



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

Introduction

This document is the fifth 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 2022.

This document is issued after each 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.

Commencement of the Assisted Decision-Making (Capacity) Act 2015

The Assisted Decision-Making (Capacity) (Amendment) Bill 2022 is currently progressing through the Dáil, and most recently passed Committee Stage on 14th June 2022. The remaining window of time in the Houses before the close of the current Dáil and Seanad sessions is limited. The Bill is expected to proceed as far as 2nd Stage in the Seanad before the end of the summer session.

You can read the transcript from the Dail debates that took place on 1st and 2nd June at <https://www.oireachtas.ie/en/debates/debate/dail/2022-06-01/> and <https://www.oireachtas.ie/en/debates/debate/dail/2022-06-02/>.

A statement has issued from the Department of Children, Equality, Disability, Integration and Youth confirming that progress on the Bill will resume in the Houses of the Oireachtas as early as possible following the beginning of the autumn session, and it remains the intention and firm commitment of Government to commence the 2015 Act in full as soon as possible.

In summary, the Bill provides for:

- Technical and procedural amendments to allow for the commencement of the 2015 Act in order to bring an end to wardship in Ireland and provide for a functional model of capacity assessment for relevant persons;

- Amended definitions of personal welfare and treatment decisions, to allow for participation by persons with capacity difficulties in health research and to clarify for medical professionals which person has authority to make decisions regarding actual medical treatment or clinical care where another person has capacity difficulties;
- Improved safeguarding provisions throughout the 2015 Act;
- Amendment of the 2015 Act to streamline or to tighten existing provisions in order to improve safeguards, reduce bureaucracy for those using options under the Act and to enable the DSS to undertake its role more effectively. This includes streamlining the of processes to allow the DSS to draw up its own forms and to give greater control over the DSS's own administrative procedures to the Director;
- Additional powers have been given to the DSS Director to investigate issues and seek informal resolution of complaints. The property management role for the Director contained in the original Act has been removed. The Director will provide for the remuneration of panel member decision-making representatives where there are insufficient assets in the estate of the relevant person;
- The Bill has been used to progress some provisions formerly included in the Disability (Miscellaneous Provisions) Bill 2016, which lapsed at the dissolution of the last Dáil. These provisions include other measures required for closer compliance with the UNCRPD, such as the monitoring structure that is required under the Convention in Ireland. The Bill also provides for the percentage of people with disabilities in the public service to be doubled from 3% to 6%, along with the repeal of certain statutory provisions to facilitate greater participation in public and civic life for people with disabilities;
- A new system for enduring powers of attorney (EPAs) whereby the enduring power of attorney will be created by the relevant person and registered with the DSS while s/he has capacity, enabling any problems with the enduring power of attorney to be resolved with the person herself / himself. The enduring power of attorney will come into effect through a notification process by the attorney to the DSS when the relevant person has lost capacity;
- Strengthened protections for the rights of wards when their wardship is reviewed and they are discharged from wardship and / or migrated to the 2015 Act's structures; and
- The removal of provisions permitting the use of restraint in private settings.

An explanatory memorandum on the bill can be found at

<https://data.oireachtas.ie/ie/oireachtas/bill/2022/59/eng/memo/b5922d-memo.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> .

The DSS 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](#).

Aine Flynn, Director of the Decision Support Service, and Advocate for Change Reinhard Schaler were interviewed on RTE Drivetime on 17th June 2022. You can listen back to the interview on <https://www.rte.ie/radio/radio1/clips/22110599/>.

Adult Wardship

On the 12th of May the President of the High Court directed that in preparation for commencement of the Assisted Decision-Making (Capacity) Act 2015 that the Office of Wards of Court will re-commence taking applications under Section 15 of the Lunacy Regulation (Ireland) Act 1871 with immediate effect.

The Wards of Court Office has been informed that transitional arrangements for wardship applications already underway on commencement of the Assisted Decision Making (Capacity) Act 2015 will be provided for as an upcoming amendment to that Act.

Further information can be found at <https://www.courts.ie/wardship-adults>.

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

On Tuesday 24 May, the Decision Support Service and the Courts Service hosted an online information event for Wards of Court and their Committees. The purpose of this information session was to outline and explain the changes to wardship that will be brought about by the Assisted Decision Making (Capacity) Act 2015. Once the Act commences, there will be a period of three years to be discharged from wardship, before wardship itself ceases. You can view it at <https://www.youtube.com/watch?v=tlcFWOkv8SY>.

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

The HSE National ADM Implementation plan will be published in June 2022. This will be disseminated to the system through the HSE governance structures in the HSE.

HSE Disabilities and Mental Health ADM working 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.

For details on the HSE Disabilities ADM working group contact Marie Kehoe O’Sullivan-
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For details on the HSE Mental Health ADM working group contact Tony McCusker-
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Education and training

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

All of webinars in this series have now taken place and you can view the recordings on www.assisteddecisionmaking.ie.

Planning is underway for future webinar series in relation to the Act. Notification of the webinars will be disseminated to the through the HSE Health Service News email, through the HSE National

Office for Human Rights and Equality Policy mailing list and through the members of the HSE ADM Implementation Steering Group and working groups.

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

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

The HSE E-learning programme on Supporting Decision Making in Health and Social Care was launched on April 7th 2022. All three modules are now available on HSELand. 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](#).

We are currently developing a second suite of e-learning programmes on the Assisted Decision Making (Capacity) Act 2015 and information will be provided on these in the coming months.

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 May 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 has taken place throughout May and June 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. A report will now be developed on the resources required for this aspect of the Act.

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