



School of Law  
Scoil an Dlí

SHAPING A **JUST SOCIETY**  
SINCE 1849

# Bringing human rights into 21<sup>st</sup> Century Irish Law and public service practice-

## Reflections on the Assisted Decision-Making (Capacity) Act 2015 and considerations for health and social care practice

28<sup>th</sup> November 2019

Brookfield Health Sciences Building, UCC



seirbhís tacaíochta  
cinnteoireachta

decision support service



Building a  
Better Health  
Service





Seirbhís Sláinte  
Níos Fearr  
á Forbairt

National Quality Improvement Team

## Agenda

Time	Speaker & Topic
6.00pm	Hot refreshments and registration
7.00pm	<b>Opening address and welcome</b> Professor Mary Donnelly, School of Law, UCC and Chair of the HSE ADM Steering Group
7.10pm	<b>Chair and introductory comments</b> Ms. Aine Flynn, Director of the Decision Support Service
7.20pm	<b>The Assisted Decision Making (Capacity) Act 2015- Challenges and Opportunities for Health and Social Care Professionals</b> Professor Brendan Kelly, Consultant Psychiatrist, Tallaght University Hospital and Trinity College Dublin
7.40pm	<b>The Mental Capacity Act 2005 (England and Wales)- 12 years later- reflections from practice and implications for public service</b> Mr. Alex Ruck Keene, Barrister, Writer and Educator specialising in Mental Capacity Law, England and Wales
8.05pm	<b>The Assisted Decision Making (Capacity) Act 2015- Why this matters to me?</b> Ms. Mary O'Donovan and Mr. Damien O'Donovan, Decision Maker and Supporter
8.20pm	<b>The Assisted Decision Making (Capacity) Act 2015- Reflections for practice and the challenges of the Act for practitioners</b> The Honourable Ms Justice Marie Baker, Court of Appeal
8.40pm	<b>David Stanton TD, Minister of State at the Department of Justice and Equality</b>
8.50pm	<b>Kathleen Lynch, Former Labour T.D. and Minister of State for Primary Care, Mental Health and Disability (2011-2016)</b>
8.55pm	<b>Closing remarks- Mr Greg Price, Partnering with Patients, Quality Improvement Division, HSE</b>

## Biographies

<p><b>Professor Mary Donnelly</b></p> 	<p><b>Professor Mary Donnelly</b> is a Professor and Vice Dean of the School of Law at University College Cork. She researches in the fields of mental capacity/mental health/health law. Her books include <i>Healthcare Decision-Making and the Law: Autonomy, Capacity and the Limits of Liberalism</i> (Cambridge: Cambridge University Press, 2010) and she is co-author of <i>End-of-Life Care: Ethics and Law</i> (Cork University Press, 2011) and co-editor of <i>Ethical and Legal Debates in Irish Healthcare: Confronting Complexities</i> (Manchester University Press, 2016). She was a member of the Expert Group to review the Mental Health Act 2001 (2013-2015) and is a member of the Mental Health Commission Legislation Committee. She was Chair of the Technical Expert Group to develop Codes of Practice under the Assisted Decision-Making (Capacity) Act 2015. She is Chair of the HSE Assisted Decision Making Steering Group and Chair of the Advance Healthcare Directives Multidisciplinary Working Group. She is the joint chair of the HSE National Consent Advisory Group.</p>
<p><b>Ms. Áine Flynn</b></p> 	<p><b>Ms. Áine Flynn</b> graduated from Trinity College Dublin with a law degree and M.Litt. by research. She was admitted as a solicitor in 1999 and from 2012-2017 was a senior partner in KOD Lyons, a firm specialising in public interest law, including disability and equality law. She was on the panel of legal representatives of the Mental Health Commission and the Mental Health (Criminal Law) Review Board from their inception in 2006 and also represented Wards of Court instructed by the General Solicitor. She has written and lectured on Human Rights and has been a member of the Human Rights Committee of the Law Society since 2012. Prior to her present appointment, she was a member of the Law Society's Mental Health and Decision-Making Capacity Task Force. In October 2017, Áine commenced in post as inaugural Director of the Decision Support Service within the Mental Health Commission.</p>
<p><b>Professor Brendan Kelly</b></p> 	<p><b>Professor Brendan Kelly</b> is Professor of Psychiatry at Trinity College Dublin, Consultant Psychiatrist at Tallaght University Hospital, Dublin, and UCD Visiting Full Clinical Professor at University College Dublin School of Medicine and Medical Sciences. In addition to his medical degree (MB BCH BAO), he holds masters degrees in epidemiology (MSc), healthcare management (MA) and Buddhist studies (MA); and doctorates in medicine (MD), history (PhD), governance (DGov) and law (PhD). He has authored and co-authored over 250 publications in peer-reviewed journals, over 500 non-peer-reviewed publications, 13 book chapters and contributions, and 11 books (eight as sole author). His recent books include 'Hearing Voices: The History of Psychiatry in Ireland' (2016), 'Mental Illness, Human Rights and the Law' (2016) and 'The Doctor Who Sat For A Year' (2019). He is a Fellow of the Royal College of Psychiatrists, the Royal College of Physicians of Ireland, and Trinity College Dublin. In 2017, he became Editor-in-Chief of the <i>International Journal of Law and Psychiatry</i>.</p>
<p><b>Mr. Alex Ruck Keene</b></p> 	<p><b>Mr. Alex Ruck Keene</b> is an experienced English barrister, writer and educator. His practice (at 39 Essex Chambers in London) is focused on mental capacity law (broadly defined). He has appeared in cases involving the Mental Capacity Act 2005 at all levels up to and including the United Kingdom Supreme Court and the European Court of Human Rights. He also writes extensively in the field, editing and contributing to leading textbooks and (amongst many other publications) the 39 Essex Chambers Mental Capacity Law Report, the 'bible' for solicitors (and others) working in the area. Alex is the creator of the website <a href="http://www.mentalcapacitylawandpolicy.org.uk">www.mentalcapacitylawandpolicy.org.uk</a>, providing resources and expert commentary on some of the most difficult mental capacity issues. Alex is a Visiting Senior Lecturer at the Institute of Psychiatry, Psychology and Neuroscience at King's College London, a Visiting Lecturer at the College's Dickson Poon School of Law, and a Wellcome Trust Research Fellow there, working on the collaborative Mental Health and Justice project for the period 2017-2022. He spent from November 2016 to March 2017 on secondment to the Law Commission of England &amp; Wales as a consultant to their Mental Capacity and Deprivation of Liberty Project, and 2018 as legal adviser to the Independent Review of the Mental Health Act 1983 in England &amp; Wales. Alex has a particular interest in comparative mental capacity law, co-editing <i>The International Protection of Adults</i> (OUP, 2015), contributing to a forthcoming textbook on assessment of mental capacity in New Zealand, and – closer to home – providing input into law reform processes in the Republic of Ireland, Northern Ireland and Scotland.</p>

**Mr. Damien O'Donovan**



**Mr. Damien O'Donovan** is a health club assistant at the Westlodge Hotel, Bantry since 2002. He is very involved in his local GAA club, he loves his social life and likes getting involved in the community activities. Last year he was involved with the Oskaars, a fundraiser run by his local GAA club. He won most popular actor award for the event. He is a gold medal winner for swimming for the world games which were held in Dublin in 2003. He holds a Gold, Silver and Bronze Medal in the Gaisce Awards. He lives at home with his Mum Mary in Bantry with a number of his siblings. Damien was a participant in the forthcoming HSE Explainer Video on the Assisted Decision Making (Capacity) Act 2015.

**Ms. Mary O'Donovan**



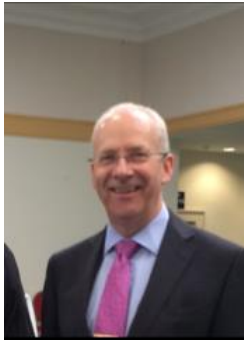
**Ms. Mary O'Donovan** is Damien's Mum and is the proud mum of 7 grown up children (Damien is the second eldest), living in wonderful West Cork. Damien has demonstrated to Mary the importance and value of living a life embedded in one's community and also inspired a passion for self advocacy and personal empowerment. She is passionate about Damien's right to live his own life in his own community and direct his own life. Mary was a participant in the forthcoming HSE Explainer Video on the Assisted Decision Making (Capacity) Act 2015 and is a member of the Inclusive Living Network. Mary holds a Higher Certificate in Advocacy from Sligo IT.

**Mrs Justice Marie Baker**



**Justice Marie Baker** has served as a Judge of the Court of Appeal since June 2018. She previously served as a Judge of the High Court from 2014 to 2018.

**Mr Greg Price**



**Mr.Greg Price**, BL, LLB, MBA is an Assistant National Director in the National Quality Improvement Team of the HSE. In his current role Greg leads a dedicated team who are committed to partnering with patients, service users and family members. His responsibilities include Open Disclosure, Assisted Decision Making and Patient Engagement. This work is done both in a frontline capacity through direct engagement with people who use and provide health and social care services and also through the development of policy, resources and initiatives. Greg is committed to ensuring that patients, service users, families and carers are equal partners in the planning, design and delivery of services. Greg has a BL from The Honorable Society of King's Inns, an LLB (Honours) Law from Griffith College Dublin and an MBA from the Open University. He is an accredited mediator and facilitator. Greg has a particular interest in legislation, policy development and mediation.