



**seirbhís tacaíochta  
cinnteoireachta**

decision support service

# **Payment of Certain Expenses and Remuneration to Decision-Making Representatives Policy**

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# 1 Policy Statement and Key Principles

- 1.1 This policy outlines the procedures regarding the payment of remuneration and certain expenses to a decision-making representative (DMR).
- 1.2 This policy will be subject to amendment and review periodically. The Decision Support Service (DSS) aims to review and update the policy every 2 years, save where otherwise required.

## Key Principles

- 1.3 Remuneration and certain expenses shall be paid to a DMR, in accordance with the provisions of section 42 of the Assisted Decision-Making (Capacity) Act 2015 (the Act), and as set out in the Assisted Decision-Making (Capacity) Act 2015 (Payment of Certain Expenses and Remuneration to Decision-Making Representatives) Regulations 2023 (DMR Expenses and Remuneration Regulations).
- 1.4 Subject to the conditions set out in section 5 below, a DMR shall be entitled to be reimbursed out of the assets of the relevant person for:
  - (a) his or her fair and reasonable expenses except where the court orders otherwise and
  - (b) his or her reasonable remuneration where the court so directs.
- 1.5 Subject to the conditions set out in section 5 below, where the court has:
  - (a) made an order that the Panel DMR (see definition below) is not entitled to be reimbursed out of the assets of the relevant person in respect of expenses,
  - (b) not made a direction that the Panel DMR is entitled to remuneration out of the assets of the relevant person or
  - (c) whether neither a or b applies, but the assets of the relevant person are insufficient to pay the relevant expenses or remuneration to the Panel DMR,the DSS may reimburse that Panel DMR's reasonable expenses or pay reasonable remuneration due to the Panel DMR in relation to the performance of their functions as DMR.
- 1.6 Codes of Practice  
Public officials are required to maintain the highest standards of probity in the performance of their duties and to comply with codes of practice that apply in respect of them.  
  
DMRs are required to comply with the Codes of Practice for DMRs and the Codes of Practice on supporting decision-making and assessing capacity.
- 1.7 The DSS will provide support to DMRs on their reporting requirements, as required.

### 1.8 Record Keeping

Appropriate records will be maintained by the DSS of all reports and supporting documentation submitted by the DMR.

DMRs are responsible for the maintenance and retention of appropriate records in line with this policy.

### 1.9 Transparency of Transactions

Appropriate banking arrangements must be established when making decisions about the relevant person's day to day finances. These arrangements must provide sufficient transparency of transactions and ensure the relevant person maintains as much access and control over their finances as is possible in line with the DMRO.

### 1.10 Digital First

The DSS has adopted a digital first approach.

## 2 Scope

This policy applies to all DMRs. Unless otherwise stated, the term "decision-making representative (DMR)" mentioned within this policy includes both panel and non-panel DMRs.

## 3 Definitions

**DSS:** The Decision Support Service (DSS) is an office based within the Mental Health Commission established by the Act. The Decision Support Service reviews and registers decision support arrangements and supervises decision supporters appointed under such arrangements.

**Decision-Making Representative (DMR):** a person appointed by the court in a decision-making representation order (DMRO) where the relevant person lacks capacity to make one or more specific decisions. The scope of a decision-making representative's authority to make decisions depends on the decisions specified in the DMRO, which may also include the attachment of conditions and the period of time for which the order is to have effect.

**Panel DMR:** A person appointed by the court from the panel of DMRs established under section 101 of the Act when the relevant person lacks capacity to make a decision. The scope of a DMRs authority to make decisions depends on the DMRO, which may include the attachment of conditions relating to the making of decisions by the DMR, or the period of time for which the order is to have effect.

**Relevant Person:** A relevant person is a person:

- whose capacity is in question or may shortly be in question in respect of one or more matters (i.e., a person who may have difficulty reaching a decision without the support of someone), or

- who lacks capacity in respect of one or more matters (i.e., a person who may be able to make some decisions but not others), or
- whose capacity is in question or may shortly be in question in respect of one or more matters and who lacks capacity at the same time but in respect of different matters (this is a combination of the above).

**DMRO:** A decision-making representation order (DMRO) is a court order appointing a decision-making representative to make one or more decisions for a person who has been declared to lack capacity to make certain decisions and who does not have another decision support arrangement in place.

## 4 Responsibilities

It is the responsibility of the DMR to be aware of and to comply with the contents of this policy.

It is the responsibility of the DMR to ensure their compliance with the Act and the DMR Expenses and Remuneration Regulations.

## 5 Procedure

### 5.1 Remuneration

- 5.1.1. Remuneration may only be paid to a DMR, in relation to the performance of the DMR's functions, where those functions are carried out in connection with the DMR's trade or profession, where the court so directs (unless a claim is being made to the DSS by a panel DMR pursuant to Section 42(3)- see section 1.5 above) and where pre-approved by the DSS.
- 5.1.2 The amount of remuneration DMRs may claim depends on what has been set out in the DMRO up to a maximum threshold as set out in Appendix C unless otherwise approved in advance by the DSS (see section 5.4.8).
- 5.1.3 When more than one DMR has been appointed for a relevant person, and unless otherwise stated in the DMRO, the total remuneration claimed by all DMRs may not exceed the maximum amount set out in Appendix C unless approved in advance by the DSS (see section 5.4.8).
- 5.1.4 Reasonable remuneration in excess of the maximum applicable amounts specified in Appendix C, as the case may be, may be paid where:
  - a) a submission in writing requesting approval for such payment is made to the DSS, containing information regarding the criteria to be assessed by him or her, in advance of the performance of the functions to which the remuneration would relate,
  - b) the DSS has assessed the submission on the basis of the following criteria:

- (i) whether the circumstances are of such an exceptional nature as to warrant the payment of remuneration in excess of the maximum threshold;
  - (ii) the nature and frequency of the particular functions of the decision-making representative on the basis of which the submission is made;
  - (iii) the level of additional work that would be involved in performing such functions, and
- c) following his or her assessment, the DSS has approved any excess remuneration in writing in advance of the performance of the functions to which the remuneration would relate.

## 5.2 Expenses

### Travel Expenses

5.2.1 Travel related expenses that the DMR has incurred while carrying out the functions as a DMR may be reimbursed out of the assets of the relevant person, except where the court orders otherwise (unless a claim is being made to the DSS by a panel DMR pursuant to Section 42(3) – see section 1.5 above).

5.2.2 Travel related expenses shall be in line with Civil Service rates (Appendix A).

5.2.3 DMRs are not entitled to claim expenses for social visits to the relevant person.

### 5.2.4 Travel Costs

Where the DMR is required to travel to carry out their functions, they may only claim for travel related costs including:

- Public Transport
- Mileage
- Car charging costs
- Parking
- Tolls

5.2.5 Taxis should only be used for short journeys and when all other methods of travel have been exhausted.

5.2.6 Mileage must be calculated using the current civil service mileage rates (Appendix A). The rate used will depend on the DMR's vehicle's engine size and the amount of mileage they have already traveled (cumulative annual mileage) while fulfilling their duties as a DMR during the calendar year. The DMR shall calculate their cumulative annual mileage which includes all kilometers travelled and claimed in the calendar year while acting in their role as a DMR.

5.2.7 DMRs must act in good faith when making an expense claim for travelling to act in their role as a DMR for more than one relevant person during that journey.

5.2.8 DMRs must prepare and retain a mileage calculation for all journeys claimed in relation to carrying out their function as a DMR. The DSS may request a copy of these calculations at any time, and in line with 5.5.4. At a minimum the calculations should include details of:

- Car engine size
- Journey start and end point (with Eircode)
- Kilometres travelled
- Total amount claimed for
- Purpose of the travel

#### 5.2.9 Non-travel related expenses

Expenses other than travel related expenses may be reimbursed out of the assets of the relevant person, except where the court orders otherwise (unless a claim is being made to the DSS by a panel DMR pursuant to Section 42(3)) and must be pre-approved by the DSS by:

- a) Submitting a written request to the DSS within:
  - (i) the Initial Report (for DMRs making property and affairs decisions in year 1)
  - (ii) the Annual Accounts (for DMRs making property and affairs decisions year 2 and thereafter)
  - (iii) the Remuneration and Expenses form (for DMRs making personal welfare decisions only or for all DMRs when unforeseen non-travel related expenses arise outside of the 3-month and annual reporting deadlines)
- b) Providing appropriate supporting documentation for the non-travel related expenses (e.g. quotes etc)
- c) Advance submission of the applicable written requests (number 1 above) for approval by the DSS prior to the expense being incurred.

A DMR may only be reimbursed for non-travel related expenses up to the amount that has been pre-approved.

If a DMR believes that there may be recurring low value out of pocket expenses (e.g., printing or postage), then they must include their best estimate of the total charge for the reporting period within their written submission defined in 5.2.9 (a) above.

## 5.3 Payment for Remuneration and Expenses

### 5.3.1 DMRs claiming payment from the assets of the relevant person

DMRs claiming payment for **remuneration** from the assets of the relevant person must not exceed the maximum thresholds as set out in the fee schedule per the DMR Expenses and Remuneration Regulation (Appendix C) unless prior approval is received from the DSS (see section 5.4.8). Except for when 5.4.5 applies DMRs must receive pre-approval from the DSS in advance of the performance of their functions. The process for obtaining pre-approval for payment is set out in section 5.1.4 and section 5.4.8.

DMRs claiming payment for **travel expenses** must comply with what is set out in regulation 3 of the DMR Expenses and Remuneration Regulation which is travelling expenses at the highest travel (not including subsistence) rate applying to a person holding a position in the Civil Service of the State, and

do not require the pre-approval of the DSS.

DMRs claiming payment for **non-travel expenses** must not incur the expenses until pre-approval has been received from the DSS. The process for obtaining pre-approval is set out in section 5.2.9.

- 5.3.1.1 How the DMR is paid depends on whether their functions within the DMRO includes the management of the relevant person's day-to-day finances.
- If the functions **include** management of the relevant person's day-to-day finances, the DMR must invoice the relevant person and remunerate themselves from the bank account nominated for the exercise of the DMR's functions.
  - If the functions **do not include** management of the relevant person's day-to-day finances, the DMR must submit an invoice to the relevant person or other authorised person, in accordance with the DMRO.

- 5.3.1.2 Expenses must be listed on the same invoice as the fee for the functions that were being carried out. Copies of the relevant receipts or mileage calculations being claimed must be attached to the invoice.

### 5.3.2 Panel DMRs claiming payment from the DSS pursuant to section 42(3) of the Act (see section 1.5 above)

Payment will only be made by the DSS for work undertaken in relation to the Panel DMR's functions as DMR as set out in the DMRO. Panel DMRs to which this section applies claiming remuneration may charge their professional hourly rate up to the maximum set out in Appendix C - hourly rates charged must be fair and reasonable with respect to value for money.

Panel DMRs claiming payment from the DSS:

- 5.3.2.1 must submit an estimate of their projected remuneration and expenses within:
- (i) the Initial Report (for DMRs making property and affairs decisions in year 1)
  - (ii) the Annual Accounts (for DMRs making property and affairs decisions year 2 and thereafter)
  - (iii) the Remuneration and Expenses form (for DMRs making personal welfare decisions only).
- 5.3.2.2 must complete a Supplier Set-Up Form (Appendix B) and submit it to the Mental Health Commission (MHC) finance department by email to [accounts@decisionsupportservice.ie](mailto:accounts@decisionsupportservice.ie)
- 5.3.2.3 must provide an up-to-date tax clearance certificate to the DSS when submitting their Supplier Set-Up Form. An up-to-date tax clearance certificate must then be provided to the DSS on an annual basis.
- 5.3.2.4 must notify MHC finance if there are any changes to address, banking or tax details, by submitting a Supplier Set-Up form (Appendix B) with the new details by email to [accounts@decisionsupportservice.ie](mailto:accounts@decisionsupportservice.ie)



- 5.3.2.5 must invoice the DSS directly for remuneration and expenses on a monthly basis or as incurred.
- 5.3.2.6 Other than when section 5.4.5 applies, may only invoice the DSS once they have made a submission in writing to the DSS in line with 5.3.2.1 and their projected annual remuneration and expenses have been pre-approved by the DSS.
- 5.3.2.7 the DSS Panels team will provide a purchase order (PO) number which should be quoted on the invoice to the DSS.
- 5.3.2.8 expenses should be listed on the same invoice as the fee for the functions that were carried out.
- 5.3.2.9 should submit VAT invoices quoting a valid PO number directly to [accounts@decisionsupportservice.ie](mailto:accounts@decisionsupportservice.ie) for payment. Payment will be made in line with the 15-day prompt payment requirements so long as a valid invoice is submitted.
- 5.3.2.10 must not invoice remuneration in excess of the maximum thresholds set out in Appendix C without prior approval from the DSS (see 5.4.8).
- 5.3.2.11 must ensure that they have access to Revenue Online Services to access and claim for the professional services withholding tax directly from Revenue. The DSS will ensure that professional services withholding tax is deducted appropriately.
- 5.3.2.12 submit all queries relating to payments via email to [fequeries@decisionsupportservice.ie](mailto:fequeries@decisionsupportservice.ie)

## 5.4 Recording and Reporting of Remuneration and Expenses

- 5.4.1 The reports that the DMRs are required to submit depend on the type of decisions the DMRs are appointed to make as set out in the DMRO.
- DMRs appointed to make personal welfare decisions only must submit annual/final reports (see section 5.4.6).
  - DMRs appointed to make decisions about properties and affairs or both properties and affairs and personal welfare decisions must submit an initial report (see section 5.4.4), annual/final reports (see section 5.5.6) and annual/final accounts (see section 5.4.7)
- 5.4.2 If within the DMRO, the DMR has been appointed to make decisions about the relevant person's welfare only, and the DMRO directs that they should be paid remuneration and has directed that they are entitled to expenses, then the DMR must submit an estimate of their projected 12-month remuneration and expenses to the DSS no later than 3 months after their date of appointment and annually thereafter. Other than where 5.4.5 applies, prior approval of remuneration must be received from the DSS before the performance of the functions. The DMR must submit the estimate for pre-approval via the Remuneration and Expenses Form for DMRs.

5.4.3 DMRs directed to make personal welfare decisions only must adhere to the maximum limits set out in the DMR Expenses and Remuneration Regulation (Appendix C) unless prior approval has been granted by the DSS in line with 5.4.8 below.

#### 5.4.4 Initial Report

If the DMR has been appointed to make decisions about the relevant person's property and affairs, they are required to prepare and submit an **initial report** to the DSS via the online portal within 3 months of the date of appointment.

##### Reporting of Remuneration and Expenses

Within the initial report, the DMR must include details of their projected remuneration and expenses for the 12-month period following date of appointment. This should include projected excess remuneration and non-travel expenses if known at that time.

The projected remuneration must be in line with the DMR Expenses and Remuneration Regulation (Appendix C) for year 1 and the maximum annual amounts should not be exceeded unless approved in advance by the DSS in line with 5.4.8 below.

5.4.5 In the period immediately after the DMRO has been made, and before the submissions described in 5.4.2 and 5.4.4 above are made, the DMR may be paid remuneration in respect to the performance of their functions during that period up to, but not exceeding, one quarter of the applicable maximum annual remuneration limit for year 1 (Appendix 2).

#### 5.4.6 Annual & Final Reports

DMRs must submit an **annual report** on how they have met their functions as a decision-making representative.

The first report must be submitted within 12 months of date of appointment. Thereafter, reports must be submitted within 12 months of the previous report. DMRs can add to the report at any time across the 12-month reporting period.

If the decision-making representative order is ending, DMRs must submit a **final report**. This report is the same as the annual report, but only covers the period from the last report up until the end of appointment.

DMRs must provide details of their projected remuneration and expenses for the 12-month period following the report date. The projected remuneration must be in line with the DMR Expenses and Remuneration Regulation (Appendix C) for year 2 and subsequent and the maximum annual amounts should not be exceeded unless approved in advance by the DSS in line with 5.4.8 below.

DMRs must also provide the actual remuneration amount claimed during the reporting period.

Any variances to the projected remuneration in the initial report or previous annual report must be explained.

#### 5.4.7 Annual & Final Accounts

If the DMR has been appointed to make decisions about the relevant person's property and affairs, they must submit **annual accounts**.

Annual accounts must be submitted within 12 months of date of appointment. Thereafter, reports must be submitted within 12 months of the previous report. DMRs can add to the report at any time across the 12-month reporting period.

If the decision-making representative order is ending, DMRs must submit **final accounts**. These accounts are in the same format as the annual accounts, but only cover the period from the last report up until the end of the appointment.

DMRs must provide details of their projected remuneration and expenses for the 12-month period following the report date within the annual accounts. The projected remuneration must be in line with the DMR Expenses and Remuneration Regulation (Appendix C) for year 2 and subsequent and the maximum annual amounts should not be exceeded unless approved in advance by the DSS in line with 5.4.8 below.

- 5.4.8 Prior approval of reasonable remuneration in excess of the thresholds in Appendix C arising from exceptional circumstances can be requested from the DSS within:
- (i) the Initial Report (for DMRs making property and affairs decisions in year 1)
  - (ii) the Annual Accounts (for DMRs making property and affairs decisions year 2 and thereafter)
  - (iii) the Remuneration and Expenses form (for DMRs making personal welfare decisions only or for all DMRs when unforeseen excess remuneration arises outside of the 3-month and annual reporting deadlines)

Other than when section 5.4.5 applies, the pre-approval must be granted in advance of the performance of the functions to which the remuneration relates.

- 5.4.9 DMRs must keep track of the amounts they have invoiced to ensure that they do not exceed what has been approved by the DSS for the 12-month period.
- 5.4.10 If at any time during the 12-month period from the start date, the DMR thinks they may exceed the maximum amounts outlined in Appendix C then they must obtain prior approval before any excess amounts are invoiced. Prior approval can be requested by submitting the Remuneration and Expenses form for DMRs see 5.4.8.

## 5.5 Retention of Invoices and Receipts

- 5.5.1 DMRs must retain all invoices and receipts for remuneration and expenses that are claimed for a period of 6 years after the end of the calendar year to which the invoice or receipt refers (i.e., a receipt incurred in January 2023 should be retained until December 2029).
- 5.5.2 Only expenses actually incurred and for which receipts are available may be reimbursed.
- 5.5.3 All invoices, receipts and mileage calculations paid to the DMR which are individually €100 and over must be uploaded to the DSS online portal with the annual or final report forms for that period.
- 5.5.4 The DSS may request copies of all invoices and receipts or further information to support the expenses at any time.

## Related Documents

*Decision Support Service Code of Practice for Decision-Making Representatives*

*Initial Report Form*

*Supplier Set-up Form*

*Circular 05/2017: Motor Travel Rates – Department of Expenditure and Reform*

*Remuneration and Expenses form for DMRs*

## Appendix A: Mileage Rates

The civil service mileage rate per kilometer is available on the Revenue website [Civil service rates \(revenue.ie\)](https://www.revenue.ie/en/civil-service-rates). Below are the current applicable rates as at the date of this policy.

### Example calculation of mileage

Using the table below, if the decision-maker is driving a car with an engine size of 1997cc and have already travelled and claimed 200km while performing their functions as a decision-maker, they would use the rate of 51.82 cent per kilometer to calculate their next claim.

If the decision-maker travels another 200km, at the rate of 51.82 cent per kilometer, their expense would total €103.64 (200km multiplied by 0.5182).

The decision-maker may use an online mapping platform such as Google Maps or AA Route Planner to calculate the total kilometers for their journey.

Mileage claims made in respect of journeys carried out in electric vehicles should use the rates applicable to engine capacity 1201cc-1500cc.

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### Cars (rate per kilometre)

*Motor travel rates (from 1 September 2022)*

Distance band	Engine capacity up to 1200cc	Engine capacity 1201cc - 1500cc	Engine capacity 1501cc and over
Up to 1,500 km (Band 1)	41.80 cent	43.40 cent	51.82 cent
1,501 - 5,500 km (Band 2)	72.64 cent	79.18 cent	90.63 cent
5,501 - 25,000 km (Band 3)	31.78 cent	31.79 cent	39.22 cent
25,001 km and over (Band 4)	20.56 cent	23.85 cent	25.87 cent

## Motorcycles (rate per kilometre)

*Motorcycle rates (from 5 March 2009)*

Distance	Engine capacity up to 150cc	Engine capacity 151cc - 250 cc	Engine capacity 251 cc - 600 cc	Engine capacity 601cc and over
Up to 6,437 km	14.48 cent	20.10 cent	23.72 cent	28.59 cent
6,438 km and over	9.37 cent	13.31 cent	15.29 cent	17.60 cent

## Bicycles

*Bicycle rates (from 1 February 2007)*

Rate per km	8 cent
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# Appendix B: Supplier Set-Up Form



## Supplier Set Up Form

Dear Supplier,

In order to ensure the accuracy of payment detail on the Mental Health Commission's system, please confirm the following details:

Supplier Name:	
Address:	
Phone Number:	
Email Address:	
Tax Reference No:	
Tax Clearance Access No:	

### Bank Account Details:

Bank Name:	
Bank Address:	
Name on Account:	
Sort Code:	
Account Number:	
IBAN:	
IBAN BIC:	

Please ensure that the Mental Health Commission receives any changes to bank details on Supplier-headed paper. The Mental Health Commission will then call to confirm these new details.

### For MHC Use Only

Supplier of:		Sage Code Allocated:	
Reason for Choosing Supplier:		Sage Nominal Default Code:	
Procurement Process: (<€5000, €5,000-€25,000, etc.)		Details Uploaded to Sage:	<input type="checkbox"/> Yes <input type="checkbox"/> No

Original Requisitioner/Approver: \_\_\_\_\_ Date: \_\_\_\_\_

IBB Approver 1: \_\_\_\_\_ Date: \_\_\_\_\_ Sage Approver 1: \_\_\_\_\_ Date: \_\_\_\_\_

IBB Approver 2: \_\_\_\_\_ Date: \_\_\_\_\_ Sage Approver 2: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix C: Maximum Fee Schedules for DMR Remuneration

The below schedule is from the Assisted Decision-Making (Capacity) Act 2015 (Payment of Certain Expenses and Remuneration to Decision-Making Representatives) Regulations 2023 and outlines the maximum limit of remuneration that DMRs can be paid in one year.

Schedule 1 applies to a decision-making representative appointed under a DMRO under section 42(2) of the Act.

### SCHEDULE 1

*Regulations 5, 7, 8 and 9*

<b>(1)</b> <b>Reference period for remuneration</b>	<b>(2)</b> <b>Annual maximum limit (personal welfare functions only)</b>	<b>(3)</b> <b>Annual maximum limit (property and affairs functions only)</b>	<b>(4)</b> <b>Annual maximum limit (both personal welfare and property and affairs functions)</b>
Year 1	€3,000	€4,000	€5,000
Year 2 and subsequent years	€2,500	€3,500	€4,500



Schedule 2 applies to a decision-making representative appointed under a DMRO under section 42(3)(ii) of the Act.

## SCHEDULE 2

*Regulations 6, 8 and 9*

(1)  Reference periods for maximum rates or limits	(2)  Remuneration for property and affairs functions, or both property and affairs and personal welfare functions, in Year 1	(3)  Remuneration for property and affairs functions, or both property and affairs and personal welfare functions, in Year 2 and subsequent years	(4)  Remuneration for personal welfare functions only in Year 1	(5)  Remuneration for personal welfare functions only in Year 2 and subsequent years
1. Maximum Hourly Rate	€100	€100	€100	€100
2. Maximum Daily Rate	€600	€600	€600	€600
3. Annual Maximum Limit	€3,000	€2,500	€2,000	€1,500