



Assisted Decision-Making (Capacity) Act 2015
Status update – Preparation for commencement
ADM Implementation Steering Group
April 2022

Introduction

This document is the fourth status update on the commencement of the Assisted Decision-Making (Capacity) Act 2015 and the work and actions that are being undertaken in the HSE to prepare for commencement in June 2022.

This document is issued after each monthly HSE ADM Implementation Steering Group meeting to steering group members for further dissemination to colleagues and staff.

If you wish to receive any of the previous status updates, please contact Jacqueline.grogan@hse.ie.

Pre-legislative scrutiny

The Oireachtas Committee for Children, Equality, Disability, Integration and Youth has completed its pre-legislative scrutiny of the general scheme of the Assisted Decision-Making (Capacity) (Amendment) Bill 2015. The proposed Bill will amend the Assisted Decision-Making (Capacity) Act 2015. The rationale provided for drafting an amending piece of legislation is to improve processes and safeguards for those who will make use of the new decision-making supports. The Committee has published a report making 64 recommendations about how the Bill can be improved. The report can be reviewed at this link -

https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_children_equality_disability_integration_and_youth/reports/2022/2022-04-08_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-assisted-decision-making-capacity-amendment-bill-2021_en.pdf

Decision Support Service

Videos of interviews from the Decision Support Service's event in March can be reviewed here - <https://decisionsupportservice.ie/news-events/dss-march-event-interviews> .

They provide an update on the launch of the Decision Support Service and explaining the key reforms that the Act will deliver.

They have also launched simple guides and video presentations containing information on the services and functions offered by the Decision Support Service. More information on these resources can be found at <https://decisionsupportservice.ie/news-events/dss-launches-simple-guides-and-video-presentations>.

They have also published a [poster](#) and an [explainer leaflet](#).

Adult Wardship

As directed by the President of the High Court - from April 22nd, the Office of the Wards of Court has stopped accepting wardship applications under Section 15 of the Lunacy Regulation (Ireland) Act 1871.

The Office of the Wards of Court will continue to accept applications under Section 12 of the Lunacy Regulation (Ireland) Act 1871. Applications will continue to be processed by the Office of the Wards of Court where there is an urgency due to concerns around areas including *but not restricted to* safeguarding, medical consent to treatment, detention and consent to transfer a patient where there are capacity concerns with respect to adult wards.

Any application brought under Section 12 will be accepted, processed and listed before the Court.

The Office of the Wards of Court will also accept applications where there is a need for a Court Order. There are no restrictions on incoming applications that require a listing before the Court for orders to be made. All proceedings under an Inquiry Order will continue to be heard and listed before the Court until commencement in June.

Further information can be found at <https://courts.ie/news/notice-relation-applications-wardship>.

The Office of the Wards of Court has published information on the transition to the Decision Support Service.

Summary – Court Discharge Applications from Wardship

- From October 2022 it is expected to take three years to discharge all adult wards from wardship
- It is expected that three High Court Judges will sit five days per week hearing discharge applications
- A panel of 12 Judges will sit in rotation every 6-8 weeks depending on the legal term
- It is expected most applications will be dealt with in one sitting as applications will only be listed when all documents are filed and in order
- The projections of the number of applications set out in the table below allows for up to three adjournments in approximately 350 applications
- These projections have been calculated conditionally on the basis that three additional High Court Judges will be appointed to deal with the applications

3 Year Discharge Application – Capacity for Court Applications

	Year 1	Year 2	Year 3
Private Committee	480	480	480
General Solicitor	220	230	250

You can access the information at <https://www.courts.ie/wards-court-decision-support-service>.

Alice White, Registrar from the Office of the Wards of Court took part in the recent webinar on ‘How and when to engage with the Decision Support Service’. You can watch the webinar back on <https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/assisteddecisionmaking/webinar-series-2022.html>.

HSE Preparations for commencement

Current information and supports for healthcare staff

The following resources are available for staff to prepare for the commencement of the Assisted Decision Making (Capacity) Act 2015- All of these resources can be found on www.assisteddecisionmaking.ie:

- **Frequently asked questions** on the Act
- A short **Explainer Video** on the Act containing simple core messages on the Act from the voices of staff and people who use our services
- **Recordings of webinars** on key provisions within the Act, including supporting decision-making, advance planning, and the role of advocacy
- A quarterly **newsletter** providing updates on the Act and the work of the HSE National Office of Human Rights and Equality Policy
- *The Assisted Decision-Making (Capacity) Act 2015 – Personal and Professional Reflections* – a **collection of essays** written from both a personal and professional perspectives highlighting the importance of the Act
- A recorded presentation *An Introduction to the Assisted Decision-Making (Capacity) Act 2015*
- **Additional resources** from other organisations

All of these resources can be found on www.assisteddecisionmaking.ie.

HSE National ADM Implementation Plan

Work is ongoing to develop a national ADM Implementation Plan. A draft version of the plan has been distributed to all relevant stakeholders for feedback and a number of meetings to obtain feedback on the draft plan have been conducted throughout April 2022.

The implementation plan will be published in mid May 2022. This will be disseminated to the system through the governance structures in the HSE.

HSE Disabilities and Mental Health ADM Groups

HSE Disabilities and HSE Mental Health have each established ADM groups to consider and respond to issues which specifically relate to mental health and disability services.

The Mental Health Impact Assessment working group met on 12 April 2022 to review the proposed Terms of Reference and explore models of engaging staff in an impact assessment that will facilitate the implementation plan. It was agreed that this would be a time limited process and a timeline will be agreed at the next meeting.

The HSE Disability reference group met on the 3rd May 2022.

Further updates will be supplied in future status updates.

CHO 1 ADM Impact Assessment and Action Plan

CHO 1 have completed an ADM impact assessment and action plan. The report, which will include a summary of next steps and recommendations, will be finalised by the end of May and will inform the National ADM Implementation Plan.

Education and training

Webinar Series 2022 – Assisted Decision-Making (Capacity) Act 2015- Preparation for Commencement and Implementation

The first three webinars in this series have now taken place and you can view the recordings on www.assisteddecisionmaking.ie. The most recent was on April 27th and dealt with Positive Risk-Taking and ‘Unwise’ Decisions.

Upcoming schedule for the next two months;

- May 17th at 2pm – Functional Assessment of Capacity
- June 1st at 2pm - Respecting the rights of the person/ The role of families under the 2015 Act

Notification of the webinars will be disseminated to the HSE National Office for Human Rights and Equality Policy mailing list, through the members of the HSE ADM Implementation Steering Group and through the HSE Health Service News email.

If you wish to be added to our mailing list please contact adm@hse.ie.

E-Learning Programme- Supporting Decision Making in Health and Social Care

The E-learning programme on Supporting Decision Making in Health and Social Care was launched on April 7th. All three modules are now available on HSELandD. The three modules are

1. Supporting decision-making
2. Planning for the future
3. Introduction to the functional assessment of capacity.

They can be accessed [at this link](#).

Further information and materials to support staff to prepare for commencement of the Act will be uploaded to the website www.assisteddecisionmaking.ie over the next few months.

Communications

The HSE National Office of Human Rights and Equality Policy are working with HSE Communications to ensure that information is issued to the system on a regular basis in preparation for the Act being commenced.

This will include updates in the Health Service News, articles in Health Matters and through social media channels from April 2022.

Prescribed classes of professionals

A Health and Social Care expert working group - Prescribed classes of professionals has been established through the ADM Inter-Departmental Steering Group. The ADM Inter-Departmental Steering Group is chaired by the Department of Children, Equality, Disability, Integration and Youth and this piece of work is being led by the HSE on behalf of the Inter-Departmental Steering Group.

The purpose of Health and Social Care Expert working group is to provide advice and guidance on a scoping exercise to determine the resources required to enable the prescribed classes of professionals to undertake capacity assessments under the Assisted Decision-Making (Capacity) Act 2015.

This specifically pertains to capacity assessments for co-decision-makers and enduring powers of attorney.

A targeted consultation process with key stakeholders will take place in May 2022 examining how this particular requirement of the Act may work in practice; how the assessments can be delivered and implications for practice; and training requirements for staff.

HSE National Consent Policy

The revised HSE National Consent Policy was launched on Monday 28th March 2022 by Dr Colm Henry, Chief Clinical Officer, HSE.

The policy is now available on www.hse.ie/nationalconsentpolicy. The HSE National Consent Policy E-learning programme is available on www.hseland.ie for HSE and HSE funded organisations.

A short video - [What is Consent?](#) - has been developed with recordings of people who have used HSE services speaking about their experiences of consent in health and social care services.

For further information on any of the above, please contact Jacqueline Grogan – Jacqueline.grogan@hse.ie