



## Newsletter Winter 2023



**Caoimhe Gleeson**  
General Manager

2023 was an exceptionally busy year for the National Office for Human Rights and Equality Policy. The commencement of the Assisted Decision Making (Capacity) Act 2015 (the 2015 Act) has brought significant changes for health and social care practice and for other legislation, policies, procedures and practices. Changes to the Nursing Homes Support Scheme Act 2009 have resulted in the abolition of the Care Representative who previously had powers to apply to the Nursing Homes Support Scheme on behalf of another person. This change now means that certain applications for the Nursing Homes Support Scheme will require a Decision Making Representative (DMR). Key issues which must be considered in an application for a DMR which relate to a Nursing Homes Support Scheme Application are set out in this newsletter.

The HSE National Consent Policy has been amended to reflect the changes brought about the 2015, Elaine McCaughley provides an update on these changes. Jacqueline Grogan and Shem Romanowski provide an update on the ADM Mentorship Programme which commenced in September 2023. Selina Doyle who is director of strategic development is one of the mentors on the programme and shares some of her experiences so far. Renee Summers who is a Senior Medical Social Worker in the National Rehabilitation Hospital shares her experience as a mentee on the programme.

Áine Flynn provides an update on behalf of the Decision Support Service on recent developments and plans for 2024. Ber Grogan from Mental Health Reform shares information on a new guide to effective public consultation process for people with psychosocial disabilities. Deirdre Shanagher from Nursing Homes Ireland provides highlights from a national conference on the 2015 Act for the nursing homes sector. Joe Nelis from the Social Work Service in Donegal highlights the efforts underway across social work teams in Donegal to apply the 2015 Act and the National Consent Policy to social work practice. Emma Callaghan reflects on the work being undertaken in Avista to apply the spirit and the letter of the 2015 Act to their practice. Safeguarding Ireland highlight their 'Plan Ahead to reduce the risk of adult abuse' event which was hosted in November 2023. The Mental Health Commission share information on a new e-learning programme on Human Rights and Mental health which will be released in early 2024. We have a special tribute to our friend and colleague Dr. Fiona Morrissey who sadly passed away in November 2023.

Thank you all for all of your support and collaborations on this historic year. We hope that we see evidence of the spirit and the intention of the Act being realised throughout 2024 and we look forward to more collaborations to realise this goal together.

Best wishes for a peaceful Christmas and a fulfilling 2024.

# Decision-Making Representatives - Key things to note



National Office for Human Rights and Equality Policy

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General Manager



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It is now almost 8 months since the Commencement of the Assisted Decision Making (Capacity) Act 2015 (herein referred to as the 2015 Act). So far the greatest activity in health and social care services since commencement of the 2015 Act has been in relation to Decision-Making Representatives (DMRs). The process for making a DMR is complex and cumbersome. There are some important things to remember when making or supporting a family or person to make an application for a DMR. These are set out in detail below.

## Powers of the Decision-Making Representative

**A Decision-Making Representative has no powers of restraint or detention.**

A decision-making representative cannot consent to a nursing home admission or an admission to a Residential care facility if the **person who lacks decision-making capacity objects to this admission**. If a person who lacks decision-making capacity is objecting to such an admission, an application to the High Court under its inherent jurisdiction must be made. A decision-making representative can only act in accordance with the power in the **decision-making representation order**. It is important to check what power a decision-making representative has- you can contact the Decision Support Service to check these powers- [www.decisionsupportservice.ie](http://www.decisionsupportservice.ie)

## Assessment of decision-making capacity under the 2015 Act

Where it is established that a person requires an assessment of their decision-making capacity under the 2015 Act, a functional assessment of capacity is required. This means that decision-making capacity must be assessed using the functional test of capacity.

It is not appropriate to use the Mini Mental State Exam (MMSE), the CSARs report or other assessments of cognition **as the means of determining whether or not person has decision-making capacity under the 2015 Act**. Cognitive assessments can be done as part of a comprehensive assessment of capacity unrelated to the 2015 Act. Any reports that lack a clear functional assessment of capacity will be rejected by the Circuit Court for applications for a Decision Making Representative.

Functional assessments can be completed by registered medical practitioners and any of the following healthcare professionals – social workers, nurses, midwives, speech and language therapists and occupational therapists.

The court may also seek additional reports to support the application for a decision-making representative.

## Least restrictive intervention

If you are seeking to apply for a decision-making representative for a person, the court will look for evidence that this is the least restrictive intervention.

Prior to undertaking an assessment of capacity for a decision-making representative, you should consider whether a co-decision-maker or a decision-making representative could support the person to make the decision. There should be evidence as to why the least restrictive option cannot be considered.

## Assessment of Capacity for a Decision-Making Representative (DMR)

A specific template for undertaking an assessment of capacity must be completed in support of an application for a Decision-Making Representative (DMR). This form seeks evidence that other less restrictive decision support arrangements have been considered and that the person's will and preference has been taken into consideration.

This form is available here: [part-5-capacity-statement-template-june-2023.pdf](http://part-5-capacity-statement-template-june-2023.pdf) ([hse.ie](http://hse.ie))



Online bespoke training on how to undertake assessments of capacity for Decision-Making Representatives is currently under development.

### **Legal aid for the relevant person**

If an application is being made to appoint a Decision-Making Representative for a person (known as a relevant person under the 2015 Act), the **relevant person** has a right to legal aid which is not subject to a means test. The staff member, person or their supporter should contact the legal aid centre in the area where they live who will be able to advise them: <https://www.legalaidboard.ie/en/contact-us/find-a-law-centre/>

Solicitors who are on the Legal Aid Board Panel for the 2015 Act can provide legal advice and legal aid in relation to the following:

- Legal advice in connection with the drafting of decision-making assistance agreements, co-decision-making arrangements, advanced healthcare directives, and enduring powers of attorney,
- Legal aid in connection with applications for a declaration as to capacity, a decision-making order or decision-making representation order, and

Legal aid in connection with the discharge of existing wards of court from wardship.

### **Applications to the Circuit Court by the HSE**

If the HSE intends to make an application for a Decision-Making Representative on behalf of a relevant person, it must first make an application to the Circuit Court seeking the consent of the court. If this consent is granted, the HSE can then proceed with an application for a Decision-Making Representative. It is important that the rights of the relevant person are safeguarded in this process and that they are facilitated to have access to legal aid from the outset of the application. Independent advocacy for the person should also be explored.

Information on how to make an application to the Circuit Court can be found at <https://courts.ie/capacity-applications-dmros-how-do-i-make-capacity-application>.

The forms required for the application to the Circuit Court can be found at <https://courts.ie/circuit-court-assisted-decision-making-capacity-act-court-application-forms>.

The Nursing Home Support Scheme have developed guidance for families who are completing decision-making representation order applications for the Nursing Home Support Scheme. This guidance can be obtained from the **Nursing Home Support Scheme Office** or contact [adm@hse.ie](mailto:adm@hse.ie).

### **Role of family**

The term 'next of kin' is widely used across health and social care services. Family and friends play an important role in helping establish a person's will and preference and should be involved in supporting the decision-making of the person in accordance with the Guiding Principles of the 2015 Act. However the term 'next of kin' has no legal standing under the 2015 Act.

### **Role of independent advocacy**

The 2015 Act requires the voice of the person to be heard in relation to hearings for decision-making representation orders. Advocacy organisations, for example Sage Advocacy, can play a key role in ensuring that the voice of the person is heard in court proceedings.



If you, on behalf of the Health Service, are considering applying for a decision-making representative for the person it is important that you explore engaging an advocacy organisation to support the person and to represent their will and preference.

### **Admissions to Residential Care where a person lacks decision-making capacity and does not wish to be admitted**

In a situation where a person lacks decision-making capacity, is currently in an acute hospital, requires an admission to a nursing home or a residential care facility and does not agree to this admission, an application must be made to **the High Court under 'inherent jurisdiction'** for the authority to make such an admission.

In these situations hospital solicitors need to be engaged as a matter of urgency and approval to contact the contracted legal firm should be urgently sought from hospital management. If there are no grounds for such an application the person may need to be discharged (generally home) in accordance with their wishes. If there are grounds for an application an ex-parte application to the High Court must be made.

These cases are always heard quickly and within a matter of days. At that time, if appropriate in the individual case, the Court could be asked for permission to transfer the patient pending the later hearing (after an independent medical review and with legal representation for the person).

### **Case tracker**

A case tracker has been developed to support services with applications to court for decision-making representation orders. This document should be used to track the progress of cases and to support in the identification of the reasons for any delays in the process. The tracker captures the following information:

- The date the solicitor was contacted
- The date the referral was made to the Legal Aid Board
- Whether there has been a referral for independent advocacy
- The date the capacity assessment was completed and returned
- The date the consent application was submitted
- The court date

It is recommended that this tracker should be used to support any applications for decision-making representation orders that your service is making or supporting.

The case tracker template is available at [adm@hse.ie](mailto:adm@hse.ie)

### **Court Delays**

If you or the person you are supporting have engaged a legal firm for the Decision Making Representative application it is important to follow up with the legal firm once you or the person you are supporting has submitted the paperwork. If there are long delays in getting a court date you should track the reasons for these delays and escalated reasons to [adm@hse.ie](mailto:adm@hse.ie).

### **Further supports**

Further supports are under development to make the process more accessible for staff who are supporting people through the DMR process. These will be available in January 2024. Email [adm@hse.ie](mailto:adm@hse.ie) for more details.

# Assisted Decision-Making (Capacity) Act



National Office for Human Rights and Equality Policy

Jacqueline Grogan  
Project Manager



Jacqueline Grogan  
Project Manager

## Webinar – Six Months Since Commencement

In October 2023, we hosted a webinar *The Assisted Decision-Making (Capacity) Act 2015: Six Months Since Commencement*. This webinar focused on providing an update on what has happened in the six months since commencement and the changes that have occurred in practice. It also looked at how and when to interact with the Decision Support Service, the Codes of Practice, the Decision Support Service Register, wardship transition, the Courts Service and the Nursing Home Support Scheme.

The event, chaired by Professor Mary Donnelly, School of Law, University College Cork, included presentations from Aine Flynn, Director of the Decision Support Service; Alice White, Registrar of the Office of Wards of Court; Professor Shaun O’Keeffe, Consultant Geriatrician, University Hospital Galway and Co-Chair of the HSE ADM Steering Group; and Ultan Hynes, Head of Service, Nursing Home Support Scheme, HSE.

Nearly 1500 people attended the webinar live on the day, and asked loads of questions through the Q&A function, which the presenters tried to answer in real time.

The recording of the webinar and presentations from the day are available for anyone who was unable to attend on [www.assisteddecisionmaking.ie](http://www.assisteddecisionmaking.ie).

**Manual ID Verification: Alternative to MyGovID**

**Why?**

- to ensure all applicants are able to be set up with a MyDSS account

**When?**

- manual identity verification is the first step of the process as with MyGovID verification

**Where?**

- contact DSS Information Services team
- forms is available on our website [here](#)

**How?**

- completed form, copies of proof of ID and address are sent to [IDVF@decisionsupportservice.ie](mailto:IDVF@decisionsupportservice.ie)
- do not send via post
- when completed, DSS will inform applicant that they can access the portal

**Benefits**

- Once ID verification is completed, applicant has access to online application process

**Drawbacks**

- Manual verification can take 4 weeks from submission
- Clarifications or incomplete forms take longer
- 1 in 2 applications have been incomplete

Copy link

# Assisted Decision-Making (Capacity) Act



**National Office for Human Rights and Equality Policy**

**Jacqueline Grogan and Shem Romanowski**



**Jacqueline Grogan**  
Project Manager

## HSE ADM Mentorship Programme

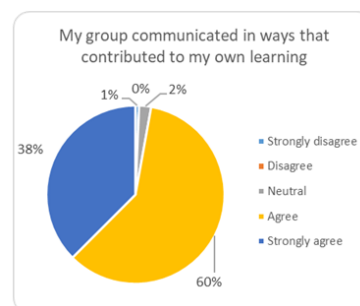
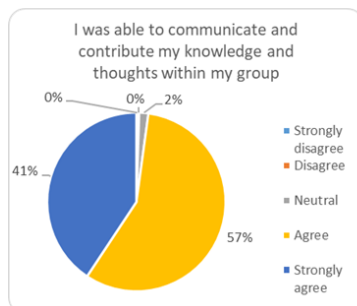
The HSE Mentorship Programme has been up and running for nearly 4 months now. The mentors and the mentees have been meeting in their mentorship sets, both virtually and in person, since the programme commenced in October.

When the mentors and mentees attended their initial events, we asked them to complete two short surveys. The first captured 'live' experiences and observations from the sessions and the second looked at key learnings.



**Shem Romanowski**  
Policy Support Officer

Feedback across both surveys was very positive, with over 94% of people agreeing that the workshops facilitated a safe space to explore issues related to the Assisted Decision-Making (Capacity) Act 2015 and that they felt comfortable enough during the sessions to contribute their thoughts and ideas. Other key findings included that mentors and mentees were clear on their roles following the training (96%), and that the events provided a safe space to work together before they would start the online mentorship sets (96%). Some further results are shown below. Feedback from the sessions will be used to further develop the programme.



The HSE National Office for Human Rights and Equality Policy were pleased to be selected to have a poster at the National Patient Safety Conference in Dublin Castle in October 2023. There was a large amount of interest in the mentorship programme at the conference.

In this newsletter, we are thrilled to have two articles about the mentorship programme, written by those who are participating in it - Selina Doyle from Aurora Kilkenny is one of the mentors and Renee Summers from the National Rehabilitation Hospital is one of the mentees.



# ADM Mentorship programme - Mentor Experience



**Selina Doyle**  
Director of Strategic Development



Selina Doyle

What attracted me to apply to become a Mentor on the ADM Mentorship programme was the opportunity to engage in a new way of learning, sharing and collaborating concerning the ADM alongside other professionals dedicated to upholding rights-based services.

Reassuringly, as a Mentor I am not required to have the answers or be well-versed in the legislation but am a conduit through which the group collectively learn and grow our skills, broadening our knowledge in a safe and supported manner.

Whilst I approached my first session with apprehension I quickly settled into the process and found the group to be open and eager to discuss complexities and challenges; exchanging ideas and offering solutions that assists our interpretation and application of this legislation. I was delighted to successfully complete the first session and look forward to future sessions where we will all learn as we go, utilising case law and information as it evolves to better understand what this transformative legislation offers when upholding a person's autonomy.

I have received comprehensive supports to enable me to fulfil my role thus far and whilst my group is small; the ripple effect of the mentorship model will hopefully cascade shared learnings and understandings across services nationwide. Adherence to the ethos and technicalities of this legislation may require challenging conversations regarding complex dynamics, so where better to tease out these issues but within a confidential and supportive mentorship framework?

# ADM Mentorship programme - Mentee Experience



**Renee Summers**  
**Senior Medical Social Worker / ADMA Lead**



I am a Senior Medical Social Worker in the National Rehabilitation Hospital in Dun Laoghaire, Co Dublin, most recently working with inpatients in the Brain Injury Programme. I am now transitioning to my new post as ADMA Lead in the NRH and am delighted to be a part of the HSE ADMA Mentorship Programme, which will no doubt provide me a wealth of information and discourse to draw from in establishing this new Office in the NRH.

**Renee Summers**

I found the initial in-person workshop in October to be a great introduction to the purpose and scope of the programme and a unique opportunity to network with a range of HSCP colleagues with a similar interest in embedding the guiding principles of the Act into everyday practice across different sectors. The smaller group I am in has a wonderfully diverse mix of medical and health and social care professionals, headed by an exceptionally experienced mentor. These factors will serve us well in understanding the challenges of ADM implementation from different disciplines' perspectives – but also will give us the rare opportunity to problem-solve different scenarios with the benefit of a hugely varied skill and expert knowledge base in different areas.

Two common concerns that have emerged in the healthcare space since commencement have been relating to facilitating patients' wishes when there is a high amount of risk attached to the decision being made and the patient's capacity is in question, as well as around patient flow concerns, especially when engagement with the Courts is required. I am looking forward to the rich and robust discussions we will have in these areas and the support we can provide to each other as co-mentees over the next year.



# Update from the Decision Support Service



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**Aine Flynn,**  
Director

## Update from the Decision Support Service

Seven and a half months is a long time in the post-commencement phase of 'once in five generations' legislation. Although the DSS has formally moved from establishment project mode to business as usual, we are aware that the operation of the Assisted Decision-Making (Capacity) Act 2015 is new and, to many, still unusual and we are committed to providing the necessary support.

### Information, Communication and Stakeholder engagement

A core statutory function of the DSS is to promote public awareness and confidence and to be a source of reliable information. The demand for information shows no sign of abating. By the end of November, the Decision Support Service had managed over 14,000 queries by telephone and email. Many of these queries are from potential service users and their families and carers, as they become aware of the 2015 Act and the opportunity to access the new decision support framework. We hope that we are seeing a reduction in some initial anxiety that the framework would be highly complex and an imposition in the lives of ordinary people. A person's need to access the decision support arrangements will depend on their own circumstances, and the decisions that they need to take about their personal welfare and/or property and affairs. These supports may be thought of as problem-solving tools to be availed of as required.

The DSS has continued its engagement with diverse stakeholders in health and social care, banking and financial services, disability services, regulators, carers' organisations, the Courts Service, the judiciary and the legal profession. On 30 November, we held a public event in Athlone on the theme of advance planning by way of advance healthcare directive and enduring power of attorney. This event was targeted at ordinary people but was also attended by legal professionals, disability services providers, advocacy groups and HSE staff. Feedback on the day was very positive. It was also an opportunity to introduce the template advance healthcare directive approved by the Minister for Health, which is now available on the DSS website

Our public information campaign 'My Decisions; My Rights', featuring our DSS champions has been relaunched on a number of media platforms and this will continue in the coming weeks. We are also running a DSS 'Advent calendar' on social media, providing short pieces of useful information every day throughout December.

As well as our own champions, we can see the value of professional champions, knowledgeable and committed colleagues who are prepared to spread the word about the 2015 Act in their own sectors. We have had really useful sessions with the HSE ADM Leads, learning about the practical challenges and rewards of applying the Act in practice. It is important to say that in many ways, the key principles of the 2015 Act were already in operation in health and social care.

# Update from the Decision Support Service

The person-centred approach, and respect for autonomy and informed choice were very much established before 26 April but there is always more to be done to translate principles into real life. Another promising development has been the proposal, led by the HSE National Office for Human Rights and Equality, for an inclusive forum involving financial services providers. The 2015 Act, properly applied, should facilitate rather than inhibit a person's access to banking and financial services and this forum has the potential to play a significant role.

Direct engagement by the public with the DSS online portal is increasing. The legislation facilitates a 'digital first' approach, allowing for authenticated copies of digitally created, registered, and retained documentation. We are not 'digital only' and, to meet accessibility requirements where necessary, we accommodate alternative manual processes for ID verification and the submission of applications. As of the end of November, over 3,500 fully verified online accounts have been created. Over 1,500 applications are currently in progress, the majority of which are for the registration of the new form of enduring power of attorney.

The DSS is continuing to engage directly with the HSE in relation to the development of direct digital access to the DSS register by members of bodies and classes of persons, which will include HSE staff. We hope to deliver this functionality early in 2024. In the meantime, enquiries about the register of co-decision-making agreements, decision-making registration orders and EPAs should be sent to the DSS at [registersearches@decisionsupportservice.ie](mailto:registersearches@decisionsupportservice.ie).

## **Applications to court**

The DSS is not a party to applications to the Circuit Court under Part 5 of the 2015 Act. We become involved during the process only if the court requests the nomination of decision-making representatives from our panel and these requests have been increasing in recent weeks.

The court sends its decision-making representation orders to the DSS for registration and supervision. We are aware that applications and orders are increasing at pace. It remains the case that many of these decision-making representation orders relate to the making of applications under the Nursing Home Support Scheme. Under the Act, any applications to the Circuit Court should be as a last resort when other supports are insufficient, and the voice of the relevant person must be meaningfully heard in proceedings.

Applications for discharge from wardship have been slower to build momentum but are underway. Again, the DSS is not directly involved in these applications. We are aware that the Office of Wards of Court is keen to address any reluctance on the part of wards, their families and committees to apply for discharge as all (approximately 2,200) adult wards must exit wardship by April 2026. Information on the discharge process is available from the Office of Wards of Court and the DSS is happy to help to address any concerns.

The DSS continues to see an overall positive reception to the 2015 Act. As we have said before, we are impressed by the willingness of diverse health and social care professionals to build their knowledge and play their part in delivering on the promise of this important piece of reforming legislation.

# Update v1.2 HSE National Consent Policy 2022



**National Office for Human Rights and Equality Policy**

**Elaine McCaughley**  
**Programme Lead Consent and DNACPR**



**Elaine McCaughley**  
Programme Lead

We are pleased to inform that the HSE National Consent Policy 2022 has been updated to incorporate the provisions of the Assisted Decision-Making (Capacity) Act 2015, as amended. We have worked closely with the HSE Office of Legal services and with HSE legal counsel to ensure that the updated policy v1.2 is aligned with the purpose and intention of the Act.

The updated policy will be available online on Monday 22nd January at [hse.ie/nationalconsentpolicy/](https://hse.ie/nationalconsentpolicy/).

We have scheduled 2 online learning events to introduce this update to staff on:

**Monday 22nd Jan 2 - 2.30 pm: Introduction to key updates in HSE National Consent Policy 2022 v1.2**

**Register here:** [https://eu01web.zoom.us/webinar/register/WN\\_erXZuuX1RomH9tFYsH1WCQ](https://eu01web.zoom.us/webinar/register/WN_erXZuuX1RomH9tFYsH1WCQ)

Following this introductory event, staff will be able to submit questions for a subsequent, interactive learning event on:

**Monday 29th Jan 2-3.30: New templates in HSE National Consent Policy 2022 v1.2 and Q&A.**

**Register here:** [https://eu01web.zoom.us/webinar/register/WN\\_E7nNgmEKRTCiy8NOIEUN5Q](https://eu01web.zoom.us/webinar/register/WN_E7nNgmEKRTCiy8NOIEUN5Q)

The updates to the policy include guidance on:

- working with decision supporters appointed under the Act,
- applying the guiding principles of the Act in practice, and
- decision-making in non-emergency situations where a person's capacity to decide about an intervention is in question or lacking.

Three new templates are included to support staff in documenting the basis on which an intervention is provided.



# 'Planning Ahead: Developing an Adult Safeguarding Framework'

## Safeguarding Ireland Day 2023



### 'Plan Ahead' to reduce risk of adult abuse – Adult Safeguarding Day.

Adult Safeguarding Day 2023 took place on Friday November 10. The event is an annual initiative of Safeguarding Ireland, supported by the HSE, and now in its third year. It was also coordinated in partnership with many organisations across the health, social, financial and justice sectors.

The aim was to raise a greater understanding of adult abuse and safeguarding and the emphasis this year was on 'go to' actions all adults can take to **Plan Ahead** and reduce their risk of adult abuse.

The recommended 'Go to' actions highlighted in the campaign were to:

- Make an Enduring Power of Attorney
- Nominate a Designated Healthcare Representative
- Choose who can Assist with Decisions.

Safeguarding Ireland also organised a seminar on the eve of Adult Safeguarding Day which focused on '*Planning Ahead: Developing an Adult Safeguarding Framework*'

Speakers included: HSE CEO Bernard Gloster, on *HSE Adult Safeguarding Policy*, Data Protection Commission Deputy Commissioner, Mary-Bridget Donnelly, on *Data Sharing and Adult Safeguarding* and Circuit Court Judge John O'Connor on '*The court's approach to hearing the voice of the person*'.



HSE CEO Bernard Gloster and Safeguarding Ireland Chairperson Patricia Rickard-Clarke at the recent Adult Safeguarding Day 2023 seminar

Learn more at [Adult Safeguarding Day 2023 - Safeguarding Ireland](#)

# Guide on Effective Consultation Processes



Ber Grogan

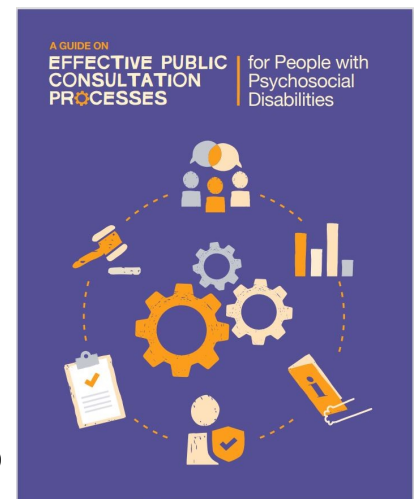
Mental Health Reform (MHR) has developed a Guide on Effective Public Consultation for People with Psychosocial Disabilities (mental health difficulties) to provide advice and information on how to consult effectively and inclusively with people with psychosocial disabilities.

People who have long-term mental health difficulties have rights under the UNCRPD. The term used by the United Nations to describe people living with long-standing mental health difficulties is “psychosocial disabilities”. This is not about a diagnosis; it is about the interaction between someone with a mental health difficulty and their social environment. Psychosocial disability refers to the functional impact or barriers that those living with mental health difficulties experience every day.

This guide is written to ensure that consultation processes by public services are as accessible and inclusive as possible for people who have lived experience of psychosocial disabilities. MHR is a funded member of the Disability Participation and Consultation Network (DPCN). The DPCN is funded by Government and exists to realise the spirit of Article 4 (3) of the UNCRPD.

The guide is a blend of good practice and evidence-based advice. MHR conducted two online focus group consultations with people with lived experience of mental health difficulties who generously contributed their insights to inform this guide.

Learn more here: [www.mentalhealthreform.ie](http://www.mentalhealthreform.ie) and view our UNCRPD videos here: <https://mentalhealthreform.ie/video-resources/>.



# HSE Social Work Service Donegal ADM Workshops 2023



Joe Nelis

Social Worker Team Leader, Primary Care, Donegal



Ahead of the curve and throughout 2023 the **HSE Social Work Service Donegal** seized the initiative and have coordinated a series of workshops and learning events exploring the key themes of the new **Assisted Decision-Making (Capacity) Act 2015**.

Across the HSE divisions, staff from Primary Care, Disability, Children's Disability Network Teams, Safeguarding, Mental Health, Hospital, Physical and Sensory Disability and Older Person's Social Work have teamed up and delivered workshops and information sessions exploring the implications of the new Assisted Decision-Making (Capacity) Act for Social Work and the wider HSE.

Joe Nelis

In March 2023 the first team event focussed on the **HSE National Consent Policy 2022** and it's correlation with the new Assisted Decision-Making (Capacity) Act. The following event on 26 April 2023 was held on the say the Act was fully commenced and was focussed on the functional assessment of capacity, then in September a workshop was held looking at anonymised case vignettes which was facilitated by Caoimhe Gleeson. The HSE Safeguarding Team presented a workshop in October 2023 focussing on the Assisted Decision-Making (Capacity) Act and its relevance to Safeguarding, as well as an overview and summary of the levels of intervention, and the 9 guiding principles. The final Assisted Decision-Making (Capacity) Act Workshop of 2023 was led by the Intellectual Disability Social Work Team with a focus on people with Intellectual Disabilities. The team were able to use video role plays to evidence how Social Work plays a pivotal role in supporting decision making using a rights-based approach.



The **HSE Social Work Service Donegal** will continue to lead out and co-ordinate these workshops into 2024 in addition to the Mentor/Mentee Programme as a means of developing Social Workers skills and understanding around the implications of the new Assisted Decision-Making Act for service users of the HSE.



# Nursing Homes Ireland ADM Education Day



Deirdre Shanagher

Strategic Clinical Nurse Expert with Regulatory Compliance.



Deirdre Shanagher

Nursing Homes Ireland, (NHI), hosted an education day about the Assisted Decision-Making (Capacity) Act 2015 for their members in the Louis Fitzgerald Hotel in Dublin on November 22<sup>nd</sup> this year. Approximately one hundred people working within and across the nursing home sector attended. Speakers included representatives from the Decision Support Service, the HSE National Office for Human Rights & Equality Policy, the legal profession, the HSE Nursing Home Support Scheme Office and Bank of Ireland.



Attendees heard about relevant changes brought about by the introduction of this important piece of legislation earlier this year that shines a light on the rights of nursing home residents. Through the panel discussions attendees were enabled to tease out issues arising within the nursing home sector, to include applications for decision-making representation orders, completing capacity assessments and seeking reviews of those currently still within wardship. Feedback from attendees indicated that the day was well received and there was a sense that lots more needs to be figured out as we all try to implement this legislation. A small sample of some of the feedback received from attendees is copied in below:

*Really timely, informative and a very positive day*

*This really helped to improve my current knowledge and I can apply it in practice to my work now. Every presentation was excellent.*

*Excellent day with excellent speakers and presentations on such a broad area. I found it clarified a lot of points. The speakers made it simple in their explanations.*

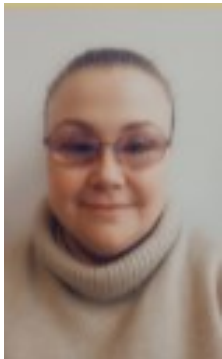
NHI extends a huge thanks to all speakers that took part on the day. We look forward to working with colleagues across the various sectors to ensure that NHI members feel supported in applying this legislation so that residents' rights can be kept to the forefront.

Email: [cns@nhi.ie](mailto:cns@nhi.ie) Visit our website: [www.nhi.ie](http://www.nhi.ie)

# Avista welcomes commencement of ADM



Emma Callaghan  
ADM Coordinator



As Avista reflect on the journey since the launch of the Assisted Decision-Making Act on April 26, 2023, we are thrilled to share the incredible strides we've made together in supporting decision-making across Avista services. Avista enthusiastically embraced the launch of the Assisted Decision-Making Act, initiating events across our services to mark this significant milestone. A cornerstone of Avista's response was the development and implementation of a comprehensive training program. This program covered essential aspects such as codes of practice, guiding principles, and decision support frameworks. Delivered as an extension of Assisted Decision-Making training modules on HSELAND, it served to heighten staff awareness and align our practices with the new Avista "Informed Decision & Consent" policy.

Emma Callaghan In our commitment to supporting individuals, Avista organised face to face and online discussion groups that invited supported individuals to actively engage in shaping their own decision-making processes. These sessions were designed to foster self-advocacy and highlight the significance of will and preference in decision-making.

Recognising the importance of accessibility, we developed and circulated Easy Read format posters on the Assisted Decision-Making Capacity Act (ADMCA). These materials served as valuable resources, ensuring that information about the Act was presented in a clear and understandable manner for all. Additionally, Avista introduced the Assisted Decision-Making resources folder across our services. This repository equips our staff with up-to-date tools and information, sourced from Human Rights Officers, Decision support service, Avista Speech & Language team, SAGE Advocacy, Managing Finance, NAS, HIQA, and Safeguarding Ireland.

Avista took a proactive approach by creating focus groups, beginning with the Limerick focus group in September 2023. This initiative aimed to gain insights directly from supported individuals, understanding their needs and preferences in decision-making support. The outcomes of these focus groups have been instrumental in determining the accessible information and videos shared on our internal electronic information sharing platform.

Supported individuals actively participated in "Getting to grips with the Assisted Decision-Making Act" training sessions at NUIG. This engagement provided a platform for self-advocates to delve into Ireland's new capacity law, contributing valuable perspectives and understanding of the ADM.

As we continue this journey Avista remains dedicated to ensuring that the will and preference of our supported individuals are at the heart of all decision-making processes.





# WHO Quality-Rights e-training on Mental Health, Recovery and Community Inclusion



## Global Context

There is a global movement to empower people to promote the human rights of people who access mental health services. The World Health Organisation's (WHO) [Quality-Rights](#) initiative supports people to understand a human rights model of mental health and how organisations and individuals can constructively and collaboratively contribute to advancing the rights set out in the UN Convention for the Rights of Persons with Disabilities (UNCRPD).

## Irish Context

Ireland is well-positioned to champion a human rights-based approach and UNCRPD. Ireland's current legislative agenda and policy initiatives cement a rights-based approach in service planning and delivery. In April 2023, the Assisted Decision-Making (Capacity) Act was signed into law, repealing two 19<sup>th</sup>-century laws about decision-making capacity. The new Act is a leading example globally of a modern legal framework to support decision-making by adults. In 2023 the heads of Bill for new Mental Health legislation were also published. At policy level "Sharing the Vision" articulates human rights as being one of the four key service delivery principles of mental health services in Ireland.

The Mental Health Commission, as regulator of Irish Mental Health Services, has given a strategic commitment to a human rights-based approach aligned with Ireland's commitment to the UNCRPD which will promote, champion and vindicate human rights. Indeed the mission of the Mental Health Commission is to promote and vindicate human rights in relation to mental health services and decision support services.

## Supporting Change

The World Health Organisation's (WHO) [Quality-Rights](#) initiative has developed an evidenced-based E-learning programme that provides a clear understanding of how human rights and mental health service delivery are connected. It is geared towards those who impact the experiences and rights of those with mental health difficulties. It aims to improve the quality of care and support in mental health and related services and promote service users' rights. Working with WHO and other key partners, the Mental Health Commission is inviting key stakeholders to shape this landmark change in Irish Mental Health Services.



Elaine McCaughley (HSE), Caoimhe Gleeson (HSE) and John Farrelly (Mental Health Commission)

# WHO Quality-Rights e-training on Mental Health, Recovery and Community Inclusion



## Guidance and Training

In 2024 the Mental Health Commission will launch training and guidance tools promoting an evidence-based human rights approach. The WHO Quality Rights initiative will form the basis of this approach and support organisations and learners to apply global best practices in their respective roles. This training will build capacity to:

- Support people who experience mental health difficulties or crisis with dignity and respect
- Tackle stigma, discrimination, abuses and unnecessary coercive practices
- Actively engage people in their own treatment, care and support plan, providing tools and empowering them to overcome challenges
- Provide valuable expertise and skills to lead reform towards a person-centred, rights-based recovery approach.

## This training is for:

All people who work on or walk the path of mental health recovery; including persons with lived experience, health and social care professionals, first responders, Gardaí, prison officers, Judges and legal professionals, Teachers, Family or Community members, Policymakers, employees of government, private and not-for-profit sectors.

## WHO Quality Rights e-training on Mental Health, Recovery and Community Inclusion

Sign-up at



**Join and be part of the targeted 10,000 Irish learners on this innovative online course and earn an official certificate from the World Health Organization!**

# Dr. Fiona Morrissey- Human Rights Advocate and Activist



**National Office for Human Rights and Equality Policy**



It was with great sadness that we learnt of the sad passing of our friend and colleague Dr. Fiona Morrissey on the 12<sup>th</sup> November 2023. Fiona was a graduate of the doctoral programme at the Centre for Disability Law and Policy, School of Law at the University of Galway. Fiona had extensive knowledge of and expertise in Irish mental health law and was appointed as a Lay Member of the Mental Health Tribunals by the Mental Health Commission. Fiona was a member of the

Ministerial working group charged with drafting codes of practice for advance healthcare directives under the Assisted Decision-Making (Capacity) Act 2015.

She provided on-going advice and guidance to our office on issues relating to advance healthcare directives and advance planning and was a leading advocate for ensuring that advance healthcare directives apply to people with mental health conditions in all contexts. She was one of our panel members for our webinar series on advance planning in COVID-19. Her most recent work with us was to advise on a standardised template for an advance healthcare directive which will be hosted on the website of the Decision Support Service.



We are so grateful that we had the opportunity to work with Fiona and will miss her passion and humanity. We are also grateful that we have a record of Fiona's work with us- she wrote a chapter in our book "The Assisted Decision Making (Capacity) Act 2015: Personal and Professional Reflections" which can be accessed here: <https://www.hse.ie/eng/about/who/national-office-human-rights-equality-policy/assisted-decision-making-capacity-act/assisted-decision-making-resources/>. Fiona discusses the importance of advance healthcare directives and advance planning in this webinar series: <https://www.hse.ie/eng/about/who/national-office-human-rights-equality-policy/assisted-decision-making-capacity-act/webinars/advance-care-planning-dnar.html>.

Our thoughts and prayers at this time are with her husband Mark, her parents and her family and her huge community of friends. Ar dheis Dé go raibh a h'Anam.



# Further updates and resources

*For further updates, join our mailing list,  
please email: [adm@hse.ie](mailto:adm@hse.ie)*

Useful resources available on the Assisted Decision-Making (Capacity) Act 2015, please see below latest updates:

- [HSE Assisted Decision-Making website](#)
- [HSE Explainer video on the Act](#)
- [Webinar on Assisted Decision-Making \(Capacity\) Act 2015: Update since commencement from the 14th June 2023](#)
- Decision Support Service statutory [Codes of Practice](#) on the 2015 Act including codes relating to:
  - [Healthcare Professionals](#)
  - [Advance Healthcare Directives for Healthcare Professionals,](#)
  - [Supporting Decision-Making and Assessing Capacity.](#)
- **NHSS:** For updates to the fair deal scheme application process and changes following the Assisted Decision-Making (Capacity) 2015 Act - <https://www2.hse.ie/services/schemes-allowances/fair-deal-scheme/>
- [Webinar on Getting ready for commencement of the Assisted Decision-Making \(Capacity\) Act 2015](#)
- [Webinar on Getting ready for Advance Healthcare Directives under the Assisted Decision-Making \(Capacity\) Act 2015](#)
- [ELearning Programme on Assisted Decision-Making \(Capacity\) Act \(2015\) – Guidance for Healthcare workers on HSeLanD](#)
- [Assisted Decision-Making \(Capacity\) Act 2015](#)
- [Transition from Wardship to the Assisted Decision-Making \(Capacity\) Act 2015: Guidance for Staff webinar recording from the 1st December 2022 and other related documentation](#)
- [Launch of the Easy-to-read webinar on the HSE National Consent Policy on 5th December 2022](#)
- [Decision Support Service](#)
- [Courts Service - Office of Wards of Court](#)
- [Decision Support Service Explainer Video](#)
- [Sage Advocacy Decision-Making and Capacity](#)
- [Inclusion Ireland Assisted Decision-Making](#)
- [Inclusion Ireland Easy to Read Assisted Decision-Making \(Capacity\) Act 2015](#)
- [Decision Support Services guides and video presentations](#)