
Your guide to the codes of practice



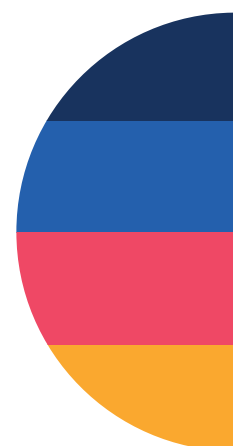
**seirbhís tacaíochta
cinnteoireachta**
decision support service

Important: This is a guide to the codes of practice published by the Decision Support Service under the Assisted Decision-Making (Capacity) Act 2015 (as amended). It is not a legal interpretation and does not fully describe the codes of practice. Please do not rely on it for advice.

This guide has been written according to the principles of plain English with the support of an experienced plain English practitioner.

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Terms we use in this guide

Advance healthcare directive	A document saying how a person would like healthcare treatment decisions to be made for them if they lose the ability to decide for themselves.
Assisted Decision-Making (Capacity) Act 2015	The Act that creates the new formal decision support arrangements.
Attorney	A person who acts on behalf of someone else. They are appointed under an Enduring Power of Attorney.
Capacity	A person's ability to make their own decision.
Capacity assessment	Assessing whether a person is able to make their own decision about their own life.
Co-decision-maker	A person who makes decisions jointly with someone.
Decision-making assistant	A person appointed to help someone to make decisions for themselves .
Decision-making representative	A person appointed by the court to make decisions on behalf of someone who does not have capacity to make those decisions .

Decision supporter	An umbrella term for people who support decision-making in a formal decision support arrangement.
Decision support arrangement	Any of the formal arrangements to support someone with decision-making.
Enduring power of attorney	A document where a person gives power to someone else to act on their behalf if they become unable to make certain decisions in the future.
General visitor	A person who helps the Decision Support Service to ensure that decision support arrangements are working properly.
Guiding principles	Principles in the Act about how to work with and support a relevant person.
Independent advocate	A person who speaks (advocates) for someone who has difficulty speaking for themselves. They are independent of family and other people involved.
Relevant person	A person whose capacity is in question or who does not have capacity to make certain decisions.
Special visitor	A person who helps the Decision Support Service to ensure that decision support arrangements are working properly. Special visitors can also assess someone's capacity.

What is this guide for?

Sometimes people find it difficult to make decisions about their lives. This could be decisions on where they live, what healthcare they receive, or many other things. Relatives, friends or healthcare workers can often help people to make decisions, by giving them the information they need and talking through options. We call this type of help **decision support**.

The government has made a new law with legal arrangements for decision support, and these are called **decision support arrangements**. The law is called the Assisted Decision-Making (Capacity) Act 2015.

The government has also set up a new service to help people deal with decision support arrangements. The service is called the **Decision Support Service**.

There are a few different decision support arrangements, depending on how much help a person needs with making decisions.

To describe the new decision support arrangements and the responsibilities of the people involved, the Decision Support Service has written 13 codes of practice, or guidance on how things work.

This guide gives a summary of each code of practice.

Who is this guide for?

This guide is for any person who:

- needs or may soon need support to make important decisions about their life and
- who is thinking about a decision support arrangement or already has one in place.

Some people find it difficult to make decisions without support. This can include people with a condition or ability such as an intellectual disability, a mental illness, an acquired brain injury or dementia.

However, a person with a condition or disability will not always need formal support to make decisions. Also, any of us could have problems making decisions in the future. The Act allows us to plan ahead.

In this guide and in the codes of practice we sometimes use the term **relevant person** to describe a person who needs support.

We use the term **capacity** to describe the ability to make your own decisions.

What does the law say?

The Assisted Decision-Making (Capacity) Act 2015 is about the rights of people to make their own decisions.

One way the law supports these rights is by offering a number of formal decision support arrangements. These help people take part in decisions and make choices about things in their lives.

The support a person needs will depend on the decisions they have to make and their own circumstances.

Our website decisionsupportservice.ie has more information about decision support arrangements and how to make one.

What is in this guide?

This guide gives information about:

- what a code of practice is
- who each code of practice is for
- some of the things each code of practice says and
- what each code of practice means for you.

What are the codes of practice?

A code of practice provides guidance to a group of people about how to perform a particular function or action.

The codes of practice described here provide guidance to different people and professionals about how to perform certain functions under the Act.

The codes contain guidance on **how to support people to make their own decisions as far as possible**.

The codes also provide guidance on assessing a person's capacity to make decisions if this is needed.

The people who are appointed to help with decision-making under the new decision support arrangements are called **decision supporters**. The codes also provide guidance to professionals, including finance, legal and healthcare professionals, about how to work with decision supporters.

Some codes of practice are **compulsory**. This means the law says that certain people have to follow the guidance in the codes of practice.

Other codes of practice are **not compulsory**. This means the law does not require people to follow their guidance, but it is still the right thing to do. This is sometimes referred to as **best practice**.

There are **13** codes of practice:

- One is for anybody to use when they are involved with a relevant person, especially when the person must make an important decision.
- Five are for decision supporters.
- Seven are for certain professionals and groups when they are working with a relevant person, especially when an important decision needs to be made.

Code of Practice on Supporting Decision-Making and Assessing Capacity

This code of practice is for...

...anyone who is involved with a person who needs support to make decisions.

Certain people must read and follow this code when working with a relevant person and performing a function under the Act, including:

- a decision supporter
- the Decision Support Service
- the court
- a special visitor or general visitor
- a healthcare professional.

Other people **may** read and use this code as guidance on best practice when involved with a relevant person. This could include when they are providing a financial or legal service, or care and treatment in a healthcare setting.

Some of the things this code of practice says

People supporting a relevant person must follow the guiding principles in the Act. This code of practice explains what the guiding principles mean.

People with particular functions should also follow the guiding principles. This includes general and special visitors as well as other professionals such as legal, finance and healthcare professionals.

The guiding principles say that everyone should:

- presume every person has the capacity to make a decision, unless it is shown that they do not
- support people as much as possible to make their own decisions
- not assume that a person does not have capacity just because they make what looks like an unwise decision
- take action only where really necessary
- where action is necessary, take the action that least restricts the person's rights and freedoms
- try to act in a way that respects the person's will and preferences
- consult other people and consider their views
- consider how urgent the action is
- find and use information suitably.

Supporting a person to make decisions can include:

- understanding the particular support the person needs to make the decision
- ensuring the person has the information they need to make the decision
- thinking about how place, time and similar issues may affect the person's decision-making.

A person's capacity should only be assessed after all reasonable steps have been taken to support them to make their own decisions. If a person's capacity needs to be assessed, the assessment is only about whether they can make that **particular decision at that particular time**.

We consider a person to have capacity if they can:

- understand information about the decision
- remember that information long enough to make a voluntary choice
- use or weigh up that information and
- communicate the decision in any way.

What this code of practice means for me

People should presume I have capacity to make a decision. I might need support to make a decision. This support should be available.

I get the information I need to make important decisions about my life. The information is available in a way that suits me.

If I want to do something that seems unwise to other people, that does not mean that I do not have capacity to decide to do it.

I get help to understand the options available to me, including the option of doing nothing.

I know my views and wishes have been properly considered for important decisions in my life, even if I don't always get everything I want.

If my capacity needs to be assessed, I will be fully informed about how this will be done. I will be told the result of the assessment and what will happen next.

Code of Practice for Decision-Making Assistants

This code of practice is for...

...a type of decision supporter called a **decision-making assistant**.

If a person cannot make certain decisions on their own without someone's support, they can choose someone they know and trust to be their decision-making assistant. This is written down in **a decision-making assistance agreement**.

The role of a decision-making assistant is to **help the person to make decisions for themselves**.

Some of the things this code of practice says

A decision-making assistant must follow the guiding principles.

A decision-making assistant cannot make a decision for the person, or jointly with the person. However, they can help to make sure the person's decision is respected and followed.

A decision-making assistant can get the person's personal information, when needed, for decisions covered by the decision-making assistance agreement.

What this code of practice means for me

I decide what decisions to include in my decision-making assistance agreement.

My decision-making assistant supports me, but I am the one who makes the decision.

My decision-making assistant can help me by contacting my bank and doctor, and other organisations and professionals. They can also get my personal data when I need it to make a decision.

My decision-making assistant can help me to communicate my decisions to others.

To find out more about making a decision-making assistance agreement read **Your guide to a decision-making assistance agreement** on our **website**.

Code of Practice for Co-Decision-Makers

This code of practice is for...

...a type of decision supporter called a **co-decision-maker**.

If a person cannot make certain decisions on their own and needs more support than a decision-making assistant can give, they can appoint someone to be their co-decision-maker. This is written down in a **co-decision-making agreement**. The co-decision-maker is someone they already know and trust.

The role of a co-decision-maker is to make the decisions covered by the co-decision-making agreement **jointly with the person**.

Some of the things this code of practice says

A co-decision-maker must follow the guiding principles.

A person and their co-decision-maker makes decisions covered by the co-decision-making agreement **jointly**. If a document like a contract or a consent form requires a signature, the co-decision-maker and the person must both sign.

If the person and the co-decision-maker disagree, the co-decision-maker must follow the views of the person, unless this would cause serious harm to the person or another person.

A co-decision-maker must keep records and send reports to the Decision Support Service about how they have supported the person.

What this code of practice means for me

I decide what decisions I want to include in my co-decision-making agreement.

I must make the decisions written in my co-decision-making agreement jointly with my co-decision-maker. I cannot make these decisions by myself, and my co-decision-maker cannot make these decisions for me.

Even though I make decisions jointly with my co-decision-maker, my views and wishes are the most important.

People cannot question my capacity to make a decision just because I need the support of my co-decision-maker to make it.

To find out more about making a co-decision-making agreement read **Your guide to a co-decision-making agreement** on our **website**.

Code of Practice for Decision-Making Representatives

This code is for...

...a type of decision supporter called a **decision-making representative**.

If a person cannot make certain decisions on their own, even with support, the court may appoint someone **to make decisions on their behalf**. The court will try to choose someone the person knows and trusts.

If there is no one suitable, the court may appoint a decision-making representative from a panel that the Decision Support Service keeps.

The role of a decision-making representative is to make particular decisions on behalf of the person based on what is written in the court order.

Some of the things this code of practice says

The decision-making representative must respect the person's past and present **will and preferences** when making decisions for them. This means that they must try to make the same decision the person would have made themselves.

A decision-making representative must strictly follow the court order, including any powers, conditions and exceptions written in it.

The Decision Support Service supervises decision-making representatives. Decision-making representatives must send regular reports to the Decision Support Service, including details of any money spent on behalf of the person.

What this code of practice means for

Even if the court says that a decision-making representative can make decisions for me, they still have to include me.

I am well informed about any decisions made on my behalf.

Where possible, decisions made on my behalf are in line with my views and wishes and respect my identity, values, beliefs and culture.

My decision-making representative consults my loved ones and trusted professionals and takes their views into account.

To find out more about a decision-making representation order read **Your guide to a decision-making representation order** on our **website**.

Code of Practice for Attorneys

This code is for...

...a type of decision supporter called an **attorney**.

A person who has capacity can create an **enduring power of attorney** and appoint someone to be their attorney.

In the enduring power of attorney, they can say how they would like important decisions to be made if they lose capacity to make these decisions in the future.

The role of an attorney is to make decisions on behalf of the person, based on what the person wrote in their enduring power of attorney.

The attorney may have a general (wide) power to act on behalf of the person, or a particular power for specific decisions.

Some of the things this code of practice says

An enduring power of attorney only starts to operate when the person who made it loses capacity to make decisions covered by the power of attorney.

The attorney must respect the person's past and present will and preferences when making decisions on their behalf.

The attorney must strictly follow the authority given in the enduring power of attorney.

The Decision Support Service supervises the attorney. Attorneys must send regular reports on what they are doing on behalf of the person, including any money spent.

What this code of practice means for me

I have peace of mind that decisions made on my behalf will be made in line with my views and wishes if I cannot make these decisions myself in the future.

I have support to take part in decisions about my life.

My attorney consults my loved ones and trusted professionals and considers their views.

I am well informed about decisions made on my behalf.

To find out more about making an enduring power of attorney read **Your guide to an enduring power of attorney** on our **website**.

Code of Practice for Designated Healthcare Representatives

This code is for...

...a type of decision supporter called a **designated healthcare representative**.

A person who has capacity can create an **advance healthcare directive** and appoint someone to be their designated healthcare representative.

In the advance healthcare directive they can say how they would like important treatment decisions to be made if they lose capacity in the future.

The role of a designated healthcare representative is to ensure people are aware of and follow the advance healthcare directive.

They may also consent to treatment or refuse treatment on behalf of the person, depending on what is covered by the directive.

Some of the things this code of practice says

An advance healthcare directive only starts to operate when the person who made it loses capacity to make decisions about treatment.

The designated healthcare representative must respect the person's past and present **will and preferences**, as written in the advance healthcare directive, when consenting to or refusing treatment on behalf of the person.

The designated healthcare representative must strictly follow the authority given by the advance healthcare directive.

What this code of practice means for me

I have peace of mind that healthcare decisions made on my behalf will be in line with my views and wishes if I am unable to make these decisions myself in the future.

I am well informed about any treatment decisions made on my behalf.

My designated healthcare representative will ensure my healthcare team are aware of my wishes about treatment decisions, as written down in my advance healthcare directive.

To find out more about making an advance healthcare directive read **Your guide to an advance healthcare directive** on our **website**.

Code of Practice for Legal Practitioners

This code is for...

...legal practitioners, meaning anyone who is a practising barrister or solicitor. Barristers and solicitors are also called lawyers.

A legal practitioner may deal with a client whose capacity is in question. They may also deal with their decision supporter. This could be, for example, in court proceedings, the sale of a property, or entering a contract.

A legal practitioner may be asked to interview a person making an enduring power of attorney and to complete a statement needed to register the power of attorney.

Some of the things this code of practice says

Where a person's capacity is in question, a legal practitioner must provide suitable support to the person to allow a decision to be made. They should make a written record of their dealings with the person.

If there is good reason to question a person's capacity to make a decision, a legal practitioner should check if there is a decision support arrangement. This may include checking the Decision Support Service's registers.

Before discussing confidential information with a decision supporter, a legal practitioner must check the decision supporter's authority.

What this code of practice means for me

My lawyer should support me to make my own decisions and provide information in a way I can understand.

My lawyer must not presume I do not have capacity to make a certain decision just because I need support to make it.

If my lawyer assesses my capacity and thinks I do not have capacity to make a decision, they should act to make sure I have the support I need.

Code of Practice for Financial Service Providers

This code is for...

...financial service providers.

This includes any person who provides financial services or financial advice:

- through a financial institution, such as a bank or credit union or
- in a professional capacity, such as an accountant, insurance professional or investment adviser.

A financial service provider may deal with a client whose capacity is in question. They may also deal with their decision supporter, for example, about bank accounts, investments or other financial products and services.

Some of the things this code of practice says

Where a person's capacity is in question, a financial service provider must provide suitable support to the person to allow a decision to be made.

If there is good reason to question a person's capacity to make a decision, the financial service provider should check if there is a decision support arrangement. This may include checking the Decision Support Service's registers.

Before discussing confidential information with a decision supporter, a financial service provider must check the decision supporter's authority.

What this code of practice means for me

A financial service provider, such as my bank or credit union, should support me to make my own decisions and provide information in a way I can understand.

A financial service provider must not presume I do not have capacity to make a certain decision just because I need support to make it.

If a financial service provider assesses my capacity and thinks I do not have capacity to make a particular decision, they should act to make sure I have the support I need.

Code of Practice for Independent Advocates

This code is for...

...an **independent advocate**. This is a person providing independent advocacy services.

Independent advocates speak for a person who has difficulty speaking or advocating for themselves. They are independent of family and service providers and do not have any conflicts of interest.

An independent advocate may deal in a number of situations with a person who needs support making decisions. This includes health and social care services, social services, and court proceedings.

Some of the things this code of practice says

The role of an independent advocate may include working with a person to understand and communicate their will and preferences on a particular decision that needs to be made.

An independent advocate may help a person and their decision supporter to implement a decision.

An independent advocate may also help a person to understand their options for exercising their capacity to make decisions. This may include telling them about the different decision support arrangements available.

What this code of practice means for me

My independent advocate can help me to understand my options for exercising my capacity, including the different decision support arrangements.

When I make a decision, my independent advocate can help me to communicate that decision to others.

My independent advocate is independent of the services I receive. This means they can help me without a conflict of interest.

Code of Practice for Healthcare Professionals

This code is for...

...any professional providing care or treatment in a health or social care setting. This includes doctors, nurses, social workers, occupational therapists, speech and language therapists and psychologists.

Healthcare professionals often deal with people who need or may soon need support to make decisions about their care and treatment.

Healthcare professionals may also deal with decision supporters formally appointed under a decision support arrangement.

Some of the things this code of practice says

Healthcare professionals must presume a person has capacity. If capacity is in question, they must support the person as much as possible to make their own decision.

Where a person's capacity is in question, a healthcare professional must record their dealings with the person, including:

- the support provided
- whether a decision support arrangement was in place and
- the steps taken before assessing capacity.

Before discussing confidential information with a decision supporter, a healthcare professional must check the decision supporter's authority.

In an emergency a healthcare professional should try to find out whether there is a decision support arrangement, if time permits.

What this code of practice means for me

Healthcare professionals should support me to make my own decisions by providing information in a way I can understand.

Healthcare professionals must not presume I do not have capacity to make a certain decision just because I need support to make it.

If a healthcare professional assesses my capacity to make a particular decision and decides I do not have capacity, they should act to make sure I get the support I need.

Code of Practice about Advance Healthcare Directives for Healthcare Professionals

This code is for...

...any professional providing care or treatment in a health or social care setting who deals with a person whose capacity is in question.

Healthcare professionals may be given an advance healthcare directive and asked to consider whether it is valid and applies to the situation.

Healthcare professionals may also need to confirm whether a person whose capacity is in question has an advance healthcare directive.

Some of the things this code of practice says

A person may use their advance healthcare directive to refuse treatment. Healthcare professionals must respect and comply with this where the refusal is valid and applies to the particular treatment decision to be made.

An advance healthcare directive applies in an emergency. Healthcare professionals must follow it if there is time to consider whether it is valid and applies to the situation.

If it is not clear whether the advance healthcare directive applies, healthcare professionals should try to find out more about what the person wanted to happen. They should talk to the person's designated healthcare representative if there is one, or to the person's family and friends. If they aren't sure, they can ask the court to decide.

What this code of practice means for me

If I refuse a particular healthcare treatment in my directive, people must respect this as if I were able to refuse in person.

My healthcare team will consider a treatment request I make in my directive, but it is not compulsory for them to follow it.

I need to think about who to tell about my advance healthcare directive.

My advance healthcare directive applies even in an emergency. But, if a healthcare professional does not know about my advance healthcare directive, they may need to take action to save my life.

Code of Practice for General Visitors

This code is for...

...general visitors. The Act created this role to help the Decision Support Service.

Where the Decision Support Service needs to check that a decision support arrangement is working as it should or investigate a complaint, a general visitor may visit:

- the relevant person
- their decision supporter and
- other people involved.

Some of the things this code of practice says

The Decision Support Service gives a Direction to general visitors. They must follow the Direction when interviewing people and obtaining documents. The Direction defines the general visitor's authority on a visit.

A general visitor must get consent from the person visited to get documents needed as part of the visit unless they have written permission from the Decision Support Service that consent is not needed.

A general visitor must keep detailed notes of the visit.

A general visitor must store information they get as part of the visit securely and dispose of it suitably when it is no longer needed.

What this code of practice means for me

A general visitor may need to speak to me to check my decision support arrangement is working the way I want it to.

A general visitor may ask me questions about my decision supporter to check they are doing their role suitably.

A general visitor may visit me to make sure I wasn't forced or pressured into making a decision.

Code of Practice for Special Visitors

This code is for...

...special visitors. The Act created this role to help the Decision Support Service with assessing capacity.

Where the Decision Support Service needs to check a decision support arrangement is working as it should or investigate a complaint, a special visitor may visit the person and assess their capacity. They may also need to visit their decision supporter and other people involved.

Some of the things this code of practice says

The Decision Support Service gives a Direction to special visitors. They must follow the Direction when:

- assessing a person's capacity
- interviewing people and
- obtaining documents.

The Direction defines the special visitor's authority on a visit.

A special visitor must get consent from the person visited to get documents needed as part of the visit unless they have written permission from the Decision Support Service that consent isn't needed.

A special visitor must keep detailed notes of the visit.

A special visitor must store information they obtain as part of the visit securely and dispose of it suitably when it is no longer needed.

What this code of practice means for me

A special visitor may need to speak to me to check my decision support arrangement is still the right type of arrangement for me.

A special visitor may ask to assess my capacity to make certain decisions. I can say no and the special visitor will respect my wishes.

If a special visitor needs to assess my capacity, they will arrange the interview at a time and place that is comfortable for me.

Need more information?

Visit our website decisionsupportservice.ie

Or contact us:



By phone
(01) 211 9750



By email
queries@decisionsupportservice.ie



By post
Decision Support Service,
Waterloo Exchange,
Waterloo Road,
Dublin 4,
D04 E5W7



@DSS_Ireland



@Decisionsupportservice



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