# Assisted Decision Making (Capacity) Act 2015 Practical Information for Disabled people and accessing relevant supports

# Important information about Consent:

The HSE National Policy sets out the rights of people that use health and social care services. All healthcare workers must follow the [HSE National Consent Policy](https://www2.healthservice.hse.ie/organisation/national-pppgs/hse-national-consent-policy-easy-to-read-version/#:~:text=The%20HSE%20National%20Policy%20sets,the%20HSE%20National%20Consent%20Policy.&text=In%20this%20Policy%2C%20if%20you,a%20medical%20treatment%20or%20test).

# What is the Assisted Decision Making (Capacity) Act 2015?

The ADMA is a new law and system to support people to make decisions. Old laws and systems are replaced so that everyone has the right to make choices and are presumed to have capacity to make those choices. A new organisation called the Decision Support Service (DSS) has created an [Easy Read Guide on the ADMA](https://decisionsupportservice.ie/sites/default/files/2023-05/DSS%20Easy%20Read%20-%2026%20May%202023.pdf) which explains the differences between the new and old law.

# Discharge from Wardship:

The ADMA replaces the old system of Ward of Courts, so all existing adult wards will be discharged and reviewed by the Courts. The application for discharge can be made by yourself, your Committee, peer or relevant persons, or by certain other people with the leave of the court.

All current adult wards have an opportunity to be heard by the wardship court when their cases are being reviewed and access to representation and legal aid –

[Assisted Decision Making and discharge from Wardship](https://www.legalaidboard.ie/en/our-services/assisted-decision-making-and-discharge-from-wardship/introduction.html)

## [Assisted Decision Making (Capacity) Act 2015](https://www.courts.ie/assisted-decision-making-capacity-act)

**Process of Discharge**

1. Consult your Solicitor. Ask about fees for application.

2. Solicitor lodges legal document to start discharge process.

3. Medical Visitor conducts functional capacity review of person. Office of the Wards of Court can also arrange this to start the process of discharge.

4. Medical Visitor report distributed to Committee, Applicant and relevant person.

5. Office of the Wards of Court prepares further court documents and sends to solicitor.

6. Solicitor serves the legal papers on relevant person, Committee and applicant.

7. Solicitor lodges relevant papers in Office of Wards of Court.

8. Court date given for discharge hearing in High Court.

9. Court hearing.

10. Discharge Order signed by Judge and relevant person is either discharged or

 \* Decision Making Assistant

 \* Co-decision Making Assistant (registered with DSS)

 \* Decision making representative order (lodged with DSS)

[adapted from the Discharge process flowchart https://courts.ie/acc/alfresco/57d58031-61f3-4d8e-9505-6430c4a5f952/Flow%20Chart%20Committees%20V1.pdf/pdf ]

# Do I have to have to use formal DSS supports?

The Act puts in place new supports but it does not mean you have to use them. It depends on the type of decision you want to make. If you ask your family members, friends, staff, or advocacy groups for informal support already and you are happy with those supports, there is no need to arrange for a formal support arrangement. [This document from Family Carers Ireland includes practical information for family members:](https://familycarers.ie/media/3012/a-practical-guide-for-family-carers-on-the-assisted-decision-making-capacity-act-2015.pdf)

# Advocacy and Support:

[The National Advocacy Service (NAS)](https://advocacy.ie/) is an organisation which helps adults with disabilities. If you have a disability, like a physical or intellectual disability, one of our staff could help you with an issue you are having. NAS provides a free and confidential advocacy service to adults with a disability, aged 18 years and over. NAS has a particular remit to work with people with disabilities who are in vulnerable situations, such as people who are isolated from their community of choice or mainstream society, may communicate differently and who have limited formal or natural supports.

# When do I use DSS supports?

If you want supports or your capacity is in question, you can access DSS supports. Just because you have an illness, condition or disability does not mean you need formal supports. Page 2 of this [“My Choices” document](https://decisionsupportservice.ie/sites/default/files/2023-04/10919%20MHC%20DSS%20My%20choices%20-%20screen.pdf) has some questions you can ask yourself if you are not sure about getting supports:

# What types of DSS supports are available?

More information can be found on the [DSS website](https://www.decisionsupportservice.ie/services/decision-support-arrangements)

There are three types of support arrangements for people who currently, or may shortly, face challenges when making certain decisions:

1. Decision-making assistance agreement\*
2. Co-decision-making agreement\*
3. Decision-making representation order

There are two types of arrangements for people who wish to plan for a time in the future when they might lose capacity:

1. Advance healthcare directive
2. Enduring power of attorney\*

\*you can apply for these on myDSS online portal

# How do I apply for those supports?

The easiest way to apply for the following is via the myDSS online portal:

* Decision-making assistance agreement
* Co-decision-making agreement
* Enduring power of attorney

[Here are videos showing how to register and use the myDSS online portal](https://decisionsupportservice.ie/resources/mydss-how-videos)

# What about the other two arrangements?

The court makes [decision-making representation orders](https://decisionsupportservice.ie/sites/default/files/2023-04/10916%20MHC%20DSS%20Your%20Guide%20to%20a%20Decision-Making%20Representation%20Order%20-%20screen.pdf) following decisions about capacity.

[An advance healthcare directive](https://decisionsupportservice.ie/sites/default/files/2023-04/10922%20MHC%20DSS%20Your%20Guide%20to%20an%20Advance%20Healthcare%20Directive%20-%20screen.pdf) must be made in writing and signed by you, two witnesses, and by your designated healthcare representative, if you decide to have one.

# Information about “Next of Kin”:

There is a widespread but incorrect belief that an adult’s closest family member or next-of-kin is entitled to make decisions on their behalf if the adult lacks decision-making capacity. This is the belief that a relation has legal authority to:

* access information about them;
* take decisions on their behalf in relation to their property and personal welfare;
* give or withhold consent for their medical treatment.

This is not true outside of a formal legal arrangement. [Next of Kin Information](https://decisionsupportservice.ie/news-events/myth-next-kin)

# Planning Ahead:

[Safeguarding Ireland](https://www.safeguardingireland.org/adult-safeguarding-day-2023/) aims to improve understanding of adult abuse and safeguarding. All adults can take action and reduce their risk of adult abuse by planning ahead.

# Are you worried about your safety?:

One of our most important rights is that you have a Right to Feel Safe. You should have a good quality of life where you feel safe. You should feel safe wherever you are; (in your home, in work, in your centre or out on the street with your friends). Sometimes if you don’t feel safe, abuse might be happening to you. Every individual has rights that are protected by our law. [Are you worried about your safety?](https://www.hse.ie/eng/about/who/socialcare/safeguardingvulnerableadults/safeguardinginformationleaflet.pdf)