



National Office for Human Rights and Equality Policy

## Webinar 26<sup>th</sup> February 2024

### Assisted Decision-Making (Capacity) Act 2015: Discharge from Wardship

- 1 Where would we find further information on the NDA research?**  
You can find information about this webinar at <https://nda.ie/justice-equality-and-safeguarding/wards-of-court-research>.
- 2 If the RP's in full-time residential care, is the care provider seen as the committee?**  
No, committee is a formally appointed role in wardship
- 3 If a committee choose to have their own functional capacity assessment completed who would complete that?**  
This would be a separate assessment to that carried out by the Medical Visitor in cases where perhaps the Committee or RP disagrees with the outcome of the initial report. It is a matter for the Committee to select someone appropriately qualified to conduct the assessment. You should contact the Wards of Court office if you need copies of other reports to assist in this second assessment.
- 4 How many discharge cases have been reviewed to date, and what percentage of those have been placed in the decision making representative scheme?**  
More than 30 have come before the High Court with more in the process. The majority were assessed as requiring a DMR.
- 5 Will WOC Office have to commence discharge application if no other applications are made?**  
I cannot speak for Alice but I would imagine arrangements will need to be commenced in Year 3 by the WOC office where no applications are forthcoming in cases.
- 6 Can the relevant person request that their current committee not be considered as an option should they be deemed to require DMR?**  
Yes - the Court gives significant weight to the Will and Preference of the RP.
- 7 Reading the comments above, do I have it right that the Relevant Person can elect to obtain an independent capacity assessment, but that they will still be assessed by the Medical Visitor first in all cases?**  
Yes an independent Medical Visitor is sent by the WOC office to assess the functional capacity of a RP, once the discharge process under Part 6 is commenced.
- 8 Have many people entered wardship after 26 April 2023?**  
Over 200 people were declared Wards of Court in 2023
- 9 Is it the committee that makes the application initially?**  
The Act tells us that either the Committee or the RP can make the application. It is also possible for a person with a genuine interest in the welfare of the RP to seek the leave of the court to make a part 6 discharge application.



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- 10 Who pays for all the applications that are required?**  
Legal aid is available for Part 6 applications
- 11 A mother has cared for her adult daughter for 28 years. With no care support. This adult is full care with no decision making ability. She does not have finance or assets. Please outline does the mother need to go to court now, after 28 years to make decisions for her daughter?**  
There is no need to go to Court unless there is some specific problem that can't be solved otherwise. It sounds like this mother is doing fine as is - so no need for DMRO
- 12 Individuals who have been in Wardship for a lengthy period have had many decisions made by their committee with little opportunity to develop decision-making skills. A Medical Visitor reviewing them at this time may therefore need to recommend a DMR. Should there be an automatic review of all DMR decisions or can a Medical Visitor make this recommendation? Without sounding as if they are uncertain at this time based on this assessment? The underlying condition may be unlikely to change ie Schizophrenia or impairment post serious Head Injury - but the function of an individual where a co decision maker is available will not have been tested?**  
The Act prescribes that the High Court directs the Circuit to review capacity of an RP between 12-36 months after the discharge process under part 6 has concluded
- 13 Is legal aid only available for the RP?**  
There are presentations from the Legal Aid Board on the courts.ie website around the process.
- 14 Is the Medical Visitor assessment done in a single session or more than one session and is it a medical doctor/psychiatrist/other professional? And does the Ward pay for the Medical Visitor assessment?**  
I assume that is case dependent - if one or more session needed.
- 15 What about consent for medical care?**  
It depends on the tier of support. If decision making assistant, person consents for themselves, if CDM jointly with person, DMR may - if in scope of the DMRO - consent on behalf of person but will have to apply guiding principles
- 16 Hi similar to a question above, for family carers caring for members of family who may not dementia or an intellectual disability, would they need to get a DMR or some level now since this Act?**  
The need for formal support will always depend on individual circumstances and the decisions that the person needs to take. Formal supports are not automatically required.
- 17 Who is the medical visitor? Does the court appoint this person?**  
Usually a consultant psychiatrist, appointed by the Court, they attend the RP on the instructions of the WOC office



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- 18 **Leaving Wardship leaflet available here <https://www.courts.ie/assisted-decision-making-capacity-act>**
- 19 **Where an application for wardship has been but not yet processed can the transitional arrangements mentioned still be applied for to allow ADM be considered if deemed more appropriate?**  
Once the application is in the system prior to 26th April 2023 then the applicant can elect to invoke the transitional arrangements (ie s56 of the 2015 Act) instead of proceeding to full wardship declaration
- 20 **Will the General Solicitor for Minors and Wards of Court be handling each of the discharge applications where they are committee or have they put a panel of solicitors in place?**  
There is a separate team in the office dealing specifically with these applications
- 21 **What will happen refunds administered by the committee? If these are transferred to the Ward then they will have to be assessed and may affect their disability allowance?**  
If a committee holds funds for a WOC then these should have formed part of a DSP assessment in any event as an asset of the WOC Marie-Claire Butler
- 22 **Can RP have a Post Office Account or Credit Unit Account instead of a bank account?**  
Absolutely
- 23 **With regard to the assessment of individuals with communication support needs, is the process sensitive to the highly varied & specific receptive/expressive language & cognitive linguistic accommodations that need to be made?**  
Yes - we have already engaged translators to assist the RP in service and at the court hearing. All effort must be made to support people with communication needs and to maximise their ability to participate
- 24 **If someone who is married and the wife was next of kin but in the past 18 months the person in question developed a cognitive impairment and is no longer able make decisions or make an indication as to who should make decisions for them, she would before the act as the next of kin be considered, however in this case she is obstructive to his care and ongoing treatment, as he is placed inappropriately any advice would be beneficial?**  
Next of kin never had any legal status as decision makers. If there is a specific issue then it may be necessary to consider assessment and use of the ADM provisions