

# Opportunities and Aspirations for the Assisted Decision-Making (Capacity) Act 2015: Progressive Realisation of UNCRPD Article 12 (Equal Recognition before the Law)

# Annual Conference 2021

# 10:00am – 4:15pm, Thursday, 14 October 2020

## National Disability Authority

The National Disability Authority (NDA) is the independent statutory body with a duty to provide information and evidence-informed advice to Government and officials in the public sector on disability matters.

The NDA hosts an annual conference in which it aims to highlight, disseminate and discuss relevant and topical research and policy analysis. Building on the 2019 Annual Conference, which explored Irish and international experience of implementing the UN Convention on the Rights of Persons with Disabilities (UNCRPD), and the 2020 Conference, which explored Article 13 (Access to Justice), this year’s event will once again undertake an examination of one particular article of the Convention.

## Conference Theme

Article 12 of the UNCRPD obliges States Parties to recognise that persons with disabilities enjoy legal capacity on an equal basis with other persons and to take all appropriate measures to provide persons with disabilities with the support they need to make decisions. Article 12 also seeks to ensure safeguards exist to promote the will and preferences of the person, and to protect against undue influence and conflicts of interest. Finally, it commits States Parties to take measures to ensure the equal right of persons with disabilities to own or inherit property and to control their own financial affairs.

The Assisted Decision-Making (Capacity) Act 2015 is an innovative and progressive piece of legislation, which seeks to move away from a medical model interpretation of capacity, to a social model that embraces the person’s right to make their own decisions, and confirms the state’s obligation to ensure they are supported to do so. It abolishes wardship, establishes different levels of supported decision-making and promotes the practice of advance planning. Not only will it change the lives of thousands of people in Ireland, it has also garnered much attention from other jurisdictions, who will watch its implementation closely.

While the legislation was enacted in 2015, it has yet to be commenced. However, much work has been ongoing, in order to prepare for its implementation. This includes the establishment of the Decision Support Service, the drafting of statutory Codes of Practice, the development of training materials for health and social care professionals, legal professionals and financial professionals, and the drafting of amending legislation.

The legislation is due to commence in mid-2022, and while awareness-raising of the legislation and its implications have been ongoing for the last few years, the NDA believes that it is timely to hold a conference on this topic in October 2021. The conference will take a holistic view of all the implications of the legislation, bringing together all relevant stakeholders, including professionals who are preparing to implement the legislation and individuals whose lives will be impacted by it.

## Venue

The NDA Annual Conference 2021 will be a virtual event.

## Conference Agenda

**10.00 Welcome Address**  
Helen Guinan, Chairperson, National Disability Authority

Dr Aideen Hartney, Director, National Disability Authority

**10.10** **Ministerial Address**   
Roderic O’Gorman T.D., Minister for Children, Equality, Disability, Integration and Youth

**10.20 Equal Recognition before the Law (Article 12) under the UN Convention on the Rights of Persons with Disabilities: Setting the Bar**  
Rosemary Kayess, Chair of the UN Committee on the Rights of Persons with Disabilities

**10.40 Supported Decision-Making in South America: The Success of DPO-driven Change**  
Alberto Vasquez, Disability Rights Advocate and Lawyer, Senior Advisor at Centre for Inclusive Policy

**11.00** **Q&A**  
Dr Aideen Hartney, Director, National Disability Authority

## 11.15 Break

**11.25** **The Role of the Decision Support Service under the Assisted Decision-Making (Capacity) Act 2015**  
Áine Flynn, Director, Decision Support Service

**11.45** **Panel Discussion #1: The Assisted Decision-Making (Capacity) Act 2015: A holistic overview of its impact on stakeholders**

Chaired by Patricia Rickard Clarke (Chairperson, Safeguarding Ireland)

* Alice White (Registrar of Wards of Court)
* Patricia Hickey (General Solicitor for Minors and Wards of Court)
* Bernice Evoy (Head of Legal and Regulatory, Banking and Payments Federation Ireland)
* Caoimhe Gleeson (National Programme Manager, HSE National Office for Human Rights and Equality Policy)
* Louise Loughlin (National Manager, National Advocacy Service)
* Gary Lee (Solicitor, Ballymun Community Law Centre)

**12.45**  Q&A

## 13.00 Lunch

**13.45** **Afternoon Opening Address**

Anne Rabbitte, T.D., Minister of State with responsibility for Disability

**14.00** **Panel Discussion #2: Lessons from other Jurisdictions**

Chaired by Professor Eilionóir Flynn (Director, Centre for Disability Law and Policy, National University of Ireland, Galway)

* England and Wales: Alex Ruck Keene (Barrister, writer and educator)
* Sweden: Maths Jesperson (Founder and Board member of PO-Skane)
* USA: Jonathan Martinis (Senior Director for Law and Policy, Burton Blatt Institute at Syracuse University)

## 14.55 Break

**15.05 Panel Discussion #3: Hopes for the legislation from individuals whose lives will be impacted**

Chaired by Aisling Glynn, Solicitor and NDA Board member

* Joe McGrath (Steering Group member, National Platform for Self-Advocates)
* Helen Rochford-Brennan (Chair, Irish Dementia Working Group and member of the European Working Group of People with Dementia)
* Michael Ryan (Head of HSE Mental Health Engagement and Recovery Office)
* John Dunne (Chief Executive, Family Carers Ireland)

**16:00** **Closing Address**   
Ms Justice Mary Irvine, President, High Court

## 16:15 Close