

DIPLOMA CENTRE

Certificate in Decision-Making Capacity & Support



MODULE 1: Principles and exercising autonomy and self-determination

Session 01 Onsite Saturday 12.5.18 10am to 4pm 5 hrs. Gen. CPD	Lecture 1 10.00 to 10.45am	An Overview of the Assisted Decision-Making (Capacity) Act 2015; An introduction to core concepts relating to decision-making capacity; Origins & Scope the 2015 Act (enacted in December 2015 with some provisions already commenced) The purpose of the legislation and requirements to comply with human rights standards; guiding principles; a modern statutory framework; supporting decision-making; the functional test (issue and time-specific); repeal of Lunacy Regulation (Ireland) Act, 1871, applications for declarations of capacity in respect of existing wards of court; introduction to decision-making assistance, co-decision making and decision-making representation orders. The role of a solicitor in the implementation of the 2015 Act. Patricia Rickard-Clarke, Chair of the National Safeguarding Committee and Chair of Sage Advocacy
	Lecture 2 10.45am to 12.00	Capacity Building: How the legislation is to be implemented; construing the 'functional test'; steps that must be taken to assess a person's decision-making capacity; a legal test or a medical test? Who should assess capacity? When is it determined that a person lacks capacity? What are the skills that those who are assessing capacity require? What information is relevant to the assessment?
	12.00 to 12.15pm	Coffee
	Lecture 3 12.15 to 1.30pm	Definition & Assessment of Capacity: The Guiding Principles – the presumption of capacity; requirement to take all practical steps to help the relevant person make the decision; 'unwise' decisions; necessity of intervention taking account of the individual circumstances; minimising persons' rights and freedom of action; due regard to dignity, bodily integrity, privacy, autonomy and control; proportionality; limitation of duration; facilitating participation; giving effect to past and present will and preferences; the beliefs and values of the relevant person; consultation with other parties; requirement to act in good faith and for the benefit of the relevant person; other circumstances; practical Issues and case law.
	1.30 to 2.00pm	Lunch
	Lecture 4 2.00 to 2.45pm	Review of a wardship of court: Part 6 of the 2015 Act; definition of 'ward'; review of capacity of wards of court who are adults; declarations following review and discharge from wardship; saver (i.e. s.56 of the 2015 Act); role of the Director with regards to adults who were wards immediately before commencement; Kate Butler BL
	Lecture 5 2.45 to 3.45pm	Pre Planning Part I - Enduring Power of Attorney: the 1996 Act; Part 7 of the 2015 Act; Regulations under s.79 of the 2015 Act; guidance for solicitors; potential scope of powers (relating to 'personal welfare' and

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		<p>'property and affairs'); invalidation of power; definition of 'personal welfare decision'; curtailing ability to prescribe a power to restrain and specific authority required for decision on admission to a residential centre; provisions relating to 'property and affairs of donor'; persons who are not eligible, disqualification and complaints against attorneys; registration and objections thereto; application process, effect and proof of registration; register of enduring powers of attorney; functions of court prior to and post registration; revocation; protection of attorney and third persons; several attorneys; reporting obligations of attorneys; practical advice when considering/advising on an EPA (www.thinkahead.ie) Nora Lillis, Partner, William Fry</p>
Session 02 Online Release 1 hr eCPD	Lecture 1	<p>Online release of the following materials:</p> <p>Deprivation of Liberty: UNCRPD; scope; draft legislation; approach taken – to be part 13 of the 2015 Act so principles of the Act to apply; where and when will the provisions apply? Definition used in the draft Heads of Bill - 'relevant facility'; admissions, urgent circumstances; relevant persons already living in a 'relevant facility'; transitional arrangements; review [Patricia Rickard-Clarke, Chair of the National Safeguarding Committee and Chair of Sage Advocacy]</p>
MODULE 2: SUPPORTING DECISION MAKING		
Session 03 Onsite Saturday 16.6.18 10am to 3pm 4 hrs. Gen. & 1 hr MPD CPD	<p>Lecture 1 10.00 to 11.00am</p> <p>Lecture 2 11.00 to 11.30</p> <p>11.30 to 11.45</p> <p>Lecture 3 11.45 to 12.15</p>	<p>Pre Planning Part II – Advanced Healthcare Directives (AHD): Statutory definition of AHDs; Purpose of AHDs; making of AHDs; the conditions necessary before a condition relating to a refusal treatment can be relied-on; request for a specific treatment; formal requirements; revocation; Regulations in respect of AHDs; validity and applicability of AHDs & resolving ambiguities; effect of an AHD – applicability of AHDs in specific circumstances; role of the designated healthcare representatives; functions and scope of authority of designated healthcare representatives; applications to the Director; role of the courts; codes of practice. Offences in relation to AHDs.</p> <p>Decision-Making Assistance – Who can be a decision making-assistant; who appoints such a person; entitlement to enter into a decision-making assistance agreement; the potential scope of such agreements; effect of more than one such agreement; notification obligations; revocation or variation; termination; is it possible to have a decision-making assistance agreement and an EPA in operation at the same time? Martina Larkin, Cheshire Ireland</p> <p>Coffee</p> <p>Co-Decision Making – Who can enter into a co-decision making agreement; a 'suitable person' for the purposes of such agreements and those who are ineligible; circumstances necessitating an agreement; functions of a co-decision maker; restrictions on potential scope and authority; variation, termination and events that give rise to a nullity; registration procedures; criteria for registration; effect and proof</p>

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	12.15 to 12.45	of registration; objecting to registration; review procedures; reports and filing requirements; role of the <i>Director of the Decision Support Service</i> and the courts. Maria Larkin, Cheshire Ireland
	12.45 to 1.15	Decision-Making Representation - Criteria to act as a decision-making representative; liability, expenses; remuneration annual report to the Director; restraints; property affairs; restrictions, Register, and complaints. Power of court; suitability advance healthcare directive; property and affairs; scope limitation appointment of different persons signing of a statement; varying or discharging orders; acting outside the scope of your authority. Aine Flynn / Director of Decision Support Service
	Workshop 1.15 to 3.15	Lunch Practical application through case study, role plays and drafting exercises based on issues relating to EPAs, AHDs and defining and assessing capacity.

MODULE 3: Director of Decision Support Service, Jurisdiction of Court and other issues

Session 04 Onsite Saturday 7.7.18 10am to 3pm 4 hrs. Gen. & 1 hr MPD CPD	Lecture 1 10.00 to 10.45am	Other Interveners – (1) <i>Special visitors and general visitors</i> – who may be appointed, relevant qualifications, functions including to visit designated individuals and submit a report to the Director; powers to examine health records and interview individuals; (2) <i>Court friends</i> – function and powers including giving submissions to court on behalf of the relevant person, examine health records and interview individuals, assist the relevant person in court. Caoimhe Gleeson, HSE
	Lecture 2 10.45 to 11.30am	Jurisdiction of the Courts – a general overview of the powers and functions of the courts under the 2015 Act including: exclusive jurisdiction of the Circuit Court; exceptions to that exclusive jurisdiction and the role of the High Court; declarations as to capacity and review thereof; appointing decision-making representatives; interim orders; Role of courts in AHD; applications to the court by Director of the Decision Support Service; appeals on point of law only. Noel A. Doherty, Directorate of Reform and Development, Courts Service.
	11.30 to 11.45am	Coffee
	Lecture 3 11.45 to 12.30	The Director of the Decision Support Service - Statutory functions of Director; promotion of public awareness & public confidence; provision of information; supervision of compliance; information and guidance to State bodies; Investigative role of Director on own initiative and power to investigate complaints – including power to summon/examine witnesses, require production of documents; drawing-up of procedures; appointment of special visitors and general visitors and Court friends; establishment of various panels and registers; completion of annual reports; and preparing and publishing Codes of Practice. Reports by Director. Aine Flynn, The Director of the Decision Support Service

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	12.30 to 1.00pm	Lunch
	Workshop 1.00 to 3.00pm	Practical application through case study, role plays and drafting exercises based on issues relating to decision-making assistance, co-decision making, decision-making representation and external decision supporters.
ASSIGNMENT DUE ON FRIDAY September 2018		

***Please note that topics & dates may be subject to change. Draft timetable as of March 2016**

* Gen = General, M&PD = Management and Professional Development, Reg = Regulatory and eLearning = eLearning CPD credits. **CPD Note:** The number of hours of CPD that you may claim in relation to your diploma/certificate course will depend on the way in which you access each of the individual sessions. For further information please visit the course homepage on our website: www.lawsociety.ie/diplomacentre