

Realising Rights

Supporting the Wardship Transition in Practice

What can Service Providers do?

- Aurora strongly welcomed the Assisted Decision Making Act 2015, and since then have been working to the principles of the Act and aligning policies, procedures and practices in line with same.
- Aurora addressed the 'Next of Kin' issue in 2017 and have supported Families via a Family Forum to be informed about the Act and how it would impact their family member, including information regarding Wardship Discharge
- Aurora have an ADM Leads Team – Who are responsible for adherence to the Guiding Principles of the Act and have oversight of any ADM related cases
- This team agreed to proactively support people who are Wards of Court to seek discharge of same as soon as possible – on grounds of least restrictive principle (this involves 5 Relevant People)

Guiding Principles of the ADM (Capacity) Act 2015

- A person is presumed to have capacity
- All practical steps have to be taken to help a person make a decision
- A person is not unable to make a decision merely because they make an unwise decision
- A decision (intervention) is only made for a person when it is necessary

A decision (intervention) made for a person must

- be the least restrictive of their rights and freedom
- respect the person's right to dignity, bodily integrity, privacy, autonomy and control over their own affairs
- be proportionate to the significance and urgency of the decision
- be time limited

The person making the decision (intervener) must

- permit, encourage and facilitate the person to participate in the decision
- take into account the person's past and present will and preferences
- take into account the person's beliefs and values
- take into account any other factors the person themselves would consider if they were able to
- act in good faith and for the benefit of the person
- consider all other circumstances which are relevant
- consider the likelihood of the person recovering the ability to make the decision themselves and the urgency of the decision to be made
- obtain relevant information only, use the information only for the purpose of making the decision, keep the information secure and dispose it safely when no longer required

The person making the decision must, unless not appropriate or practical

- consider the views of others the person names as people to be consulted
- consider the views of the person's decision-making assistant, co-decision-maker, decision-making representative or attorney

The person making the decision may

- consider the views of a health professional, the person's carer or other person who has a genuine interest in the person's welfare

What can Service Providers do?

What steps did we take?

- Social Worker spoke to the Relevant Person and their existing Committee regarding discharge – all committees are family members
- All committees were unsure of the process and anxious about triggering the process themselves
- Aurora made application on behalf of Relevant Person to Civil legal aid board for independent legal representation during the discharge process
- Aurora assisted the Relevant Person to choose a solicitor from the panel available and contacted the Legal Aid solicitor
- Legal Aid Forms - Certificates - Easy Reads



What can Service Providers do?



Case Example

- P is a gentleman (46 years old) who lives in his own home in the community (Designated Centre), supported by Aurora residential supports. P requires fulltime supports and share his home with 3 other gentlemen
- A number of years ago P was made a Ward of Court to provide support in the management of a significant financial award as a result of an accident
- P's committee is his Sister
- P is able to express his will and preference in everyday decision-making using intonations, expressions, hand gestures and body language, he does however need support with decisions regarding money management
- Following discussions with P and his committee Aurora established that a discharge for wardship should be triggered based on the least restrictive principle
- Aurora established if the Solicitor was able to take P's case, and made an appointment to meet him in his own home taking into account time of day, preferred location, total communication approach & ensured familiar staff were rostered
- P's team had shared the easy reads with him and went through the legal aid forms, returning same to the Solicitor with this Easy Read Document confirming we had shared the information with the P's – exhausting all efforts to assist P to understand this information
- As P is the 'moving party' he is required to sign a grounding affidavit however given his capacity this is an issue and his Barrister is filing a motion to the court seeking direction as to who will sign the affidavit
- When the Medical Visitor meets with P, the service will ensure we share relevant information regarding his communication methods and his conditions of success regarding his ability to engage, along with evidence of the decisions he can make
- Upon submission of the medical visitor's report the Judge will make a determination as to who can sign the affidavit and the process will then continue regarding the discharge of the wardship and any provision required under the ADM regarding financial decision making

Other considerations

- The service will not incur costs for supporting the person to trigger this discharge application, the legal aid certificate covers same as the Relevant Person is the 'moving party'
- If the Committee had made the application then this would not apply as they would then be the 'moving party'

Other actions

- Referred all Relevant Person's to National Advocacy Service – for appointment of an independent advocate
- Referred RP and Committee to NDA Research – Dr Caroline Nolan visited all Relevant people and liaised with Committees – 3 Relevant People and their Committees are engaging in this research

Challenges

- Uncertainty – learning as we go.....but commitment to rights realisation
- Resistance from an existing Committee to recognise the right of the Relevant Person to have independent legal representation, slowing pace of application
- Pace