

The Assisted Decision-Making (Capacity) Act 2015 –

A message for families from Aine Flynn, Director of the Decision Support Service.

Dear Family Member

I am getting in touch to outline some information that you might find useful as we move closer to the commencement of the Assisted Decision-Making (Capacity) Act 2015. The Minister has announced that the Act will commence and the DSS will become operational on 26 April 2023.

Introduction to the Act/Role of the DSS

As set out in the accompanying material provided by the National Federation of Voluntary Services Providers, the 2015 Act introduces a framework of formal decision-making supports (to help a person with capacity issues to make decisions about their property, affairs, or personal welfare or both).

The role of the DSS is to promote public awareness about the 2015 Act and to provide information and guidance. The DSS will register, support, and supervise decision support arrangements, to ensure that all is working well for the benefit of the person.

When might formal support be needed?

The Act does not say that a person is obliged to enter a formal arrangement. An adult is presumed to have capacity to make their own decisions and should be supported as far as possible to do so independently. There may come a time when a particular decision may need to be made that requires a level of formal support that can be provided under the Act. It could be, for example, that a professional or service provider has concerns about a person's capacity to enter a contract or supply consent. In these circumstances, a formal arrangement may be appropriate to ensure that relevant decisions can be progressed. It may help to think about the

decisions that your loved one needs to make and to speak to professionals and services involved.

Role of Families

Families have and will continue to have a very significant and important role in helping and supporting their loved ones to make decisions. The Act acknowledges the importance of existing relationships of trust. If you are appointed as a co-decision maker, decision making representative or attorney for your loved one, you will have a duty to submit reports to the DSS. My staff are available to assist and support you in your role.

How to make a formal support arrangement

It will be possible to make a formal arrangement using our digital Portal. Paper forms will also be available on request for anyone who cannot access the DSS Portal.

To set up an account and apply through our Portal, a person will need a **MyGovid**. MyGovid is a single account that lets you access and use services from many government departments in Ireland. Information about setting up a MyGovid is available on <https://www.mygovid.ie>.

Detailed information will be available shortly on our website www.decisionsupportservice.ie in the form of "How to" guides which will step a person through the process of making each type of arrangement. Should an issue arise as part of the application process, our dedicated Information and Support Services Team will be available to provide practical information, guidance, and support. (Please get in touch by email at queries@decisionsupportservice.ie or call us on 01 2119750).

Fees/Fee Waivers

There will be a fee to make or vary a decision support arrangement. However, it will be possible for us to waive fees in circumstances where the applicant's income is below a certain threshold. It will also be possible to search our register of arrangements, subject to certain criteria and for a small fee. (Details of any fees/waivers will be published on our website).

Courts service

Any person with a genuine interest in the welfare of a relevant person may make an application to the Circuit Court for a declaration about a person's capacity to make decisions. A scheme of Legal Aid will be available. Please see www.legalaidboard.ie for further information. The application to court could result in the court appointing a decision-making representative for a person, under a decision-making representation order. Such an order is capable of being re-entered, varied, or revoked and the court must review its declaration in relation to the relevant person's capacity on a periodic basis.

It is expected that, as in wardship, applicants will often be family members. Where there is no family member available to do so, it is anticipated that the applicant will often be the HSE or another service provider who has an involvement in respect of the specified decisions.

The courts service website contains information about the abolition of the wardship system for adults and how a person can exit wardship. For further information please see www.courts.ie.

I hope the above information is useful. Please don't hesitate to get in touch with us if you have any queries or wish to seek clarification about our new service.

With best wishes

Áine Flynn
Director