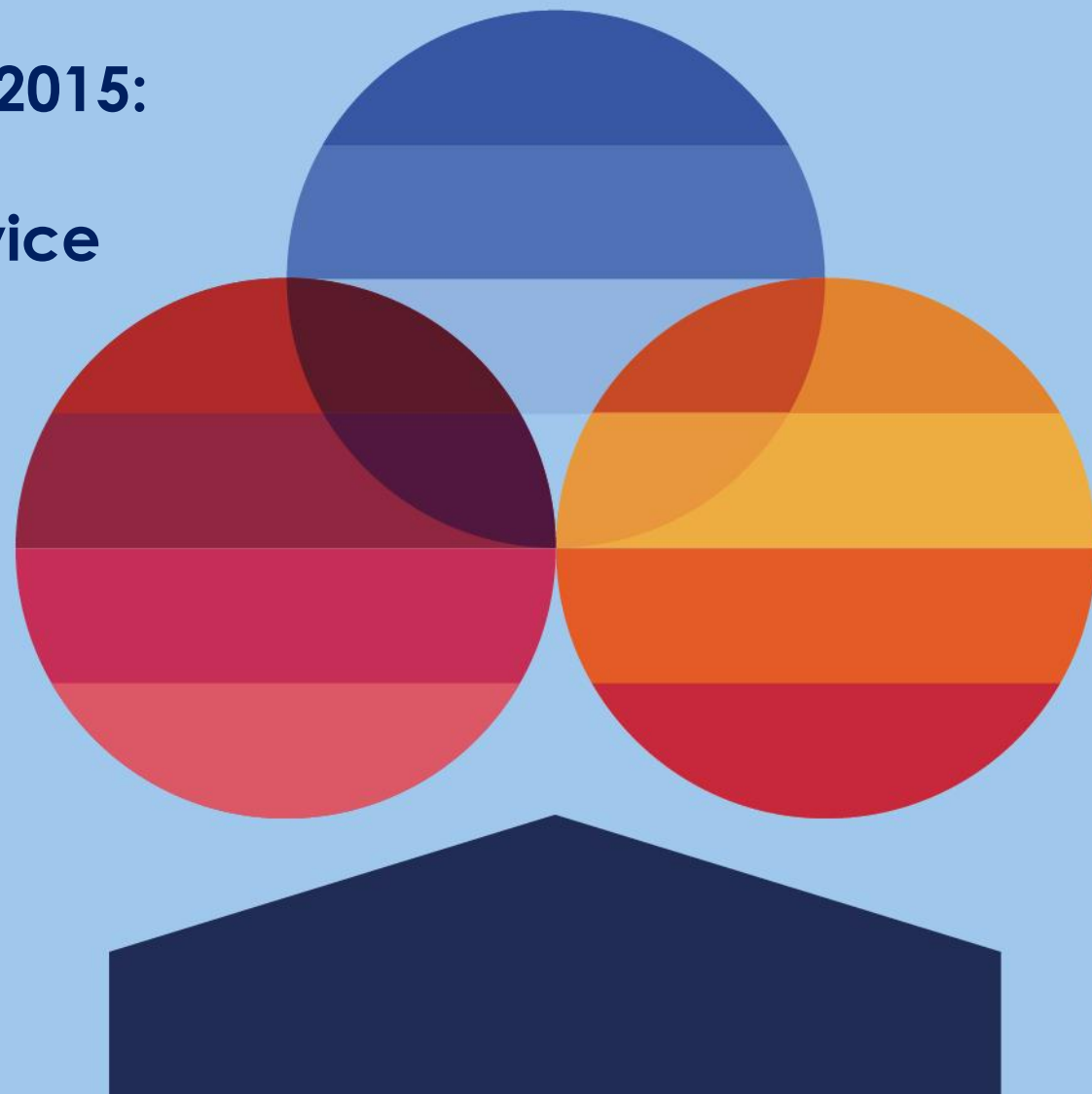


Getting ready for commencement of the Assisted Decision-Making (Capacity) Act 2015:

Interactions with the Decision Support Service

HSE Webinar
21.03.22

Áine Flynn
Director of the Decision Support Service



Decision Support Service (DSS)

Functions include:

Promote public awareness and confidence

Provide information to relevant persons about their options for exercising capacity

Provide information to decision supporters about the performance of their functions

Supervise the performance of decision support arrangements

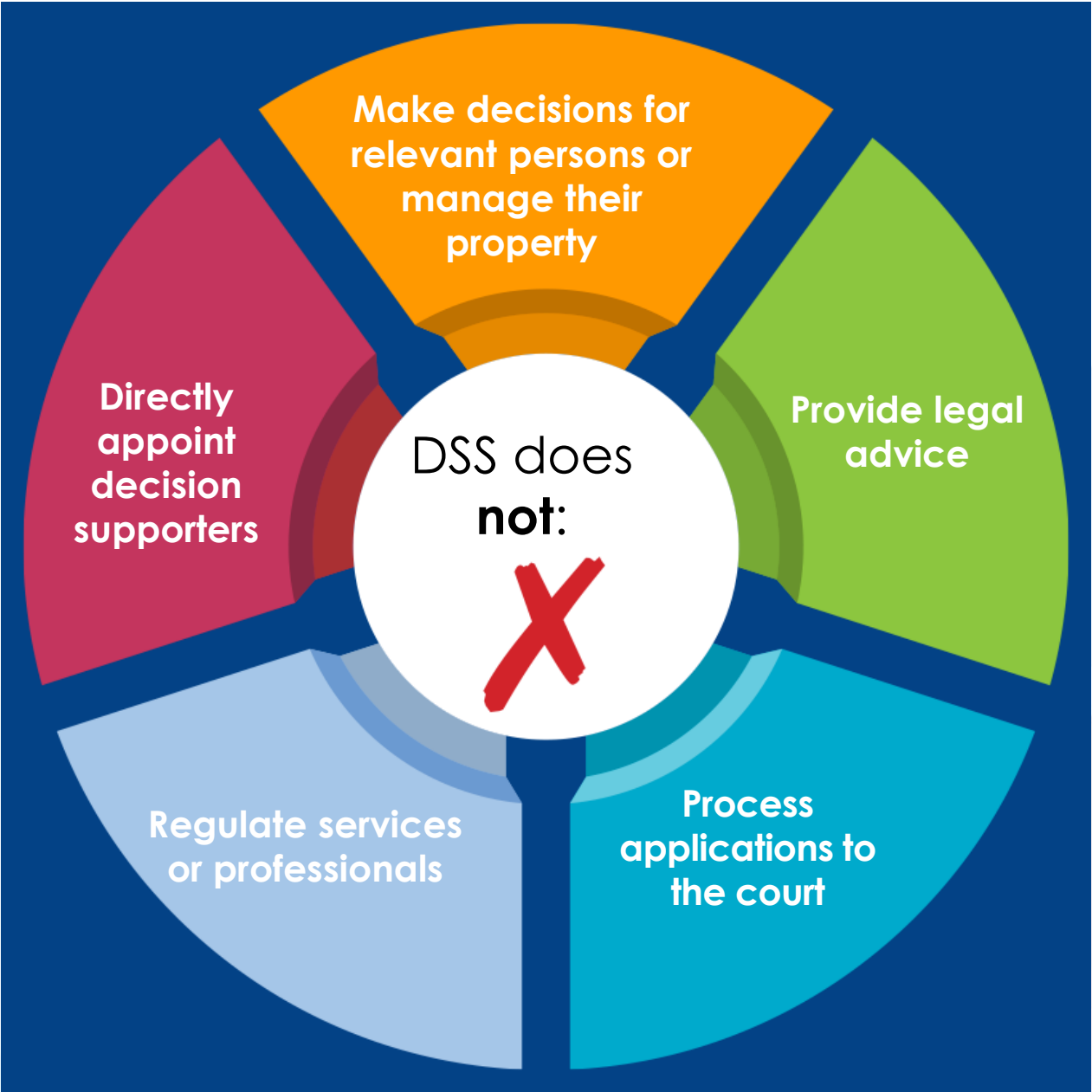
Provide information and guidance to organisations in relation to interaction with decision supporters

Maintain searchable registers of decision support arrangements

Publish codes of practice to provide guidance

Investigate complaints about decision support arrangements

Report and make recommendations on the operation of the Act to Ministers



New support framework – 3 tiers

3

Decision-Making Representative-
Court order Part 5 or Part 6 of Act
Registered with, supervised by DSS



2

Co-Decision-Maker-
Registered with DSS per process
Supervised by DSS



1

Decision-Making Assistant-
Notified to the DSS



Planning Ahead

Enduring power attorney

- registered with Decision Support Service
- may not include treatment decisions
- capacity statements required from medical / other classes of healthcare professional prescribed by regulation



Advance healthcare directive

- to enable person to be treated according to will and preferences
- to provide healthcare professionals with information about treatment choices
- refusal of treatment is as valid as if made contemporaneously





Part 5 applications to court

- Application to the Circuit Court by person with *bona fide* interest in welfare of the relevant person
- **High Court** has jurisdiction in cases concerning life-sustaining treatment
- the DSS is **not** directly involved in Part 5 applications
- Form of proceeding is to be provided for in court rules
 - application is for a declaration in relation to the relevant person's capacity in respect of specific decision(s)
 - application must be supported by a statement by a medical or other healthcare professional in relation to the relevant person's capacity
 - court may make a decision-making order or decision-making representation order
- Legal Aid will be available www.legalaidboard.ie

Register searches

The DSS register of arrangements is searchable by:

- bodies and classes of persons as prescribed by regulation and approved following DSS process
- a person who can demonstrate a legitimate interest

Prescribed bodies include:

- Designated centres
- Approved centres
- Public bodies and authorities
- Banks
- Regulated financial service providers

Prescribed classes of persons include:

- Legal practitioners
- Financial professional
- Registered healthcare professionals
-

24/7 access when approved

Legitimate interest:

- Any person can apply to the DSS
- Must demonstrate a legitimate interest in inspecting the register at that time

Case-by-case access

What will be on the register?

- We will keep a searchable register of the following arrangements:
 - co-decision-making agreements
 - decision-making representation orders
 - enduring powers of attorney
- We are required to keep a record of every request made to search a register.
- The following arrangements are **not registered** with the DSS at present:
 - advance healthcare directives – an AHD does not require registration to be valid
 - decision-making assistance agreements – DSS will be able to provide verification of a notified DMAA
 - enduring powers of attorney under the Powers of Attorney Act (1996) continue to be registered by the Office of Wards of Court.

Arrangements will only appear following the registration process

You may request different levels of information

What types of information can you request to access on the register?

Fees vary depending on the level of access you need

1 Confirmation that an arrangement exists: basic information

reference number, registration date, relevant person & supporter details, broad categories of decisions in the arrangement (property and affairs/personal welfare)

2 Full details of an arrangement –

details of decisions included in the arrangement and the supporter's scope of authority

3 A certified copy of an arrangement –

view full details of the arrangement and download a certified copy

'Bodies and classes of person' register access:

- Demonstrate that you are included in regulations to create an account
- Nominate administrator as main account holder and DSS liaison to manage account
- Administrator may apply for additional accounts

Phase 1:

- Administrator can contact the DSS to request a form to seek:
 1. Confirmation of an arrangement
 2. Detailed search
 3. Certified copy of the arrangement

Note:

You can also contact the DSS to confirm that an arrangement is valid and current.

Phase 2 –system planned release mid-2023 to coincide with uptake of registrations

- Dependent on business needs, bodies and professionals may register online through the MyDSS portal to become approved for 24/7 access

Investigations of complaints by the DSS

Grounds of complaint

- Acting outside scope
- Unsuitability
- Arrangement not in accordance with will and preferences
- Fraud, coercion, undue influence
- Capacity issues
- Breach of function or a breach of Act, including guiding principles

Director may

- Commission a special or general visitor
- Summon witnesses
- Take up evidence
- Escalate to court
- Amendment Bill: allows DSS to apply to court for temporarily suspension pending investigation
- Escalate for criminal investigation, if necessary
- Conduct own initiative investigations
- Resolve informally

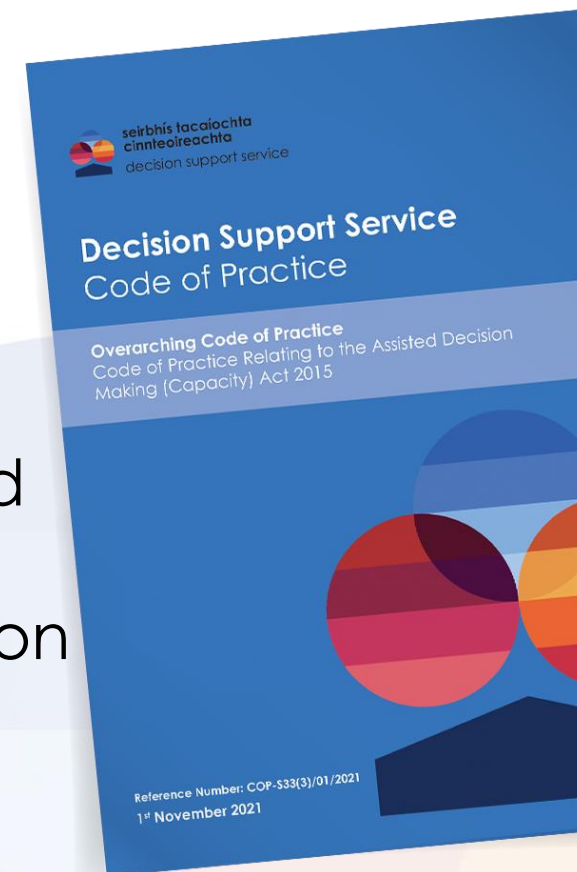


- **Complaint may be raised by service provider**
- **DSS may need to take up information from service provider**
- **DSS may need to engage with HSE Safeguarding; MOU**

Codes of Practice

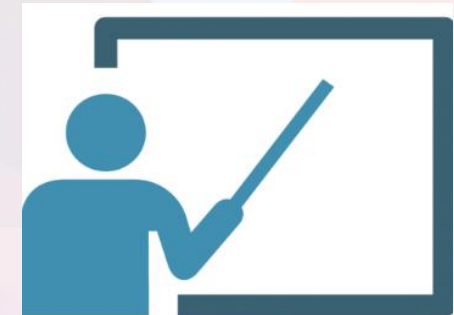
14 codes, including:

- general guidance code on supporting decision-making and assessing capacity
- guidance for healthcare professionals, including guidance on advance healthcare directives
- guidance for all categories of decision supporters
- codes to be published with Ministerial approval prior to commencement
- additional guidance materials will also be published



Training in respect of certain capacity statements

- Capacity statement is required from a medical practitioner or other healthcare professional prescribed by regulations in relation to
 - Part 4 co-decision-making agreement
 - Part 7 enduring power of attorney
- DSS has collaborated with HSE and external provider to develop training for assessors
- Training programme will be delivered online in advance of commencement



DSS Communications and Information

- Information and guidance materials on DSS website:
 - Recorded presentations
 - How-to guides
 - Explainer videos
 - Step by step guides to using DSS ICT system
 - Frequently asked questions
 - Easy read introduction to the 2015 Act and role of the DSS
- Public information campaign across all media platforms
- DSS information services team is already answering calls and emails
- Poster and leaflets have been made available
- Diverse stakeholder engagement will continue post commencement



Thank You



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cinnteoireachta

decision support service

www.decisionsupportservice.ie/

Email: 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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