

When a panel decision-making representative has been appointed to your family member or loved one

Frequently asked questions



seirbhís tacaíochta
cinnteoireachta

decision support service®

Please note: These FAQs do not constitute a statement of the law or the provisions under the Assisted Decision-Making (Capacity) Act 2015 (as amended) or any ancillary or related legislation.



Who is this guide for?

This guide is for the family, friends and loved ones of a person (also referred to as the 'relevant person') who has had a panel decision-making representative appointed from the Decision Support Service Panel (DSS panel) to them by the court.

It provides information on some frequently asked questions about the role of a panel decision-making representative including your contact with them, how they are paid and how they are supervised by the Decision Support Service.

When is a member of the panel appointed as a person's decision-making representative?

If a person cannot make certain decisions on their own, even with support, the court may appoint someone to make decisions on their behalf. The court will try to choose someone the person knows and trusts.

If there is no one suitable, the court may appoint a decision-making representative from a panel that the Decision Support Service keeps.

What does a panel decision-making representative do?

The role of a decision-making representative is to make specific decisions on behalf of the person based on what is written in the court order.

They act as the agent of the relevant person. They act in good faith for their benefit. The decision-making representative must respect the person's past, and present will and preferences when making decisions for them. This means that they must try to make the same decision the person would have made themselves.

A decision-making representative must strictly follow the court order, including any powers, conditions and exceptions written in it.

Their role is defined by the court order, the Assisted Decision-Making (Capacity) Act 2015 (2015 Act) and a Code of Practice. A decision-making representative must follow Guiding Principles, this includes:

- ✔ Encouraging and facilitating the person's participation in decision-making
- ✔ Respecting the person's right to control over their financial affairs
- ✔ Acting in good faith for the benefit of the person
- ✔ Taking into account the views of other persons with an interest in the welfare of the person
- ✔ Keeping personal information safe and secure



Is a panel decision-making representative a professional?

All members of the DSS panel are professional people and registered in Ireland with a professional regulatory body as a matter of law and have undergone training specific to the role. Appointment to the DSS panel follows an extensive recruitment and vetting process.

Members of the DSS panel are from diverse professional backgrounds including social work, legal, financial and medical.

Is the panel decision-making representative the person's lawyer?

No, even if the panel decision-making representative is a solicitor by profession, they do not become that person's legal representative.

If the person requires legal advice or needs assistance in relation to legal proceedings in court, the decision-making representative may hire a solicitor on the person's behalf. They cannot hire themselves or their own firm.

What is the difference between a family decision-making representative and a panel decision-making representative?

By 'family member decision-making representative' we mean a decision-making representative who is not a panel decision-making representative. Most decision-making representatives appointed by the courts are family members who are already known to the relevant person.

There are many similarities between a family member decision-making representative and a panel decision-making representative appointed from the panel. They are both appointed by the court and supervised by the Decision Support Service.

They are different because a panel decision-making representative appointed from the Panel is:

- ✓ Only appointed when the court thinks there is no one willing or suitable to do the role (or there is a conflict of interest)
- ✓ Always a professional - registered with a professional regulatory body in Ireland by law
- ✓ Paid to carry out their role
- ✓ Recruited to the panel maintained by the Decision Support Service



How long can a panel decision-making representative be appointed for?

The court may specify a fixed length of time in which the decision-making representative is to act. In such circumstances, the duration of their appointment will be in line with the time allocated for making such decisions.

In all other circumstances, the decision-making representative will continue in their role until they are discharged from their role by the court or the decision-making representation order comes to an end upon the death of the relevant person.



Does a panel decision-making representative get paid?

A panel decision-making representative is paid for their work and may also claim reasonable expenses. The court will decide whether they are paid out of the assets of the person or by the Decision Support Service.

All payment is in accordance with Regulations which set limits on the annual amount that can be claimed. Payment requires pre-approval by the Decision Support Service, before they start their work. Further information about expenses and remuneration paid to decision-making representative can be found on our website in the Resources section decisionsupportservice.ie/resources.

In exceptional circumstances the decision-making representative may be entitled to additional payment for certain tasks or functions. This may include where contact with third parties or organisations has resulted in additional work.

Is a panel decision-making representative supervised?

A panel decision-making representative is supervised by the Decision Support Service to ensure they are acting in accordance with the court order and complying with the 2015 Act, the guiding principles and relevant Codes of Practice. They must submit statutory reports and annual accounts.

Can the panel decision-making representative reimburse me for expenses or a personal loan to the relevant person?

A decision-making representative cannot take any actions or make any decisions that are not included in the court order. For example, if the court order says that the decision-making representative can only take necessary actions in connection with the application for a Nursing Home Loan, then this is the only decision the decision-making representative is authorised to make on behalf of the person.

The decision-making representative cannot reimburse you for expenses incurred, purchases made or a loan to the person unless they are authorised to do so in the court order.

Can a panel decision-making representative get personal information about the relevant person?

The role of a decision-making representative includes accessing relevant information about the decisions that need to be made. This can include the person's personal records (including medical and financial records) depending on the scope of authority set out in the court order.



When will the panel decision-making representative make contact with the person?

Where a panel decision-making representative has been appointed, they must make contact with the relevant person as soon as possible following their appointment to introduce themselves and explain their role and the purpose of their appointment.

After this point, the relevant person will only need to hear from the decision-making representative when a specific decision is being made. The decision-making representative is required to ascertain the relevant person's will and preference and will contact the relevant person about this.

Is a panel decision-making representative obliged to consult with family members?

Part of the role of the decision-making representative is to consult and engage people to understand the will and preferences of the person. The decision-making representative may consult with family members and others who know the person best to understand what the person wants or would have wanted.

While the family and loved ones of the person may be consulted on relevant matters, the decision-making representative should be treated respectfully, recognising the decision-making representative's legal authority and responsibility.

It is not the role of the decision-making representative to provide regular updates to family and loved ones. Decision-making representatives need to be careful about what information they share, as the relevant person's right to privacy and confidentiality must be respected.



What to do if you need to contact the panel decision-making representative?

Following their appointment, a panel decision-making representative will contact you to introduce themselves and explain the scope of their role and authority. At this time, you should discuss how often you should expect to hear from them and the best way to contact them.

You should only contact a person's panel decision-making representative about decisions they have the authority to make, as set out in the court order appointing them.

The panel decision-making representative must always have due regard for the relevant person's confidentiality and privacy and may not be able to discuss or share information with you. The information provided to a decision-making representative may be disclosed to the relevant person.

The general expectation when contacting the panel decision-making representative is to respect their personal time and not to contact them outside normal working hours (e.g. 9 to 5pm) or outside of any agreed-upon times.

It is important to note that contacting a decision-making representative may incur a cost for the relevant person.

Decision-making representatives are remunerated for the time spent working on a case.

The decision-making representative should be always treated with respect. Unreasonable or aggressive behaviour will not be accepted. This includes unreasonable demands, persistent contact or language that is offensive or threatening.

Do I need to consult with the panel decision-making representative about contacting/visiting the person?

A decision-making representative will not prevent any person from having contact with the person, and you do not need the permission of the decision-making representative to visit the person.

Your relationship and interactions with the person should not change as a result of an appointment of a panel decision-making representative.



What happens when more than one decision-making representative is appointed?

A family member may be appointed alongside a panel decision-making representative (for example a family member for personal welfare decisions and a panel decision-making representative for property and affairs decisions).

Where the person has more than one decision supporter, the decision-making representatives may need consult with each other, particularly where the decision in question may impact on decisions with which they provide support.

When consulting with others, the panel decision-making representative must have due regard for the relevant person's confidentiality and privacy, and ensure they only disclose the information necessary to allow for appropriate consultation.

What happens on the death of the relevant person?

The decision-making representative's appointment ends on the death of the relevant person. The decision-making representative will be required to submit a final report to the Decision Support Service.

The decision-making representative, where applicable may also be required to provide information to the executor of the person's estate.



Who can make a complaint about a panel decision-making representative and what can you complain about?

You or any person may make a complaint, in writing, to the Decision Support Service about the actions or inactions of a panel decision-making representative.

You can complain that:

- ✓ a decision-making representative has acted, is acting, or is proposing to act outside the scope of their functions, as set out in the court order
- ✓ they are not following the guiding principles or the Code of Practice for Decision-Making Representatives, or
- ✓ they are not suitable to be a decision-making representative.

How do you make a complaint about a panel decision-making representative?

A Complaint Form is available on our website which once completed, can be emailed or posted to us. If you need more information about how to make a complaint, please visit our website decisionsupportservice.ie or phone us on 01 2119750.

Decision Support Service

Waterloo Exchange, Waterloo Rd,
Ballsbridge, Dublin 4, D04 E5W7

Freephone: +353 (01) 211 9750

Email: queries@decisionsupportservice.ie

Web: www.decisionsupportservice.ie