

# Webinar Q&A - Transition from Wardship to the Assisted Decision-Making (Capacity) Act 2015: Guidance for staff

1<sup>st</sup> December 2022

**1. Are we going to receive a certificate of attendance at the end?**

A certificate of attendance will be issued to all attendees who attend the live event.

**2. Are the slides available?**

The slides, the transcript of the Q&A and the recording of the presentation will be uploaded to [www.assisteddecisionmaking.ie](http://www.assisteddecisionmaking.ie).

**3. Psychiatrist assessment of detention is a pity as under Mental Health Act these assessments will require another mental health professional**

Review and assessment under Part 10 in respect of detained wards is to establish the presence or not of mental disorder as defined by the Mental Health Act and for the court to direct whether the ward should remain in detention. This is separate from the broader Part 6 discharge process that applies to all wards.

**4. It was said that a Decision-Making Representation Order will be recorded on a searchable register. Does this include the name of the individual and who has access to this register?**

The Decision Support Service holds the register. A registered decision support arrangement includes all of the necessary information. The register is searchable, and copies are available to those with a legitimate interest and members of bodies and classes of professional as defined by regulation. This will include healthcare professionals. The Decision Support Service is working with the HSE about the best way to facilitate register searches.

**5. The slides are a little blurry and difficult to read. Will we get a copy please?**

The slides and the recording of the webinar will be available on [www.assisteddecisionmaking.ie](http://www.assisteddecisionmaking.ie) next week.

**6. Where can I get some more guidance in relation to the wardship process at the moment?**

A HSE guidance document was published was developed to provide a clear and consistent approach on steps required before an application for wardship of an adult is considered by the HSE. You can access it at <https://www.hse.ie/eng/about/who/national-office-human-rights-equality-policy/assisted-decision-making-capacity-act/wardship-applications-a-guide-for-health-care-workers-220222.pdf>. There is also information on the Courts website <https://www.courts.ie/wardship-adults>.

**7. For any individual seeking to be discharged now, would they have a stronger case once Act is enacted?**

Under Part 6 all adult wards must be discharged from wardship within 3 years of commencement.

Any such ward or a person on their behalf is eligible to apply to initiate that discharge process upon commencement of Part 6. At that point the new support framework will be available.

**8. Where can I find out more information on the Decision Support Service and where will I be able to review the Codes of Practice?**

The web address is [www.decisionsupportservice.ie](http://www.decisionsupportservice.ie) for all information and we expect to publish the finalised codes of practice on the website soon.

**9. If concerns are raised or a complaint about the Decision-Making Representative to a hospital, should the hospital automatically refer to the Decision Support Service for investigation?**

If it concerns their activities as a Decision-Making Representative, it is appropriate to refer. The Wards of Court Office will take any complaints about potential Decision-Making Representatives very seriously, as it does currently in relation to committees.

**10. What is the difference between the Irish and the UK Capacity Act. With this new act they appear to take on the same steps for assessment of capacity. Are there any differences in approach for assessment?**

There are a number of differences between this Act and the Mental Capacity Act in England and Wales. The Irish Act includes additional levels of support and supervision. In respect of the assessment of capacity, the Irish Act differs in that incapacity is not linked to a diagnosis.

**11. Where do people with Alzheimer's or dementia who are in a nursing home for their own safety but not a Ward of Court go for support?**

It was suggested to link in with [www.decisionsupportservice.ie](http://www.decisionsupportservice.ie) for information.

**12. As under the Irish Act there is not a list of diagnosis that can be used to trigger a capacity assessment, what situations would prompt a capacity assessment?**

The code on supporting decision-making and assessing provides guidance. Essentially capacity should not be assessed as a first step. The first step is to support the person's decision-making.

**13. Can other disciplines carry out a functional assessment i.e., psychologist?**

Yes.  
Separately, the formal capacity statements required in relation to Co-Decision-Making agreements and Enduring Powers of Attorney may be completed by a medical practitioner or healthcare professional prescribed by regulations.

**14. Where and how does advocacy services sit within the decision-making supports?**

An advocate providing support to the person can continue to provide support through the discharge process and can assist the person if they want to bring the application themselves.