



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

Introduction

This document is the second 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.

This document will be 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 the status update for January 2022 please contact Jacqueline.grogan@hse.ie.

Heads of Bill

Draft Heads of Bill for the Assisted Decision-Making (Capacity) (Amendment) Bill 2021 were published by the Department of Children, Equality, Disability, Integration and Youth in November 2021.

The heads of bill will be discussed during pre-legislative scrutiny by the Oireachtas Committee for Children, Equality, Disability, Integration and Youth on Tuesday 15th and Wednesday 16th February 2022. A number of organisations presented at the Committee meetings, including the Decision Support Service, Mental Health Reform and Family Carers Ireland.

You can watch the recordings of the Committee meetings on
<https://www.oireachtas.ie/en/oireachtas-tv/video-archive/committees/>.

Decision Support Service

The second consultation phase on the remaining codes is underway, with submissions due to the Decision Support Service by 18th February 2022. These codes of practice include the following:

- Code for Decision Making Assistants
- Code for Co-Decision-Makers
- Code for Decision Making Representatives
- Code for Attorneys (Enduring Power of Attorney)

- Code for Special Visitors
- Code for General Visitors
- Code for Court Friends
- Code for Independent Advocates

You can find more information on phase 2 consultation at <https://decisionsupportservice.ie/news-events/dss-launch-phase-2-public-consultation-draft-codes-practice>

Recruitment for panels of decision supporters

The DSS is currently recruiting for its panels of decision supporters. Further information is available at:

<https://www.decisionsupportservice.ie/news-events>

Wardship

The current Wards of Court system under the Lunacy Regulations (Ireland) Act 1871 will remain in place until the Assisted Decision-Making (Capacity) Act is commenced. Commencement will change the existing law on capacity from the status approach of the wardship system to a flexible functional approach, where capacity is assessed on an issue and time-specific basis.

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>.

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
- **Additional resources** from other organisations

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

Feedback on Decision Support Service- Draft Codes of Practice

Consultation phase 2:

The HSE ADM Implementation Steering Group submitted a response on behalf of the HSE for the second tranche of codes on the 20th February 2022. Details on this submission will be provided in our March 2022 status update.

Please note that the timeframes for feedback on the codes of practice are set by the Decision Support Service and NOT the HSE.

HSE National ADM Implementation Plan

Work is ongoing to develop a national ADM Implementation Plan. The working group has convened a number of times since January. Targeted engagement with key stakeholders will commence in March 2022. The plan will be complete by April 2022.

HSE Disabilities and Mental Health ADM Impact Assessments

HSE Disabilities and HSE Mental Health are engaging in an ADM impact assessment and action plan which will help inform the National ADM Implementation Plan. Work is underway to develop a project plan for this work.

CHO 1 ADM Impact Assessment and Action Plan

CHO 1 have completed an ADM impact assessment and action plan. Work is currently underway to finalise the report which will inform the National ADM Implementation Plan. This plan will set out a number of actions and priorities for CHO1 in order to enable compliance with the 2015 Act and the HSE National Consent Policy.

Education and training

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

The first webinar in this series took place on Wednesday 16th February 2022 and focused on decision support arrangements under the Assisted Decision-Making (Capacity) Act 2015. The webinar recording is available on www.assisteddecisionmaking.ie.

The webinar topics in this series are as follows:

- 22nd March – How and when to engage with the Decision Support Service
- 27th April – Positive risk-taking and unwise decisions
- May – Functional assessment of capacity
- June- 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 ADM Implementation Steering Group and through the HSE Health Service News email.

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

The launch will take place of the E-learning programme on Supporting Decision Making in Health and Social care on April 7th at 2pm. This programme includes three modules which are supporting decision-making, planning for the future and the functional assessment of capacity. Details of the launch will be disseminated in the coming weeks.

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 monthly basis in preparation for the Act being commenced.

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.

This group is currently working towards developing potential models to support the delivery of this requirement under the 2015 Act.

HSE National Consent Policy

The HSE National Office for Human Rights and Equality Policy and the HSE National Consent Policy Steering Group have been working on an extensive revision of Parts 1 and 2 of the 2013 Policy to bring it in line with policy and legislative changes since 2013 and to reflect recent case law.

The revised HSE National Consent Policy will be launched on **Monday 28th March 2022 at 10.30 a.m.**

Notification of the launch will be disseminated to the HSE National Office for Human Rights and Equality Policy mailing list, through the members of the ADM Implementation Steering Group and through the HSE broadcast.

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