

Key Principles in the Act:

Capacity must be assessed in a time-specific and issue-specific way

A *relevant person*

- is an adult who has difficulty, or may have difficulty in the future with making decisions that affect them
- is still presumed to be able to make decisions even if the decision they make is considered to be unwise
- must be supported and facilitated to participate in decision-making
- is given information in a way that is easily accessible to help them
- is formally supported only as much as necessary

A *decision supporter will*

- give effect as far as possible to the relevant person's past and present will and preferences
- act in good faith and for the benefit of the relevant person
- only obtain and use information relevant to the decision
- respect the relevant person's privacy and autonomy

Supports Available

The Act establishes tiers of decision support, each with varying levels of responsibility, depending on the relevant person's needs.

The Act also enables people to plan ahead, while they have capacity to do so with Enduring Powers of Attorney and Advance Healthcare Directives.

Decision support arrangements are monitored by the Decision Support Service.

Decisions can be about personal welfare, property and affairs or both.

Where can I get further information?

For further information, please visit the Decision Support Service link on the Mental Health Commission's website:

www.mhcirl.ie/DSS

Telephone: **(01) 636 2420**

Email: DSS@mhcirl.ie

Waterloo Exchange,
Waterloo Road,
Dublin 4 D04 E5W7

Please note: this leaflet is for general guidance only and is not a statement of the law



seirbhís tacaíochta
cinnteoireachta

decision support service

November
2019

A Guide to the Decision Support Service (DSS)

What is the Decision Support Service?

The DSS is a new service under the Assisted Decision-Making (Capacity) Act, 2015. Aine Flynn is the Director of the DSS. The DSS is not operational yet and work to establish the service is underway

The role of the Decision Support Service will be:

- to regulate and register decision support arrangements. There will be a register of these arrangements that will be open to inspection
- to supervise the actions of the legally appointed decision supporters
- to maintain a panel of decision-making representatives, special and general visitors and court friends
- to investigate complaints made under the Act
- to promote awareness and provide information about the Act

Once commenced, the Act will help to ensure that Ireland is compliant with the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD)

The Wards of Court system for adults will be abolished. Adult wards will have their cases reviewed within three years after the commencement of the Act

Examples of Decision Support Arrangements

Decision-Making Assistant Agreement (DMAA)

Breda, who is a widow, has some memory problems and sometimes struggles to understand certain information about her personal finances. Breda agrees that her daughter, Mary, will help her with decisions about her bank accounts, her pension and her bills. Mary will access relevant records and information for her mother and support her to understand and to communicate the decisions she needs to make. Breda will continue to make her own decisions. Mary can only do as much as is agreed with her mother in the DMAA.



Co-Decision-Making Agreement (CDMA)

Francis, who has an intellectual disability, wins €5m euro in the Lotto. There are concerns about Francis' ability to manage such a large sum of money. Francis is able to appoint his brother Keith as his co-decision-maker so that he and Keith can make decisions jointly about the money. Francis and Keith submit a CDMA to be registered with the DSS, which will supervise how the agreement works in practice.

Decision-Making Representation Order (DMRO)

Paul was involved in a motorcycle accident and has acquired a brain injury. He now has capacity issues and needs someone to make decisions on his behalf relating to his personal welfare and his property and affairs. His wife Blanche makes an application to the Circuit Court. The court makes a declaration of incapacity in relation to certain matters. The DSS registers the DMRO with Blanche named as her husband's decision-making representative. The DSS will supervise how the DMRO works in practice and the court will keep the incapacity declaration under review.



Enduring Power of Attorney (EPA)

Sorcha is married, has no capacity issues and has just bought her first house. She creates an instrument for an EPA. She names her husband as her attorney so that he can make decisions if she loses capacity in future. Sorcha acquires a brain injury as a result of a stroke and now has capacity issues. Her husband registers the EPA with the DSS, which will supervise how the EPA works in practice.

Advance Healthcare Directive (AHD)

Betty is in good health but wants to record her future will and preferences for medical treatment should she lose her capacity to make decisions. Betty makes an AHD which is signed, witnessed and registered with the DSS. She appoints her sister as her designated healthcare representative to act as her agent and to ensure that her family and healthcare team understand and interpret the terms of her AHD correctly.

