

# **Supporting the consent process for the vaccination programme against Sars-CoV-2 (Covid 19) in Acute Hospitals**

**Ascertaining will and preference of people who lack decision making capacity in an Acute setting**

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**The UNCRPD's supported-decision making model recognises that ALL people have the right to make decisions and choices about their own lives.**

# KEY POLICY AND LEGISLATION

- 1. The Equal Status Act 2000** Protects people from discrimination on the grounds of disability (physical, mental or intellectual)
- 2. The Assisted Decision Making Act 2015** Everyone is to be presumed to be able to make all decisions unless the contrary is shown & the will & preference of the individual must be central to decision-making.
- 3. Medical Council Guide to Professional Conduct and Ethics 2019** Presumption of capacity / Support person to greatest degree possible to understand / Every adult with capacity is entitled to refuse medical treatment or withdraw consent.
- 4. Code of Professional Conduct & Ethics for Registered Nurses & Registered midwives** Promotes the autonomy of the person to the greatest degree / Never presume consent / Centrality of the person's will & preference
- 5. HSE Consent Policy**  
Consent is a basic rule of common law / No Next of kin decision making / Duty to maximize capacity / A refusal of treatment must be respected, even when decision may result in person's death (p.42).



# Vaccination programme (Covid 19)

Two broad categories of scenarios with people



**1. Those who Consent/Dissent.**



**2. Those for whom will and preference must be identified to inform a decision. (Assent)  
(best interpretation of will & preference)**



# Consent

- Stems from the right to bodily integrity
- Respects the person's right to autonomy
- Is specific to each intervention
- Is only valid if three essential components are present:
  1. Free
  2. Full
  3. Informed
- Principles of good practice outlined hold for all situations where a person is receiving healthcare or treatment: not just for the pandemic.

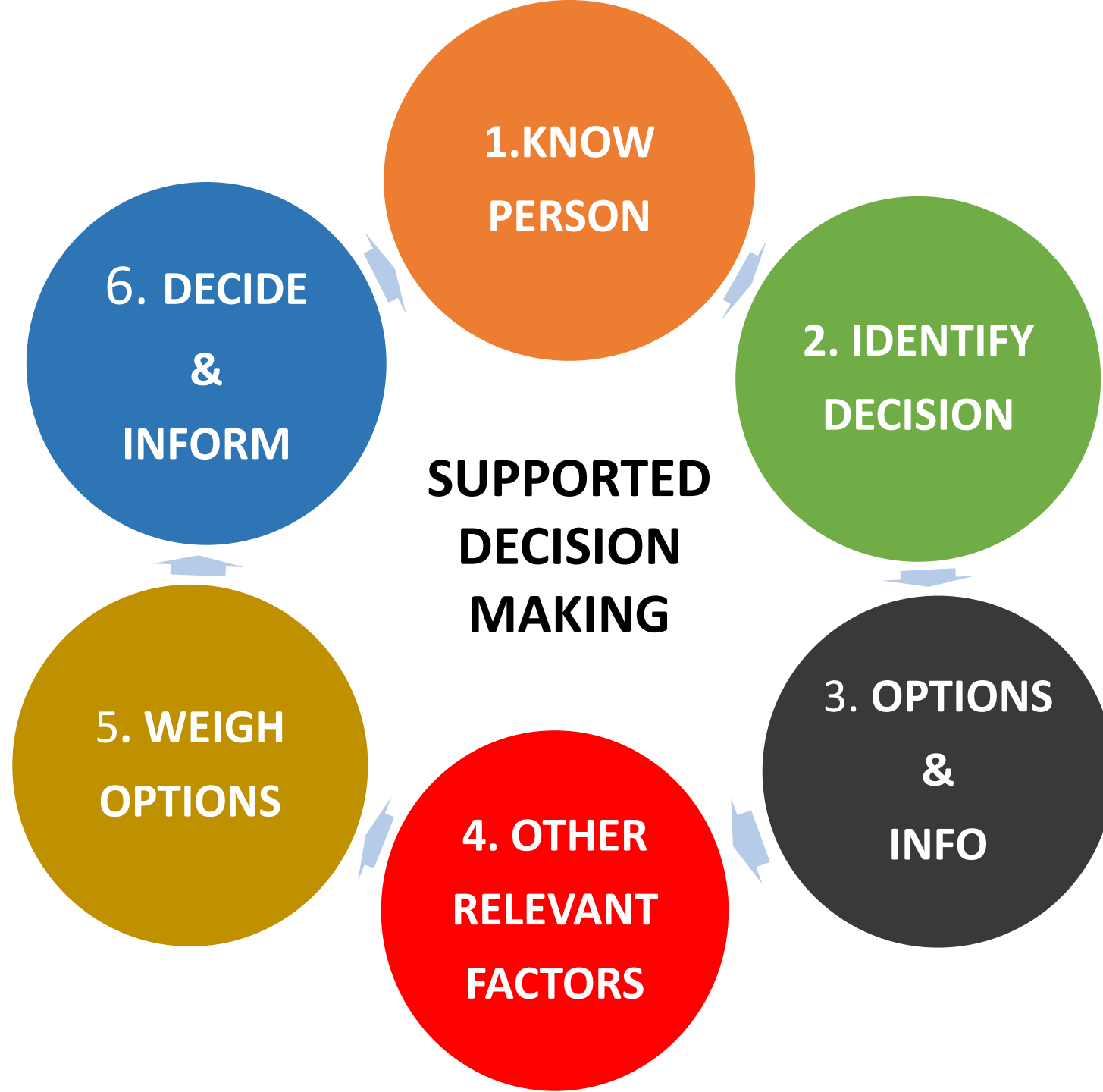




# Step 1

## Assume Capacity

In the first instance, all practicable steps should be taken to support the person to make the decision about the COVID-19 vaccine for themselves. Presume person has capacity to make their own decisions unless/until the contrary is shown.





## Important Points



- Language of statutory instrument is will and preference.
- Avoid blanket approaches – consult on an Individual basis. No assumptions that what is right for one person is right for all.
- When considering a person's capacity to consent – remember the information only needs to be retained for long enough to make a decision.
- Do not wait until the day vaccines are being administered to support people with decision making or to find out about the person's will and preference – begin immediately and document.

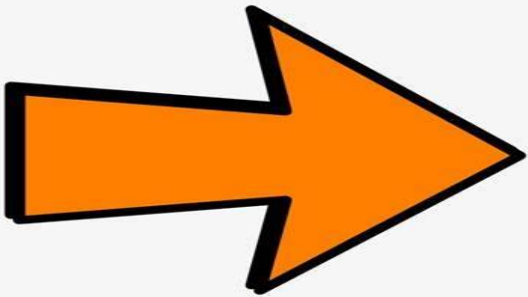




# DOCUMENT

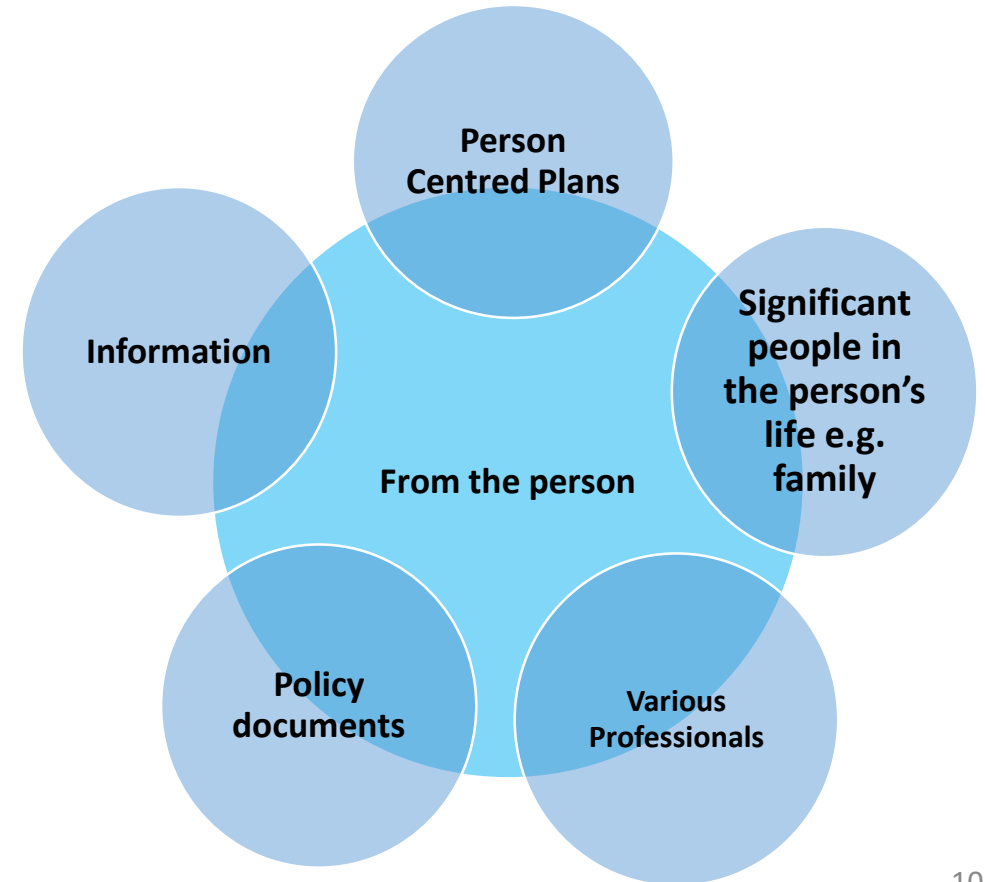
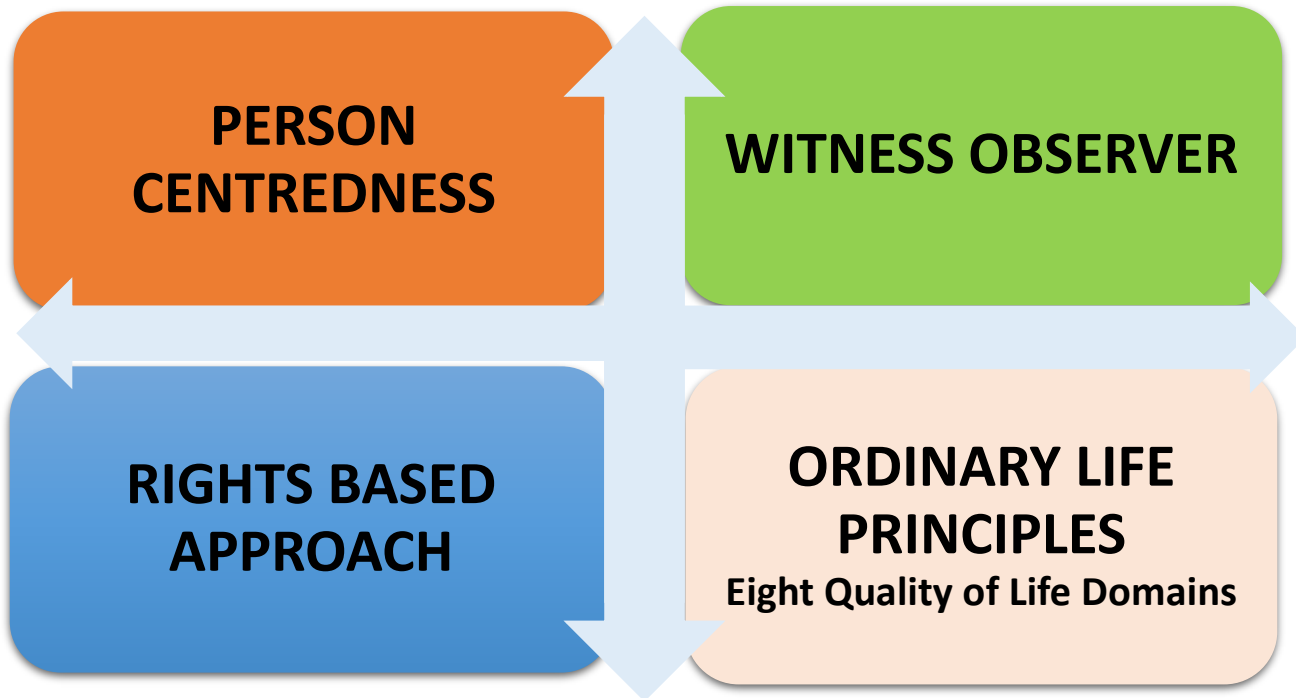
- Document the rationale for the decision
- Document the decision making process

**Note: The final decision on whether or not to vaccinate an individual who is deemed to lack capacity to consent lies with the healthcare professional (vaccinator). A record of the consent process must be made available to the vaccinator.**



# Supporting will and preference

Where the person is not in a position to articulate their will or preferences, NAS advocates use 4 internationally recognised approaches to ascertain the person's will and preference.



## PERSON CENTREDNESS

- Files/records/healthcare files
- Speak to those who know person well (to inform, never to decide).
- Values/Beliefs/Preferences/attitudes?
- Views on other vaccines?
- Past behaviours /convictions?
- Cultural, religious, ethnic, moral factors?
- Consider conflicts of interest

## WITNESS OBSERVER

- Impact of vaccine admin/Needles (reasonable accommodation: time/numbing gel/support)
- Observe responses of person (Pushing away or walking away? Withdrawing arm? Content? Distressed?)
- Body language, facial expressions, vocalisations, gestures?

## RIGHTS BASED APPROACH

Respecting the person's human rights:

- Right to Life
- Right to bodily integrity
- To highest attainable standard of health
- FREDA principles
- HSE Consent Policy – no 'next of kin' decision making/assumed authority

## ORDINARY LIFE PRINCIPLES

### **8 domains of quality of life**

- Well-being: Material benefits and risks
- Medical considerations
- End of Life?
- Quality of Life: impact?
- Social life/Community Access
- Relationships with others?

# Resources / Links



- Assisted Decision Making Act 2015.
- Code of Professional Conduct & Ethics for Registered Nurses & Registered Midwives 2014.
- HIQA Supporting people's autonomy: a guidance document.
- HSE National Consent Policy 2019.
- HSE National Disability Services Guidance & Practical Resource Pack to prepare for the COVID-19 vaccination programme in Disability Services.
- Medical Council Guide to Professional Conduct and Ethics (2019)
- STATUTORY INSTRUMENTS. S.I. No. 698 of 2020 MEDICINAL PRODUCTS (PRESCRIPTION AND CONTROL OF SUPPLY) (AMENDMENT) (NO. 7) REGULATIONS 2020.

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