

Your Guide to

a Co-Decision-Making Agreement



seirbhís tacaíochta
cinnteoireachta

decision support service

IMPORTANT: This guide does not constitute a statement of the law or the provisions under the Assisted Decision-Making (Capacity) Act 2015 (as amended) or any ancillary or related legislation. Please do not rely on it for legal advice.

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1 About this guide

What is this guide about?

At different times in our lives, we all need to make decisions. We make important decisions about our finances, property, employment, accommodation, healthcare and social supports.

Decision support arrangements are legally recognised arrangements made under the Assisted Decision-Making (Capacity) Act 2015 (as amended) for people who need support to make certain decisions.

This guide tells you about what you need to know if you are thinking of making a particular type of decision support arrangement called a **co-decision-making agreement**. This type of arrangement lets you give someone the legal authority to make certain decisions jointly with you.

Who is this guide for?

This guide is written for people who wish to make a co-decision-making agreement or to find out more about this type of arrangement. It may also be helpful for the family, friends and carers of a person who is planning to make or has a co-decision-making agreement.

If someone has asked you to be their co-decision-maker, we recommend reading the *Code of Practice for Co-Decision-Makers* which is available on our website.

Guidance for professionals or organisations interacting with a person who has a co-decision-making agreement, or their co-decision-maker, is also available on our website.

When should you read this guide?

We recommend that you read this guide before you make a co-decision-making agreement. This is because it contains important information that you should know about:

- The things you need to consider before you make a co-decision-making agreement
- The types of decisions you can get help with
- What the person you appoint to help you can and cannot do and what their responsibilities are
- Steps for completing the co-decision-making agreement application
- What happens after you have made a co-decision-making agreement

You do not have to read this guide all at once, but we do recommend that you look at all of the information in it before you apply to make a co-decision-making agreement. If you need some help understanding the information in this guide, it might be a good idea to ask someone you trust to read through it with you.

1. About this guide

You may find it helpful to read some sections again when you are making your co-decision-making agreement. This will help you to avoid common mistakes people make when they are making a co-decision-making agreement.

2 About the Decision Support Service

2. About the Decision Support Service

The Decision Support Service was established under a law called the Assisted Decision-Making (Capacity) Act 2015 (as amended). We are part of the Mental Health Commission but have a separate role.

We provide an essential service for people who may need support to make certain decisions about their personal welfare, property and affairs.

This may include, for example, people with an intellectual disability, acquired brain injury, mental health difficulty or dementia.

The Decision Support Service also provides services for all people who want to plan for a time when they might not have decision-making capacity.

Some of our key functions include:

- Promoting awareness and providing information
- Registering decision support arrangements
- Supervising the actions of decision supporters
- Investigating complaints
- Maintaining a panel of suitable persons who assist us in our functions

You can find out more about the Decision Support Service and the new law on our website decisionsupportservice.ie.

What is capacity?

Capacity, or 'decision-making capacity' means your ability to make decisions. When we talk about capacity, we mean your ability to make a specific decision at a specific time.

Some people have capacity to make some decisions (for example, relating to their healthcare) but not others (for example, about their finances or selling a property). Some people need someone to help them to exercise their capacity, this may be by providing them with information, or helping them to communicate.

What are decision support arrangements?

Decision support arrangements are legally recognised arrangements for people who need support to make certain decisions. This can include, for example, decisions about finances, property, employment, accommodation, healthcare and social supports.

There are five different decision support arrangements available. These arrangements are based on the different levels of support that a person requires to make a specific decision at a specific time.

Under these arrangements, people can be appointed as **decision supporters**. A decision supporter has the legal authority to help with certain decisions about a person's personal welfare, property and money matters. The type of support they can provide depends on the decision support arrangement in place.

A person's needs may change over time. The different levels of decision support arrangements available means they can be changed, cancelled or replaced by another type of arrangement, depending on the person's capacity and needs.

What types of decision support arrangements are available?

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

- Decision-making assistance agreement
- Co-decision-making agreement
- Decision-making representation order

Each of these arrangements provide a different level of support, with a decision-making assistance agreement being the lowest and decision-making representation order being the highest.

There are also arrangements available for people who do not currently face difficulties when making decisions but wish to plan for a time when they might:

- Advance healthcare directive
- Enduring power of attorney

An advance healthcare directive can include decisions about a person's healthcare or medical treatment decisions.

An enduring power of attorney can include decisions about the person's personal welfare, not including healthcare treatment, and their property and money matters.

This guide tells you what you need to know about a co-decision-making agreement and how to make one. You can find out more about the other types of decision support arrangements on our website decisionsupportservice.ie.

3 Before you make a co-decision-making agreement

In this section we want to answer questions you may have about making a co-decision-making agreement. It is useful to know what it is exactly, who can make one and how to use it. We answer those questions and many more below.

What is a co-decision-making agreement?

A co-decision-making agreement is a document that lets you choose someone you know and trust to make certain decisions together with you. This means that you must make these decisions together. You choose which decisions you need help with. The decisions can be about your personal welfare and your property and affairs.

You, the person making the co-decision-making agreement, are called the **appointer**. The person you choose to make decisions with you is called your **co-decision-maker**. They need to agree to provide you with this support.

Your co-decision-maker can help you to gather information and explain it to you. Together, you look at the information and discuss the different options and outcomes. You *jointly* come to a decision that respects your wishes. Your co-decision-maker can also support you to let other people know about the decision you have made together.

Who can make a co-decision-making agreement?

You can make a co-decision-making agreement if you:

- Are aged 18 or over
- Can understand the effect of making the co-decision-making agreement
- Need help to make the decisions you plan to include in the agreement and would find it hard to make them without support
- Need more support than you would get from a decision-making assistance agreement
- Have someone you know and trust who is aged over 18 and willing to be your co-decision-maker

You will **not** be able to make a co-decision-making agreement if:

- You are under the age of 18
- You have the ability to make the decisions for yourself without support
- You cannot provide a statement from a doctor or healthcare professional that says you have the capacity to decide to make the co-decision-making agreement

3. Before you make a co-decision-making agreement

- You cannot provide a statement from a doctor or healthcare professional that says you have the capacity to make the decisions you wish to include in the co-decision-making agreement with the support of a co-decision-maker
- You have an active decision-making representation order, co-decision-making agreement enduring power of attorney or advance healthcare directive which already covers the relevant decisions.

What are the benefits of making a co-decision-making agreement?

A co-decision-making agreement allows you to give someone you know and trust the legal authority to make certain decisions together with you.

Your co-decision-maker can help you with the decisions in your agreement in a number of ways. They can help you to access relevant information and records. This might involve, for example, contacting your bank, phone company, or your doctor.

They can explain complex information to you. They can also help you to understand and weigh up your options. They work through the decision with you and help you to make sure it reflects your wishes. They can support you to let other people

know about the decision that has been made.

If you have a registered a co-decision-making agreement and you make a decision together with your co-decision-maker, other people cannot challenge the decision, or say that you are not able to make it. This means you can continue to make important choices about the things that matter to you.

Is a co-decision-making agreement right for you?

Before you make a co-decision-making agreement, you need to decide if it will provide the right level of support for you or whether a decision-making assistance agreement would be more suitable.

If you are able to make decisions for yourself but need someone's help to do this, a decision-making assistance agreement could be the right type of decision support arrangement for you.

If you face difficulties making some decisions for yourself and want someone to step through the full decision-making process with you, a co-decision-making agreement may be suitable. A co-decision-maker can help you in the same ways a decision-making assistant can, but they do more because they make the decisions in your agreement together with you.

When you apply to make a co-decision-making agreement, you must tell us the reasons why a decision-making assistance agreement would not be suitable.

A co-decision-maker cannot make decisions for you or on your behalf. If you face challenges with your decision-making capacity and require this type of help, then a decision-making representation order may be more suitable. You can find out more about the different types of decision support arrangements available on our website decisionsupportservice.ie.

Do you have to make a co-decision-making agreement?

You do not have to have a co-decision-making agreement. You cannot and should not be forced to make one if you do not wish to do so. No one can make a co-decision-making agreement for you or on your behalf. The decision to make one is yours and yours only.

The Decision Support Service examines all applications to register a co-decision-making agreement. If we think there may be evidence that you have been pressured, forced, or tricked into making one we will investigate straight away.

In some circumstances, the court may ask you to consider making a co-decision-making agreement. This could happen if you were previously a ward of court, or if someone has asked the court to assess your capacity.

Can your family and friends still help you with decisions?

If you do not have a co-decision-making agreement, your family and friends may still be able to help when you are making decisions. For example, they may be able to help you get information about your options and help you to understand information about the decisions you are making.

However, they may not have the legal authority to do certain things for you. For example, they will not be able to request your information from a bank or a service provider for you unless they are given specific permission. They will not be able to make decisions for you, or together with you.

Can you have more than one co-decision-making agreement at the same time?

You can have more than one co-decision-making agreement, but you can only have one co-decision-maker for each agreement.

3. Before you make a co-decision-making agreement

You cannot choose a co-decision-maker to help you with decisions that you have already included in another co-decision-making agreement. For example, you can have one co-decision-making agreement with your mother to help you with decisions about where you live and what medications you take and another co-decision-making agreement with your brother about managing your bank accounts and paying your bills.

Can you make a co-decision-making agreement if you have another decision support arrangement?

You can make a co-decision-making agreement even if you already have another decision support arrangement registered with us, as long as the specific decision is not already covered.

Your co-decision-making agreement cannot include a decision that is already covered by an existing decision-making representation order, an active enduring power of attorney, a different co-decision-making agreement or an advance healthcare directive.

If you include a decision in your co-decision-making agreement that you have already covered in an existing decision-making assistance agreement, that part of the decision-making assistance agreement will be cancelled.

Can you still make decisions by yourself if you have a co-decision-making agreement?

The law says that any of the decisions that are included in your agreement must be made by you, together with your co-decision-maker. If you make any of these decisions without your co-decision-maker, they will not be valid.

You can still make decisions that are not included in the agreement by yourself unless these decisions are covered by another arrangement, such as a decision-making representation order.

How long does it last?

A co-decision-making agreement can last for as long as you need it.

The law says after you register your co-decision-making agreement with us we must review it from time to time. We will review it after the first year and at least once every three years after that to ensure it is still working as it should.

4 Planning your co-decision-making agreement

4. Planning your co-decision-making agreement

Deciding to make a co-decision-making agreement is an important decision. A co-decision-making agreement is a useful tool that can help you to exercise your autonomy and ensure you have the support you need to make decisions.

In this section, we answer some questions we hope will help you when planning to make your co-decision-making agreement.

There are important legal implications when you make a co-decision-making agreement. If you include decisions in the agreement, those decisions must be made jointly with your co-decision-maker. A decision made jointly with your co-decision-maker cannot be challenged by another person who says you did not have the capacity to make the decision.

If you make a decision that is covered by your co-decision-making agreement by yourself, without your co-decision-maker, that decision will be considered null and void. This means it will not be valid.

You should talk with those closest to you about your co-decision-making agreement as this could be a source of support for you and may also help you to decide what it is you want to include and exclude from your co-decision-making agreement.

What is covered by a co-decision-making agreement?

It is important to think about the types of decisions you want to include in your agreement. You can include decisions about your personal welfare and your property and money matters. You can select one or more of the types of decisions below to include in your agreement. You will need to provide us with details about each type of decision you include.

Personal welfare decisions can be about your interests, health and wellbeing and can include decisions about:

- Accommodation
- Employment
- Education and training
- Social activities
- Social services
- Healthcare
- Participation in research
- Other matters about your well-being

Property and affairs decisions can be about your property, business and money matters and can include decisions about:

- Managing property, including purchasing goods and services and managing your day-to-day expenses, including paying your bills

- Selling, mortgaging or disposing of property
- Buying property
- Business decisions
- Ending a business partnership
- Carrying out a contract
- Managing debts and taxes
- Exercising the powers of a tenant for life
- Providing for the needs of other people
- Court proceedings
- Applying for social services

You can also include any exclusions, exceptions or conditions for any of these decisions.

More detail and examples of the types of decisions you can include in your co-decision-making agreement can be found at the end of this document.

Are there any things you cannot put in a co-decision-making agreement?

Your co-decision-making agreement will only include the things you want it to. No one can pressure or force you to include any decision about your personal welfare or property and affairs that you do not want included in your co-decision-making agreement.

There are some other specific things you cannot put into a co-decision-making agreement. These include:

- ✗ giving away your property, money or possessions as a gift
- ✗ any decisions which you cannot legally make yourself
- ✗ making a will

If you include any of these things, they cannot be acted upon by you and your co-decision-maker. This may also be grounds for us to refuse to register your co-decision-making agreement. In this event, we may ask you to remove such matters from your co-decision-making agreement.

What should you talk about with your co-decision-maker?

When planning your co-decision-making agreement, you should talk openly and honestly with your co-decision-maker, or the person you are thinking about choosing to be your co-decision-maker.

They will be the person who makes decisions together with you and helps you to communicate your decisions to others, so it is important that you are confident that they have a good understanding about your will and preferences, beliefs, and values for the things that really matter to you.

4. Planning your co-decision-making agreement

When you have decided who you want to act as your co-decision-maker you should talk with them about the decisions you want to include in your agreement and what their role and responsibilities will be. You will need to make sure they understand and agree to act in the role.

What information do you need before you begin?

When getting ready to make a co-decision-making agreement, you should have your personal details and your co-decision-maker's details close by to make sure you enter the correct information on your application form.

You will need to tell us all of the decisions you want to make jointly with your co-decision-maker, so you may want to write these down before you begin. However, you can save your application at any time and come back to it later.

Here is a list of things that you will need to have ready when making a co-decision-making agreement:

- Your date of birth
- Your home address
- Your MyGovID (if you have one)
- Your Personal Public Service (PPS) number
- Your co-decision-maker's full name

- Your co-decision-maker's home address
- Your co-decision-maker's email address
- Your co-decision-maker's telephone number
- Your co-decision-maker's PPS number
- Details of any other decision support arrangements you have
- A list of all decisions you wish to make jointly with your co-decision-maker
- Any decisions you do not wish for your co-decision-maker to make

How long does it take to make one?

A co-decision-making agreement will take some time to make.

You will have to provide us with information about yourself and the decisions you want support with. We have forms for you to use to make sure you provide us with all of the information that is required. You must provide supporting documents as part of your application; this includes forms that will be filled in by your doctor or another healthcare professional. It may take some time to complete these documents.

As part of your application, you will need to tell certain people about the agreement. Those people will have five weeks to object to the agreement, if they believe they have grounds to do so.

When we receive your application, we will review it to make sure it is complete and that it meets all of the legal requirements for making a co-decision-making agreement.

Do you have to tell anyone that you are making one?

When you and your co-decision-maker apply to register a co-decision-making agreement, you must tell certain people such as your spouse/civil partner and adult children. This is what we call your **notice parties**. You must also give them a copy of the agreement.

Any of those people have five weeks to object to the registration of the agreement. This means that they can tell us if they think there is an important reason why the agreement should not be registered. There are specific grounds on which an objection can be made.

If we receive an objection, we will review it. If we believe there are good grounds for the objection, we may ask the court to decide if the agreement should be registered.

How much does it cost to make a co-decision-making agreement?

It costs €90 to register your co-decision-making agreement with us. It also costs €90 if you want to change your co-decision-making agreement after it has been registered.

There may also be costs for getting a capacity statement for the agreement from your doctor or another healthcare professional (for example, social worker, nurse, speech and language therapist). You will have to pay the doctor and healthcare professional directly.

What if you cannot afford to pay the fee?

Some people do not have to pay to register a co-decision-making agreement. Fee waiver eligibility is based on your income, how much tax you pay and whether you have dependents.

The income threshold is set at €14,500. If your income is below this amount, you may be entitled to a fee waiver. You can apply for a fee waiver as part of your application for the registration, variation or revocation of your co-decision-making agreement.

5 About your co-decision-maker

In this section we tell you important things about your co-decision-maker. We answer your questions on who can be a co-decision-maker, what their functions are, whether they get paid and what responsibilities they will have after the co-decision-making agreement is registered.

Who can be your co-decision-maker?

One of the most important things to think about before you make a co-decision-making agreement is who you should choose to be your co-decision-maker.

Your co-decision-maker must be an adult, aged 18 and over.

It must be a family member or friend you have known long enough that you trust them to make decisions with you. You should choose someone who knows about your values and beliefs and what is important to you.

They must be willing to perform the role and responsibilities of a co-decision-maker.

You might also want your co-decision-maker to have different types of skills and qualities that make them suitable for performing the role. This could include being able to use a computer and access the internet or being good at money management. Your co-decision-maker should know about how you like to communicate, including any technology you need to use.

You might want to think about whether you need someone who lives close by you or if they can still perform the role if they live at a distance from you.

Is there anyone who cannot be your co-decision-maker?

Under the law a person is not allowed to be your co-decision-maker if they:

- have been convicted of an offence against you or your child
- have been the subject of a safety or barring order against you or your child
- are bankrupt or financially insolvent or have had certain orders made against them under the Companies Act (unless the agreement is only about personal welfare decisions)
- are the owner or a registered provider of a designated care or mental health facility where you live
- live with, or are the employee or agent of, the owner or a registered provider of a designated care or mental health facility where you live
- have previously been a co-decision-maker for you but were removed from that role
- have been convicted of an offence under the Act
- are the relevant person in an active decision support arrangement

5. About your co-decision-maker

What help will your co-decision-maker give you?

Your co-decision-maker's role is to support you in the decision-making process and make the decisions you have included in your co-decision-making agreement together with you.

Your co-decision-maker will:

- help you to obtain the information you need to make a certain decision, including your personal information held by organisations, businesses and professionals
- give you advice by explaining relevant information and considerations relating to the decision you need to make
- find out your wishes about the decision and the options available to you and assist you to communicate your will and preferences
- discuss with you the known alternatives and likely outcomes of the decision
- make the decision jointly with you
- make reasonable efforts to make sure the decision you make together is implemented

Your co-decision-maker's role will include helping you to access relevant information and records. It might include taking complex information and explaining it in clear and simple

terms. It will also include talking through the available options and coming to a decision that reflects your wishes with you. It might include letting other people know about the decision you have made.

Your co-decision-maker can only make decisions included in your agreement with you. They cannot help with any decisions not included in your agreement.

They cannot make any decisions for you or on your behalf.

What responsibilities does your co-decision-maker have?

Your co-decision-maker must:

- act within the scope of the co-decision-making agreement. This means that they only make decisions included in the agreement jointly with you
- support you in the decision-making process
- make decisions jointly with you, including signing documents with you, where needed
- not attempt to make decisions on your behalf
- not attempt to make decisions together with you which are not included in the agreement
- comply with their reporting obligations as a co-decision-maker

- follow the guiding principles in the Act
- follow the rules in the *Code of Practice for Co-Decision-Makers*
- respect your wishes in relation to a decision, even if they disagree with you, unless there is a risk of serious harm to you or another person

They must inform us if your capacity to make the decisions in the co-decision-making agreement changes. This includes if you:

- can no longer make the decision even with their help
- no longer need help to make the decisions

What is your co-decision-maker not allowed to do?

Your co-decision-maker should not refuse to make a decision, or sign a document/contract with you, which is in line with your will and preferences, even if they disagree with you. However, they may refuse to make a decision with you if they believe it will lead to harm to you or another person.

Your co-decision-maker cannot make decisions by themselves on your behalf. Any decisions included in a co-decision-making agreement must be made jointly or else they will be considered null and void.

Your co-decision-maker cannot receive a benefit from or become liable for a contract you are entering into. This means, even though they may be signing a document with you, they are not a co-applicant or joint applicant.

They are not entitled to any goods or services you may be purchasing. They are also not responsible for any of your payments or debt you owe.

Your co-decision-maker also cannot:

- Prevent you from seeing a particular person
- Consent on your behalf, for example, to ongoing administration of medication or restrictions on your liberty

It is an offence if your co-decision-maker ill-treats or neglects you.

It is an offence if any person:

- Makes a false statement in connection with the registration of your co-decision-making agreement
- Uses fraud, coercion, or undue influence to force you to make or change (vary) or cancel (revoke) your co-decision-making agreement

5. About your co-decision-maker

- Does not co-operate with an investigation or obstructs an investigation by us in relation to how your co-decision-making agreement is working

Do you or your co-decision-maker need to send any reports to us?

We review your co-decision-making agreement after it is registered with us to make sure it is working the way it should. The law says we must review it after a specific period of time.

As we will need to get in contact with you, it is important that you and your co-decision-maker let us know if you change any of your contact details.

Periodic review

As part of this review, you must provide us with an updated statement by a doctor or healthcare professional. Ideally this will be the same doctor or healthcare professional who provided the statements for your application. We will write to you and let you know when we need you to provide us with these.

If we believe the agreement is not working the way it should, we will write to you and your co-decision-maker to let you know and the reasons why. You and your co-decision-maker will have a chance to respond to us with your views.

We can send someone to talk to you or your co-decision-maker. For example, we can send a [general visitor](#) or [special visitor](#) to check that the agreement is working the way that it should.

We will review any response you send to us. If we still find that the agreement is not working the way it should, we may ask the court to decide on the matter. This may include deciding that the co-decision-maker should no longer act in their role.

Annual reports

Your co-decision-maker is required to submit an annual report to us within 12 months of the co-decision-making agreement being registered. The annual report relates to the activities they have undertaken as your co-decision-maker, any significant decisions made with you and any expenses claimed.

Who supervises your co-decision-maker's activities and how?

The Decision Support Service supervises your co-decision-maker's activities, by having them submit reports to us. We will review the reports they submit and may take further steps if we identify any issues or concerns.

If there is a problem with the way that your co-decision-maker is carrying out their reporting duties and this cannot be resolved, we may decide that they can no longer be your co-decision-maker. You can appeal this decision to court.

We can also send a **special visitor** or **general visitor** to you and your co-decision-maker to check if the arrangement is working the way it should. They can check whether the co-decision-maker is doing their job as you set out in the co-decision-making agreement and whether they are following the law and the *Code of Practice for Co-Decision-Makers*.

The visitor may request specific information from your co-decision-maker, including documents relating to expenses they have claimed or specific decisions they have made with you.

What happens if your co-decision-maker is unwilling or unable to do their job?

If your co-decision-maker is no longer willing or able to do their job, you or the co-decision-maker will need to let us know in writing. This will mean the co-decision-making agreement is cancelled.

Can you change your co-decision-maker?

You cannot change your co-decision-maker in your existing co-decision-making agreement. If you wish to change your co-decision-maker, you will have to cancel your current agreement and apply to make a new one.

Can you remove your co-decision-maker?

You can only remove your co-decision-maker by cancelling the agreement. If you no longer wish for your co-decision-maker to support you, you or your co-decision-maker will have to let us know in writing.

Can your co-decision-maker access your personal information?

Your co-decision-maker may need to access some of your confidential information to support you to make decisions you have included in your agreement. For example, they may need to see information or records from your bank or a service provider.

However, they must only get information that is needed to support you to make a decision and only use it for that purpose. They must also keep your information safe and secure.

5. About your co-decision-maker

Does your co-decision-maker get paid?

The law says your co-decision-maker cannot receive payment for supporting you.

They can be repaid for any reasonable costs and expenses they incur when performing their functions. This money is taken from your assets. They must keep receipts and records in relation to any costs and expenses and submit these as part of their regular reports to us.

6

Making a co-decision-making agreement

6. Making a co-decision-making agreement

In this section, we will guide you through the process of making a co-decision-making agreement, if you wish to create one.

We also have a step-by-step guide to walk you through the process of making a co-decision-making agreement on our online portal **myDSS**. You can find this on our website decisionsupportservice.ie.

How do you make a co-decision-making agreement?

You must register your co-decision-making agreement with us for it to be legally valid. The process for making a co-decision-making agreement can take some time and includes a number of steps as required by the law. We will provide you with the forms and templates to make the co-decision-making agreement and to apply to register it with us. You may need help to make sure you have filled in the form correctly.

You can apply to make a co-decision-making agreement by creating an account on the Decision Support Service online portal. Once you have logged into your **myDSS** account you will be able to access a number of our services, including creating a co-decision-making agreement.

Steps for making a co-decision-making agreement



After you complete the co-decision-making agreement application, you will be able to download some forms for you and your co-decision-maker to complete, as well as forms for your doctor or a healthcare professional and your co-decision-maker's character referees to complete. Where possible, we have combined the required forms and statements into the application to reduce the number of supporting documents required.

Once all of these forms have been completed and your co-decision-making agreement has been signed and witnessed, you will upload your documents back into the online portal and pay the registration fee. You can make the payment online using a debit or credit card.

What if you cannot access a computer?

If you cannot access a computer or set up an account online, that is not a problem. You can contact us, and we will help you set up your account.

You can contact us on **(01) 211 9750**.

Alternatively, you can complete a paper application form. You can contact us at the number above and we can post one to you.

If you use our paper application form, you will need to complete the application form and submit it to us. We will then send you the supporting documents for the next steps in the application process.

Do you have to set up an account to make a co-decision-making agreement online?

If you want to make a co-decision-making agreement online, you will have to set up an account on the Decision Support Service online portal. To set up an account you will need to provide us with your email address

and some general information about you. You will also need to verify your identity. The easiest way to do this is by using a MyGovID.

What if you do not have a MyGovID?

If you do not have a MyGovID, you will have to provide a photographic proof of identity, a proof of PPS number, and a proof of address.

The list of accepted documents for each of these categories is available on the Decision Support Service website [decisionsupportservice.ie](https://www.decisionsupportservice.ie).

Do you need to have a Personal Public Service (PPS) number?

If you create your portal account using your MyGovID, you will not need to provide a PPS number, as this will be automatically generated by your MyGovID.

If you create your portal account without using a MyGovID, you will be asked to provide a PPS number to help us verify your identity.

Can someone help you to make an application?

Your proposed co-decision-maker, your existing decision supporter, if you have one, or another trusted person, such as a friend or member of your family, can help you with your application.

6. Making a co-decision-making agreement

However, it is important that you apply of your own free will and that the person helping you does not pressure or force you into making an application.

You may wish to discuss some of the decisions you wish to include in your co-decision-making agreement with an expert, such as a lawyer or financial advisor, but you do not have to.

You can also contact us and we will help you through the process.

How do you make a co-decision-making agreement online?

You can read our step-by-step guide for information on how to create and submit a co-decision-making agreement through our online portal **myDSS**. There are a number of steps in the process, whether you apply online or by post. However, an online application is the quickest way to apply and you are less likely to make mistakes.

You can access **myDSS** through our website decisionsupportservice.ie.

A co-decision-making agreement application includes a number of different forms and supporting documents:

- Co-decision-making agreement arrangement template
- Appointer declaration

- Co-decision-maker declaration
- Notice form
- Capacity statement
- Character references

The forms and templates for these are available through our online portal **myDSS**. You can also contact us if you are not able to access our online portal.

What documents do you need to include with your co-decision-making agreement?

Information about each of the forms, documents and statements you will need to complete as part of your co-decision-making agreement can be found below. Where possible, we have combined the legal requirements of the application to limit the number of supporting documents required.

✓ Co-decision-making agreement arrangement template

This is a copy of your co-decision-making agreement. It includes details of you, your co-decision-maker and the decisions you have included that you want to make jointly with your co-decision-maker and any exclusions or conditions that you want to put in place.

✓ **Appointer declaration**

This declaration is part of the co-decision-making agreement. You are the appointer. You must sign this declaration to confirm that you understand the effect of making the co-decision-making agreement. You must sign this form in front of two witnesses. Your witnesses must be 18 or over, and can not be employees of your co-decision-maker. One of your witnesses can not be related to you or your co-decision-maker. If you are physically unable to complete the declaration, someone else can sign this on your behalf. They must do this in front of you and your witnesses.

✓ **Co-decision-maker declaration**

This declaration is part of the co-decision-making agreement. Your co-decision-maker must sign this declaration to confirm they understand their role, functions and responsibilities and are willing to act as your co-decision-maker. They must sign this in front of two witnesses. Your witnesses must be 18 or over, and can not be employees of your co-decision-maker. One of your witnesses can not be related to you or your co-decision-maker.

✓ **Notice form**

You and your co-decision-maker must tell certain people that you are making the co-decision-making agreement. These people are called your notice parties. This includes your spouse and

adult children. You must send a copy of the notice form, along with a copy of the arrangement template to all of your notice parties.

✓ **Capacity statement**

You must get a doctor or other healthcare professional to assess your capacity to make the co-decision-making agreement. They will also assess whether you require help to make decisions and whether you can make such decision with the assistance of your co-decision-maker.

This will be a functional assessment of capacity, which means they will examine whether you can:

- Understand information about making the co-decision-making agreement and the decisions you want to make jointly with your co-decision-maker
- Remember that information long enough to make a voluntary choice
- Understand the options available to you and use or weigh up the information to make a decision
- Communicate your decision (or someone is able to communicate it on your behalf)

If after assessing you, the doctor or other healthcare professional believes the requirements in relation to capacity are satisfied, they will complete the capacity statement confirming this.

6. Making a co-decision-making agreement

✓ **Character references**

Your co-decision-maker must ask two adults who know them well to submit references as to their personal character. At least one of the character references must be from a person who is not their close family member. Your co-decision-maker's referees must each complete and sign a copy of this form.

What is a witness?

A witness is a person who is in the same room as you and watches you and your co-decision-maker sign the declarations in your co-decision-making agreement. They must confirm that no one was pressuring you or forcing you to sign it against your will.

How many witnesses do you need?

You need two witnesses when making a co-decision-making agreement. Both of your witnesses need to be over 18 years old and one of them must not be a close family member of you or your co-decision-maker.

What is a notice party?

Your notice party is a person you must tell about your co-decision-making agreement. There are mandatory notice parties:

- your wife, husband, civil partner or cohabitant

- your children (if they are 18 years old or older)
- any other decision supporter you may have

How do you let your notice party know about your co-decision-making agreement?

We will provide you with a form you can complete and provide to your notice party along with a copy of your co-decision-making agreement. If you are using our online portal to make your co-decision-making agreement, you will be able to download the notice form as part of the application process and email it or print it out to send to your notice parties. You may print as many as needed.

You do not need to give us a copy of the notice given as part of your application. However, if one of your notice parties says you never let them know about the co-decision-making agreement, you may be required to provide proof of this.

Can someone stop you from registering a co-decision-making agreement?

Your notice parties can object to you making a co-decision-making agreement. This means they tell us they think there is a reason why it should not be made.

Your notice parties have five weeks to make an objection from the date you provided them with notice.

One of your notice parties can object to your co-decision-making agreement for the following reasons:

- The co-decision-making agreement does not meet legal requirements
- Notice requirements for creating the co-decision-making agreement were not followed
- You lack capacity to make the co-decision-making agreement
- You have the capacity to make the decisions in the co-decision-making agreement without support
- You lack capacity to make the decisions in the co-decision-making agreement even with the support of your co-decision-maker
- It is not your will and preference to make the co-decision-making agreement
- Your co-decision-maker is not a suitable person
- The co-decision-making agreement contains a false statement
- Fraud, pressure, or undue influence was used to make you enter into the co-decision-making agreement

How do you submit your application to register your co-decision-making agreement?

If you are using our online portal to make your co-decision-making agreement, you will need to upload all of your supporting documents including:

- ✓ your declaration which has been signed and witnessed
- ✓ your co-decision-maker's declaration which has been signed and witnessed
- ✓ capacity statement from your doctor or from a healthcare professional
- ✓ character references x2

You will also need to provide us with the details of your notice parties and the date you told them about your co-decision-making agreement.

Once all of the above documents are uploaded and information provided, you will have the option to pay the registration fee and submit your application.

What happens after you submit your application?

When we receive your application, we will review it to make sure that you have completed all sections of the form and uploaded all the required documents correctly.

6. Making a co-decision-making agreement

We will check to make sure there are no mistakes in the form or supporting documents.

We may contact you or your co-decision-maker if we need any additional information about your application. We will give you an opportunity to make changes to correct minor and administrative errors in the application.

If the agreement meets all of the legal requirements, we will approve it and will let you and your co-decision-maker know.

Can the Decision Support Service refuse your application?

If your co-decision-making agreement or the supporting documents do not meet legal requirements, we may have to refuse the application. Before we make a decision, we will tell you what is wrong and give you and your co-decision-maker the opportunity to fix it or to provide us with additional information.

If we refuse your application to register your co-decision-making agreement, you can ask us to review our decision. If following our internal review process, you still disagree with our decision, you will have the right to appeal our decision to court.

What are the common mistakes made by people when making a co-decision-making agreement?

Common mistakes when making a co-decision-making agreement can be simple. This includes names and addresses being spelt wrong or the wrong names being included in supporting documents, for example, the doctor or healthcare professional putting their own name where the appointer or co-decision-maker name should be in their statement. You can avoid these mistakes by using the template forms that you can download in the online portal.

Other common mistakes could be the way you write down the decisions you want to make jointly with your co-decision-maker. This can include being too vague or broad with your instructions.

It is important to think about the short term and long term to make sure you include all of the decisions that you want to take jointly with your co-decision-maker. If you leave something out, you can change it at a later time but this could be time consuming involve more costs.

The Decision Support Service can provide you with additional information and support on how to complete the application form to ensure the co-decision-making agreement reflects your will and preferences.

7 After you have made your co-decision-making agreement

7. After you have made your co-decision-making agreement

In this section, we let you know what happens after you register your co-decision-making agreement. This includes information about who can find out about your co-decision-making agreement. It also includes information on what happens if things go wrong.

What happens after we register your co-decision-making agreement?

After we confirm that your agreement meets all of the relevant legal requirements, we will let you and your co-decision-maker know when it has been registered. We will add it to the Register of Co-Decision-Making Agreements.

We will send you and your co-decision-maker a certified copy of the agreement. Each certified copy will display the date the agreement was signed, the date it was registered and the date the certified copy was made.

Once registered, the agreement is in force which means it has legal authority. Other people cannot challenge decisions that are covered by your co-decision-making agreement by saying that you do not have capacity.

You must make the decisions contained in the co-decision-making agreement together with your co-decision-maker from this point.

Can you get a copy of your co-decision-making agreement?

You or your co-decision-maker can download a certified copy of your co-decision-making agreement at any time on our online portal by logging into your accounts.

How can you use the certified copy?

Your co-decision-maker's authority to help you is based on the co-decision-making arrangement. If a third party or organisation needs proof that your co-decision-maker has the authority to help you, you or your co-decision-maker can provide them with a copy of the co-decision-making agreement.

Who can find out if you have a co-decision-making agreement?

We will maintain a register of co-decision-making agreements. The purpose of the register is to make people aware of your co-decision-making agreement and the authority of your co-decision-maker, where appropriate.

Approved persons and organisations can apply to have access to search the register. These may be lawyers, healthcare professionals, finance professionals, registered nursing homes, banks and general practitioner practices. Approved persons and organisations will be able to view

details of your co-decision-making agreement, or get a copy of the agreement, as needed.

In addition, any person may request to search the register on the grounds that they have a legitimate interest in a decision, or in the arrangement. We will review each request to determine whether to grant access to the arrangement, or certain decisions in the arrangement.

We will keep a record of any person or organisation that searches the register or receives a certified copy of an agreement.

Do you need to send any reports to us?

We review your co-decision-making agreement after it is registered with us to make sure it is working the way it should. The law says we must review it after a specific period of time.

As part of this review, you must provide us with a form completed by the same doctor or healthcare professional who provided the statement for your application. If they are not available to provide the statement, you can ask a different doctor or other healthcare professional to provide the statements. We will write to you and let you know when we need you to provide us with this statement.

If we believe the agreement is not working the way it should, we will write to you and your co-decision-maker to let you know and the reasons why. You and your co-decision-maker will have a chance to respond to us with your views.

We will review any response you send to us. If we still find that the agreement is not working the way it should, we may ask the court to decide on the matter. The court may decide that your co-decision-maker should no longer continue in the role.

Can someone make a complaint about your co-decision-maker?

Yes. Any person, including you, can make a complaint about your co-decision-maker or about your co-decision-making agreement.

A complaint about your co-decision-maker or about your co-decision-making agreement must be for one of the following reasons:

- The co-decision-maker is acting in a way that the law or your co-decision-making agreement does not allow, for example, by trying to make decisions on your behalf instead of jointly with you
- The co-decision-maker is not suitable or is no longer eligible for the role

7. After you have made your co-decision-making agreement

- The co-decision-making agreement does not reflect your will and preferences
- You did not have capacity to make the co-decision-making agreement
- Fraud, coercion or undue pressure was used to get you to make, change (vary) or cancel (revoke) the agreement
- You have capacity and do not need your co-decision-maker
- You are unable to make decisions even with your co-decision-maker's help

When we receive a complaint, we will review it to see if we need to investigate it further.

You can find out more about making a complaint on our website and in the Decision Support Service Complaints Policy.

Can you change your co-decision-making agreement?

The process of changing your co-decision-making agreement is called **variation**.

You can change a co-decision-making agreement once it has been registered with us for more than six months. Both you and your co-decision maker must agree to this.

If you need to make minor changes, such as a change of address, you can notify us of the changes. If you wish to make a substantial change to the agreement, you must go through most of the same steps as registering a new one. The agreement must be varied in writing. We have a specific form you will need to complete.

You can change your co-decision-making agreement on our online portal.

Can you cancel or end your agreement?

The process of cancelling your co-decision-making agreement is called **revocation**. You or your co-decision-maker can end all or part of the co-decision-making agreement at any time, after it is registered with us.

The agreement must be cancelled in writing. We have a specific form you will need to complete, which must also be signed by two witnesses. We will remove all or part of the agreement from the register.

To cancel part of an agreement, for example, to remove a decision that you do not want help with anymore, you and your co-decision-maker will have to follow the steps for changing a co-decision-making agreement.

You can change or cancel your co-decision-making agreement on our online portal.

Are there any other circumstances where your co-decision-making agreement will end?

Your co-decision-making agreement will no longer be valid:

- If another decision support arrangement is registered or comes into effect which nullifies your co-decision-making agreement. This may include a decision-making representation order, an enduring power of attorney or an advance healthcare directive
- If your co-decision-maker is your spouse, partner or cohabitant and your marriage, civil partnership or cohabitation ends, unless your co-decision-making agreement states that the agreement should remain in place in this situation
- If your co-decision-maker becomes disqualified or is otherwise prevented from continuing in their role
- If your co-decision-maker becomes the relevant person in a decision support arrangement
- If the court has decided that your co-decision-maker should no longer continue in the role
- At the time of your death

If you lose capacity to make one or more of the decisions included in your agreement, an application may need to be made to the court to determine whether your co-decision-making agreement should end.

Where can I get more information?

Our step-by-step guide to making a co-decision-making agreement on our online portal is available on our website decisionsupportservice.ie.

You can contact our Information Services Team on **(01) 211 9750**.

You can also ask a question on our website, or by email to queries@decisionsupportservice.ie.

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Summary of decision types

Summary of personal welfare decisions

Healthcare	Treatment for conditions, providing informed consent, taking medications, surgery, your mental health, dental care, smoking cessation, weight management.
Accommodation	Where you live, including living independently, living with others, living in a care facility, planning to move into a care facility, planning to leave a care facility.
Employment	Working part-time, full-time, volunteering, work experience, or searching for a job.
Education and training	A course, certification, qualification, apprenticeship, training programme or higher education in a university or college. Applying for grants and making applications.
Social activities	Pursuit of hobbies and interests, membership of a sport or social club, charity or community involvement, cultural activities and support groups.
Social services	Managing access to and decisions about social services, allowances, benefits and payments. Note: applications for housing, social welfare and other benefits are included under 'property and affairs' decisions.
Participation in research	Participating in health and social care research, including surveys, focus groups and use of your personal information.
Other	Any other decisions relating to your well-being.

8. Summary of decision types

Summary of property and affairs decisions	
Management of property	Opening, managing and closing bank accounts. Upkeep and maintenance of residential or commercial property. Day-to-day living costs and one-off purchases. Maintaining investments.
Selling, mortgaging or disposing of property	Selling your house, car or other things you own. Including to pay off debts or to have money for day-to-day living costs. Giving your money or property to others or to a charity.
Acquisition of property	Buying a new house, apartment, land, vehicle or other significant assets. Acquiring new investments.
Managing debts, taxes and liabilities	Paying your bills, paying your taxes and submitting a tax return. Managing your debts and liabilities, including a mortgage, student loan or personal loan.
Carrying out contracts	Ensuring you meet your obligations for any contracts (legal agreements) you have entered into, including contracts for goods and services, memberships, payment plans and subscriptions.
Your business, trade or profession	Doing anything related to your work or business that could be legally done by another person.
Dissolving a partnership	Making decisions to dissolve a partnership in which you are a partner and associated actions.
Applications for social services	Making applications for housing, social welfare and other benefits, including making relevant claims or appeals.
Tenant for life	Decisions about the rights you have in relation to a property for your own lifetime or another person's lifetime.
Providing for the needs of other people	Giving money or providing other benefits to your family, loved ones, carers or decision supporters. This cannot include giving gifts.
Court proceedings	Decisions about cases in a court or a tribunal that you are involved in. This could include, for example, claims for compensation, family law matters, or cases relating to your capacity.





**seirbhís tacaíochta
cinnteoireachta**

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