with HSE to develop training; contact [adm@hse.ie](mailto:adm@hse.ie)
- Problems arising in a decision support arrangement; escalation of complaints to DSS



## Decision Support Service -Information Services

- The Information Services team is the first point of contact for most queries from members of the public or services.
- We operate a contact centre **9-4pm, Monday to Friday**
- The contact centre is operated in-house in the Decision Support Service

**Phone:** Freephone (01) 2119750

**Email:** [Queries@decisionsupportservice.ie](mailto:Queries@decisionsupportservice.ie)

## ○ Useful links

[www.decisionsupportservice.ie/](http://www.decisionsupportservice.ie/)

[Online resources](#)

[Easy to Read Guide to the 2015 Act | Decision Support Service](#)

[My Choices: Getting Support to Make Decisions | Decision Support Service](#)

[MyDSS online portal Help](#)

[Codes of Practice](#)

[Courts Service: information about applications to court](#)

[Legal Aid Board: Assisted Decision-Making and Discharge from wardship](#)









# Thank You



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[www.decisionsupportservice.ie/](http://www.decisionsupportservice.ie/)

Email: [queries@decisionsupportservice.ie](mailto:queries@decisionsupportservice.ie)

Telephone: 01 2119750

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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