

Greater application of decision-making laws needed to strengthen ‘voice of the person’ (<https://www.activelink.ie/node/115478>)

‘Mind shift’ still needed on assisted decision-making principles

Almost 1,000 referrals to Sage Advocacy arising from new ‘rights’ legislation

The ‘voice of the person’ needs to be strengthened and a ‘mind shift’ is needed – according to a two-year review on implementation of the Assisted Decision-Making (Capacity) Act.

The review led by Sage Advocacy includes the launch of a detailed Scoping Document – which examines, from Sage Advocacy’s experience, implementation of the Act how its application can be further encouraged and the improvements needed for the future.

Sage Advocacy CEO Bibiana Savin said roll-out of the legislation has brought positive change since its commencement in April 2023, but that further progress is needed to deliver on the promise that the voice of all people is respected, including those with decision-making and capacity challenges.

“Commencement of the Assisted Decision-Making (Capacity) Act was a major change from paternalistic authorities deciding the ‘best interests’ of people with capacity challenges, to structures and services being available to support all people to make and communicate their important decisions in life.

“Unfortunately many organisations, services and professionals have yet to make this shift – even though it is the law. It is the right of the person, and duty of all providers, to take every possible step to establish and adhere to a person’s wishes and preferences regarding their healthcare, social care or finances – including access to independent advocacy if required.

“There is a ‘mind shift’ needed for many organisations and professionals – and we encourage all to ensure they know and apply what is required under the legislation.”

The provisions of the Act are for everyone but can be especially beneficial for those who face challenges with capacity for making and communicating decisions such as people who are frail, with an intellectual or physical disability, have an acquired brain injury, or a serious illness.

The Act includes a range of new decision support structures – and places responsibilities on health, social care and financial providers to seek the decisions of the person.

At today’s launch, Sage Advocacy also recommended the establishment of a Stakeholders Forum for key organisations to address issues arising from ongoing ‘silo’ structures – and that the Forum be under an independent Chairperson.

Sage Advocacy has, up until the end of March 2025, received 993 Decision-Making Representation Order referrals and provided 581 reports to the Courts. These reports capture information which assists the Court in ascertaining the voice of the person in applications.

A scoping document, called *Voice Matters*, capturing the experiences of Sage Advocacy in implementing the Act over the past two years, was launched today at an event in Dublin attended by stakeholders, including a Keynote Address by Chief Justice Donal O’Donnell.

Other issues raised in *Voice Matters* include:

- There is no formal recognition in law of independent advocacy – legislative provision for independent advocacy should be introduced with a long-term State funding stream.
- Some professionals, (including some legal, health and social care professionals) appear not to be familiar with the legislation and the human rights based approach therein. There should be continuous training on implementation of the Act.
- The underlying safeguarding aspect to the legislation must be more fully embraced and embedded into everyday practice. Accessibility to the supports available under the legislation must be improved especially for those with limited natural supports.
- There is an issue with the pace of discharge from Wardship which must be to be addressed.
- The requirement for an Enduring Power of Attorney (EPA) to be signed in the presence of the donor is often not

- practical, such as where a person lives abroad. The Minister should include online presence as valid.
- There are issues around Advance Healthcare Directives (AHD), in particular, the fact that there is no central facility for registration. The Minister should operationalise the AHD Register already in situ at the Decision Support Service.
 - The Programme for Government includes a commitment to review the Assisted Decision-Making Act and this should progress in the immediate term.

Sage Advocacy Chairperson Mark Mellett said strong progress has been made, but continued attention is needed: “Progressive legislation such as the Assisted Decision-Making (Capacity) Act will only be truly transformative when it reaches its full potential. It needs continued commitment from Government, legislators, bodies, service providers, professionals and citizens to truly align with our obligation to respect the rights of all people in line with national and international law.

“The Act brings to the fore independent advocacy as an integrated and essential service for supporting vulnerable people. It is time to put independent advocacy on a legislative footing and resource it properly – so it can meet that continued growth in demand we expect as people understand this service and seek it more. In the final analysis this is about protecting and ensuring a person’s human rights.”

A copy of *Voice Matters* can be viewed at www.sageadvocacy.ie (<http://www.sageadvocacy.ie>)

Sage Advocacy can be contacted at 01 536 7330 (tel:015367330), or email info@sageadvocacy.ie (<mailto:info@sageadvocacy.ie>). The motto of Sage Advocacy is ‘Nothing about you / without you’.

Further information

Ronan Cavanagh, Cavanagh Communications: 086 317 9731 (tel:0863179731) ronan@cavanaghcommunications.ie (<mailto:ronan@cavanaghcommunications.ie>)

Region

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Sage Advocacy (<https://sageadvocacy.ie/>)

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