
The Assisted Decision Making (Capacity) Act 2015



Legal Capacity Training
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Two Day Course in the Assisted Decision Making (Capacity) Act.

This two - day course will provide participants with the knowledge and skills required to implement the Assisted Decision Making (Capacity) Act into everyday practice. As this legislation is a key element in the ratification in the UN Convention on the Rights of Persons with Disabilities it also aims to support the learner to develop an understanding of the Convention. In doing so it focuses on the importance of building decision making capacity and the concept of will and preference.

Health and Social Care Practitioners support people to make some of the most significant decisions in their lives with the potential to make life altering differences. By using the Assisted Decision Making (Capacity) Act services can makes those life changing decisions possible for everyone not just for those who make decisions independently. This course is intended to give participants the skills and knowledge to implement the Act into their practice, and ensure they are compliant with the law, as well as ensuring the best outcomes for the people they support. Placing the values and wishes of the person at the forefront and affording the person dignity of risk is common across services however using a process as directed by law can be a daunting prospect. This course aims to provide frontline practitioners with the confidence to interact with the law on a daily basis.

Participants will examine case scenarios relevant to their role and apply them within the context of the guiding principles and the functional assessment of capacity. Participants will also explore the decision - making arrangements.

On Completion of this Course Participants will:

1. Recognise how the Wards of Court system will change;
2. Appreciate the change in culture and practice which will be required;
3. Understand this Act through the lens of the UN Convention on the Rights of Persons with Disabilities;
4. Understand and put into practice terms such as reasonable accommodation, supported decision making and legal capacity.
5. Know the purpose of the Act;
6. Understand how to apply the Guiding Principles in practice;
7. Understand the importance of the following statement and learn strategies for acting on it " A person is not treated as unable to make a decision unless all practicable steps to help him to do have been taken without success;"
8. Appreciate the concept of will and preference;
9. Move from the position of acting on the basis of best interest to acting on the basis of will and preference;
10. Understand the role of the functional assessment of capacity within the Act;
11. Develop the skills and knowledge to apply the functional assessment of capacity in practice;
12. Understand the decision - making arrangements such as the Decision - Making Assistant Arrangement, a Co-decision Making Arrangement and Decision-Making Representative.

Course Duration:

- Two Days

Learning Tools:

- Power Point;
- Video;
- Group Work;
- Discussion;
- Reflection on practice;
- Learning from other participants;

What will participants receive?

- All slides and workbook.
- Suggested reading list of published articles on the Act;
- Reading file consisting of recommended documents freely available on the internet.

Outcome:

All participants receive a two - day certificate of attendance.

Course Timetable

Assisted Decision Making (Capacity) Act 2015

Day One

- **Morning Session: 9am – 11:15am.**

- **Introductions:**
 - Time - table for the day;
 - Trainer Background;
 - Participants introduction and expectations for the course.

- **The Historical Context:**
 - The impact of Wardship;
 - Incapacity is not an “off switch” to rights;
 - Wards of Court – What will happen upon commencement of the Act?

- **The approaches to decision making capacity:**
 - The status approach;
 - The outcome approach;
 - The functional approach;
 - The approach outlined by Article 12 UNCRPD.

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- **Current practices:**
 - Current policies which are not followed in practice;
 - The significance of the term “legal authority”;
 - Next of Kin.

 - **The Current Status of the Assisted Decision Making (Capacity) Act:**
 - What aspects have commenced?

 - **The UN Convention on the Rights of Persons with Disabilities – The foundation of ADMCA:**
 - The purpose of the UNCRPD;
 - The significance of the paradigm shift;
 - Article 5 Equality and Non – Discrimination.

 - **Morning Break: 11:00 – 11:15.**

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- **Mid-Morning Session: 11:15 – 13:00**

 - **Group Activity:**

 - Four Groups examining scenarios. The aim of this activity is to give participants the knowledge and skills to fulfil the statutory requirement to build decision making capacity.

 - **Article 12 UNCRPD:**
 - Article 12 Equal Recognition Before the Law;

 - What is:
 - Legal Capacity?
 - Supported Decision Making?
 - Gabby’s story – video on supported decision making.

 - **The Assisted Decision Making (Capacity) Act.**
 - Who is the law for?
 - The purpose of the law;
 - The values of the law;
 - Definitions:
 - Personal Welfare Decisions;
 - Relevant Person;
 - Appointer;
 - Intervener;
 - Intervention.

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- **13:00 – Lunch Break:** 13:00 – 13:40
 - **Afternoon Session:** 13:40 – 15:00
 - **The Guiding Principles.**
 - **The application of the Guiding Principles to Practice.**
Group Activity – four groups with four scenarios. The purpose of this activity is to apply the Guiding Principles to practice.

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Day Two

- **Morning Session: 9am – 11:15am**
- **Review of Day One.**
 - Recap and questions.
- **The Functional Assessment of Capacity:**
- **Organisational Responsibilities**
 - Monitoring Quality.
- **Individual Responsibilities**
 - Identifying where to start;
 - Identifying conditions which should be met before assessing capacity.
- **Morning Break: 11:00 – 11:15**
- **Mid-Morning Session: 11:15 – 13:00**

The Functional Assessment of Capacity:

- Who will assess capacity?
- Capacity the legal definition;
- Identifying the correct instrument to use when assessing decision making capacity;
- Important guidelines when assessing capacity.

- **13:00 – Lunch Break:** 13:00 – 13:40

- **Afternoon Session:** 13:40 – 16.

- **Group Activity:**
- Four Groups examining four scenarios. The aim of this activity is to give participants the opportunity to apply the legal test for assessing decision making capacity to practice.

- **The Decision - Making Arrangements:**

- **Decision Making Assistant:**
 - Video Decision Making Assistant;
 - General information;
 - The role of the DMA;
 - Who cannot be appointed?

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- Can a complaint be made about a DMA?

 - **Co – Decision Maker:**
 - Video Co – Decision Maker;
 - General Information;
 - The role of the CDM;
 - Who cannot be a CDM?
 - Can a complaint be made about a CDM?
 - What does it mean to register a Co – Decision Making Arrangement.

 - **Decision Making Representative:**
 - Who appoints a DMR and what criteria is used?
 - How is will and preference discovered?
 - Who cannot be a DMR?
 - Can a complaint be made about a DMR?
 - Video – Supported Decision Making and Complex Needs.

 - Summary and Questions

Relevant Experience:

Personnel:

Josephine McLoughlin is the Director of Legal Capacity Training. Josephine qualified with a BA in Social Care in 2008 and has over 20 years' experience as a Social Care Leader in the social care sector. In 1995 Josephine started her career in the HSE Special Care Units for children, followed by two years in the homeless service and 16 years in the disability sector specializing in the area of dual diagnosis. In 2013, she qualified as a friendship, relationship, and sexuality instructor from the Callan Institute. Following this, she completed an LL.M. (Masters in Law) in International and Comparative Disability Law and Policy at the Centre for Disability Law and Policy at the NUI Galway. In 2015 Josephine graduated with a first class honours and in addition was awarded the CDLP Gold Medal for Excellence. She continues to build on her knowledge and skills completing a Certificate in Decision-Making Capacity and Support at the Law Society of Ireland. Most recently Josephine completed a Master Class in Complex Capacity Assessments at the Mental Health Justice Project Maudsley Learning Kings College London.

Previous Projects

Josephine has been providing training in the UNCRPD and assisted decision making since 2014. She has delivered staff training to a wide range of organisations some of which are Dublin City Council, Sun Beam House Services, St Christopher's Longford, The Muiriosa Foundation, Peamount Health Care, St John of God Services Kerry, Camphill Communities, Irish Association of Social Workers, the Irish Association of Social Care Workers and the Rehab Group. In addition, training for people who use services has been delivered to among others Inclusion Ireland, Enable Ireland, Muiriosa Foundation, Brothers of Charity Galway, Roscommon, Clare and Waterford.

Contact:

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“Legal Capacity Training promoting Equality and Human rights in Health and Social Care Practice.”

