Safeguarding IRELAND

Adults at Risk

Staying in Control of Their Money, Benefits and Assets

Challenges for Policy and Practice

A Safeguarding Ireland Issues Paper

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Prepared for Safeguarding Ireland

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This Issues Paper was prepared for Safeguarding by Dr Michael Browne and Gearoid Mac Eochaidh including an analysis of relevant research and feedback received from a stakeholder consultation carried out for the purpose of compiling the Safeguarding Ireland Publication, *Staying in Control*: *A Guide to Staying in Control of Your Money, Benefits and Assets.*

The Safeguarding Ireland Chair and Programme Manager provided significant input during all stages of the development of the Issues Paper.

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/ Foreword

Safeguarding Ireland is pleased to present this *Issues Paper* on financial safeguarding titled *Adults at Risk: Staying in Control of Their Money, Benefits and Assets.*

The Issues Paper sets out challenges for policy and practice which arose in compiling the parallel Safeguarding Ireland Publication, *Staying in Control: A Guide to Staying in Control of Your Money, Benefits and Assets.*

This Paper provides an analysis of these challenges and – importantly – provides 18 specific recommendations of what can be done to strengthen financial safeguarding in Ireland.

The *Issues Paper* is part of a suite of three documents including a public facing Guide and also a *Plain English Summary* of the Guide.

The Staying in Control Guide is a comprehensive resource which goes into detail on all aspects of financial safeguarding including managing money, support arrangements for those who need help with their money, State backed schemes such as the Fair Deal and also taking account of recent developments such as the assisted decision-making legislation and the Consumer Protection Code 2025, which came into effect in 2026.

All three documents are available on the Safeguarding Ireland website at **www.safeguardingireland.org.**

This project has been supported by funding from Ulster Bank and Safeguarding Ireland is grateful to the bank for enabling us to carry out this research and these publications.

I would like to thank Dr. Michael Browne (Lead Researcher) and Gearóid Mac Eochaidh Coauthors of this Paper, and also Safeguarding Ireland Programme Manager Annmarie O'Connor, who worked together with me on it, and led the project.

Our aim is that this Issues Paper will provide clear direction to Government Departments, politicians, financial organisations and representative organisations on the steps to be taken – at a legislative, policy and structural level – to prevent and reduce financial abuse.

Patricia Rickard-Clarke
Safeguarding Ireland, Chairperson, May 2026.

/ Executive Summary

The Issues Paper contains nine sections.

Section One

A Rights-based Framework for Supporting People to Manage and Control Their Finances and Assets

This section sets out a number of human rights considerations which, it is argued, have significant implications for how people are enabled and supported to manage and stay in control of their money, benefits and assets.

The principles underpinning the Assisted Decision Making (Capacity) Acts (2015 and 2022) and the UN Convention on the Rights of Persons with Disabilities are outlined. These principles provide the basis for a fundamental change in how people whose decision-making capacity may be in question are to be regarded in respect of decisions about their finances, assets and health.

The Assisted Decision-making (Capacity) Act (ADMCA) legislation upholds people's right to self-determination and establishes in law the fact that disability and frailty associated with the ageing process, reduced decision-making capacity or mental health difficulties should not be impediments to a person exercising legal capacity and, in so doing, maintaining control over their own financial affairs and assets to the greatest extent possible.

This section also addresses the principles outlined by the Law Reform Commission in its *Regulatory Framework on Adult Safeguarding Paper*, including ensuring that the rights of at-risk adults are respected – their right to autonomy, respect, dignity, bodily integrity, privacy, control over financial affairs and property, non-discrimination, equal treatment in respect of access to basic goods and services, and respect for their beliefs and values.

Section Two

Why we Need to Focus on Supporting Adults at Risk to Control and Manage their Finances

This section of the Issues Paper sets out the reasons why it is necessary to focus on supporting adults at risk to manage their finances and assets and refers to research findings which indicate a worrying prevalence of financial abuse of adults at risk and a lack of clarity as to what constitutes financial abuse. Such evidence shows that the legal and moral obligation to ensure that the right of all people to ownership of their money and assets, irrespective of whether or not they have decision-making capacity, is not always upheld – by society in general, by the State, by financial services and by agencies providing services to adults at risk.

Financial service providers have a particularly important role to play as has An Post and the Department of Social Protection (in relation to the payment of social welfare benefits) in ensuring that the provisions of the ADMCA legislation are fully implemented in the context of the management and control of the finances and assets of people whose decision-making capacity may be in question.

Section Three

Regulation of Financial Institutions

This section of the Issues Paper focuses on the regulation of financial institutions and on the role of regulation in ensuring financial institutions engage with adults at risk / consumers in vulnerable circumstances to deliver the most suitable service to the consumer.

Banks, credit unions, An Post, building societies, pension and investment firms deliver a wide range of financial services and products to the public. Many of these services are critical to both people's day-to-day lives and to securing their financial futures.

People at risk may be more likely than the general population to make poor financial decisions, or to be coerced into doing so. It is important that financial firms consider the needs of consumers at risk and provide additional supports as appropriate.

An underlying requirement for firms of the Central Bank Consumer Protection Code (CPC 2025) and its supporting Guidance is the overarching duty on firms to secure the interests of all customers, including consumers in vulnerable circumstances. Securing the interests of customers in vulnerable circumstances requires firms to understand risk, to anticipate that some consumers may be in vulnerable circumstances, and to ensure that their culture, strategy, business model, decision-making, systems, controls, policies, processes and procedures take account of the support needs of adults at risk.

The CPC 2025 provides for the role of a Trusted Contact Person, but caution is required as a trusted contact person may be a perpetrator of financial abuse, as they are often 'trusted' and are frequently family members. The term 'trusted' needs to be understood essentially as 'trustworthy'.

Section Four

Supporting Adults at Risk to Manage and Control Their Finances and Assets: Implications and Application of the Assisted Decision-Making Legislation

This section of the Issues Paper draws attention to the fact that the ADMCA implementation across the financial services sector has been inconsistent. This means that full effect has not been given to the provisions of the Act and, by extension, to Ireland's commitments under the UNCRPD. This has resulted in a failure to date to use the legislation to give people optimum control of their money and assets and thus mitigate the potential for financial abuse.

While some financial services have invested significantly over the last number of years in updating processes, providing training, engaging with stakeholders and engaged in the challenge of aligning their products and services with the ADMCA legislation, others appear less proactive in their engagement. Some are only very recently recognising the risks and deficits in their systems and modernising accordingly.

Section Five

Financial Services and Adults at Risk: Existing Practice and Shortcomings

This section outlines the nature and extent of the information and guidance for consumers provided by financial institutions. It explores the transparency, adequacy and accessibility of the information and guidance provided and assesses the extent to which the practice of financial service providers matches the promises that are contained and/or are implicit in the providers' communications to the public and which are required under the Consumer Protection Code.

While financial institutions have made considerable progress in meeting their obligations under the ADMCA legislation, there continue to be inconsistencies, variations and examples of sub-optimal practice in how some firms interact with customers who are in vulnerable or at-risk circumstances.

Section Six

Role and Functioning of Department of Social Protection and State Payments in Safeguarding Adults at Risk from Financial Abuse

This section outlines the functions of the Department of Social Protection which plays a significant role regarding the income and finances of a wide proportion of the population – and especially in relation to the finances of adults at risk – through the disbursement of funds connected with multiple benefits and entitlements. It outlines the scope and nature of the DSP's function and explores its role and responsibility in safeguarding and protecting the finances of adults at risk.

The section also considers the role of other relevant government bodies – the National Shared Services Office (responsible for paying public pensions) and State Savings (responsible for managing money invested by members of the public as savings). The role of An Post is also considered.

Section Seven

The Role Independent Advocacy in Supporting Adults at Risk to Control Their Money and Assets

Given the growing emphasis on decision-making capacity in Ireland and the provisions for supported decision-making in the Assisted Decision-making (Capacity) Act 2015, independent advocacy has become a necessary mainstream activity and is an important safeguard in a democratic society in that it 'gives voice' to the wishes and preferences of adults at risk.

Feedback from independent advocacy organisations indicates that financial services sometimes do not understand the role of independent advocacy and are reluctant to engage with an advocate on the basis that there is no provision for independent advocacy in the ADMCA legislation.

The replacement of a 'best interests' approach with the principle of giving effect to people's will and preferences establishes the context for independent advocacy to become a central component in enabling people to control their finances and assets.

Section Eight

A Framework for Addressing the Issues

This section of the Issues Paper outlines the components to build a framework to enable adults at risk to control and manage their money and assets. It sets out twelve inter-related components. These are:

1. The need for a public attitudinal and cultural shift in relation to the right of individuals to control and manage their money and assets
2. Greater emphasis on the concept of legal capacity which includes the right to own money and property, irrespective of decision-making capacity
3. The need for proactive financial literacy education so that individuals are better able to control and manage their money and to be accommodated by financial services
4. Full application and implementation of the ADMCA legislation as it applies to people's right to control their money by all financial services, by relevant statutory agencies and professional services
5. Establishing a National Adult Safeguarding Framework as recommended by the Law Reform Commission which would encompass safeguarding in respect of people's right to control and manage their finances
6. ADMCA awareness education for people (services and families) supporting people with reduced decision-making capacity about how people's money and assets should be treated
7. ADMCA awareness training and education for financial services, State agencies and professional services to ensure that the requirements under the legislation are adhered to in all instances
8. An enhanced role for independent advocacy in ensuring that adults at risk are protected and have their human and legal rights upheld in all areas of living, including their financial and property affairs
9. Addressing the digital divide as a result of which some people are excluded from some financial services, especially e-banking
10. Strong inter-agency collaboration to enable the State to carry out its duty to ensure that all adults can safely manage their money, benefits and assets in a manner that meets their needs and upholds their autonomy
11. The collection of national disaggregated data on financial abuse in Ireland to provide a true picture of the nature and extent of such abuse, including the sharing of data with the Central Bank of Ireland, Competition and Consumer Protection Commission and Department of Social Protection.

Section Nine

Agenda of Issues Requiring Attention and Agencies Responsible

This section provides a summary of the issues that have been identified in the Paper, sets out some proposals for addressing these issues and identifies the agencies responsible for implementing each of the proposals. The agencies identified as responsible include financial services, regulatory authorities, statutory agencies involved in paying benefits and pensions, Government departments and NGOs providing services to older persons and people with disabilities.

Introduction

Introduction

The objective of this Issues Paper is to describe and analyse issues that affect the ability of people to control and manage their finances and assets to the greatest extent possible and in accordance with the presumption of capacity and other guiding principles provided for in the Assisted Decision-Making (Capacity) Act 2015, the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and in the Guiding Principles set out in the Law Reform Commission Report, ***A Regulatory Framework for Adult Safeguarding***[1].

The Paper focuses on the requirement under Article 12 (5) of the UNCRPD which requires that '***States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property'.***

This Issues Paper should be considered in conjunction with the Safeguarding Ireland publication ***A Guide to Staying in Control of Your Money, Benefits and Assets*** which provides a single source of information on what people should do to enable them to safely manage and stay in control of their money and assets. The ***Staying in Control*** Guide also outlines what people with different financial support needs should reasonably expect from financial services and from services provided by the State where adults are at risk – the Department of Social Protection (pensions and benefits), the National Shared Services Office (public service pensions) and State Savings (managing people's savings).

Research carried out for the Guide pointed to a some discrepancy between what financial services say they do and what people experience in practice. Following consultation with multiple stakeholders in developing the Guide, the need to develop an Issues Paper was identified.

The Issues Paper will act as a Safeguarding Ireland resource document to stimulate ongoing debate about the responsibilities of all stakeholders to ensure that people, irrespective of their decision-making capacity, are supported and enabled to manage their money and assets to the greatest extent possible and to have equality of access to financial services.

The Paper is based on an analysis of feedback from stakeholders in response to consultation on developing the Guide.

1 https://www.lawreform.ie/_fileupload/Reports/as/executive-summary-lrc-es-128.pdf

/ Section One

A Rights-based Framework for Supporting People to Manage and Control Their Finances and Assets

A human rights-based approach to adult safeguarding puts people who may be at risk at the centre of the discourse, empowering them to participate in decision-making to the greatest extent possible.

Introduction

A number of human rights considerations have significant implications for how people are enabled and supported to manage and stay in control of their money, benefits and assets. These are outlined and discussed in this opening section of the Issues Paper.

Human rights principles

The concept of autonomy or self-determination that demands that the person be placed at the centre of all decisions affecting him/her.

A human rights-based approach to adult safeguarding puts people who may be at risk at the centre of the discourse, empowering them to participate in decision-making to the greatest extent possible. At the same time, a rights-based approach demands accountability from the State and from stakeholders who have responsibility to uphold these rights.

The underlying principles of a rights-based approach have been summarised as[2]:

- The inestimable dignity of each human being
- The concept of autonomy or self-determination that demands that the person be placed at the centre of all decisions affecting him/her
- The inherent equality of all regardless of difference
- The ethic of solidarity that requires society to sustain the freedom of the person with appropriate social supports.

Despite the emergence of a strong human rights discourse in recent years, it is likely that some people, e.g., frail old people or people with reduced decision-making capacity (for whatever reason/s) are often thought of as a burden, especially those who need high levels of support.

There may be a tendency by service providers, including financial service providers, to focus primarily on physical or decision-making 'deficits' associated with, for example, the ageing process or an intellectual disability, and on how these 'needs' should be met rather than on people with legal capacity and as bearers of human and legal rights. The realisation of financial capacity is also a basic right of all citizens.

Section 5 of Article 12 of the UNCRPD, says that ***'States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property'.***

2 Quinn, G. and Degener, T. (eds.) with Bruce, A., Burke, C. Castellino, J., Kenna, P. Kilkelly, U., Quinlivan, S. *Human Rights and Disability,* United Nations, New York and Geneva.

The introduction in law in Ireland (through the Assisted Decision Making (Capacity) Acts (2015 and 2022) of the statutory presumption of capacity and the legal requirement for people whose decision-making capacity may be in question to be provided with the support that they require to maximise their decision-making capacity (including their financial capacity) introduces a fundamental change in how such people are to be regarded, including in decisions.

A person is only to be regarded as having reduced capacity to understand and manage their finances after all reasonable efforts have been made to support their decision making by facilitating them to understand the decision to be made.

Older persons and human rights protection

While disabled people have achieved a level of visibility through the UNCRPD, this may not be the case in relation to older persons with additional support needs associated with frailty and the ageing process. In this regard, the 2019 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities makes some very relevant points related to disability and ageing[3].

As that report states, the UNCRPD applies to disability experienced at any age but medical definitions and approaches dominate international discussions of ageing, with older people still largely perceived as "mere beneficiaries of care and welfare".[4] The Special Rapporteur states further that the fragmentation of policies for older persons and for persons with disabilities results in the "invisibility in law and in practice of experiences of disability in later life" [5] and that "human rights violations against older disabled people are often neither monitored nor categorised as such".[6]

Nils Muižnieks, the former Council's Commissioner for Human Rights, stated in a 2018 ***Human Rights Comment*** on 18 January 2018 as follows:

"Older persons have the very same rights as everyone else, but when it comes to the implementation of these rights, they face a number of specific challenges. For example, they often face age discrimination, particular forms of social exclusion, economic marginalisation due to inadequate pensions, or are more vulnerable to exploitation and abuse, including from family members."[7]

The European Union Agency for Fundamental Rights 2018 Report[8] dedicated its focus chapter to equal treatment for older people and respect for their fundamental rights. It recognised growing awareness of the issue and how policies are changing to better respect their rights.

3 United Nations (2019) *Report of the Special Rapporteur on the rights of persons with disabilities*: General Assembly 74th Session. (A/74/186, 17 July 2019) https://undocs.org/en/A/74/186 p.5.

4 *Ibid.* p.7

5 *Ibid.* p.5

6 *Ibid.* p.10

7 https://www.coe.int/en/web/commissioner/-/the-right-of-older-persons-to-dignity-and-autonomy-in-care

8 https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-fundamental-rights-report-2018_en.pdf

However, it advises against a one-size-fits-all approach as barriers faced by women, ethnic minorities and people with disabilities may be compounded as they age. This highlights the need to broaden protection against discrimination on the grounds of age through implementing the EU's Equal Treatment Directive[9] which extends anti-discrimination protection beyond employment to access to services, housing and healthcare.

Although no Convention expressly dealing with the rights of older persons has been adopted – as in the case of disabled people, women and children – a number of steps towards the improvement of the rights of older persons have been taken. Protecting the rights of older people is part of various UN, EU and Council of Europe conventions, action plans, and recommendations. The general principles of the Universal Declaration on Human Rights and the European Convention on Human Rights are centrally relevant to the rights of older persons.[10]

Rights-based principles and people staying in control of their assets

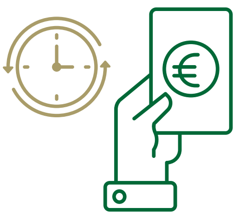
The right of people to stay in control of their finances, social welfare benefits and property are rooted in both the principles set out in Section 8 of the Assisted Decision-making (Capacity) Act and the Guiding Principles set out in the Law Reform Commission Report on ***A Regulatory Framework for Adult Safeguarding.***

The assisted decision-making legislation

The ADMCA legislation requires:

- That each person is treated as an individual and provided with whatever support is deemed necessary to enable them to maximise their participation in decisions about their finances
- Engagement with customers must be on the presumption of decision-making capacity unless an individual has been properly and appropriately assessed as not having capacity
- Advising customers that they get whatever support they require, under the provisions of the Act, to manage their finances. A person is only to be regarded as having reduced capacity to understand and manage their finances after all reasonable efforts have been made to support their decision making by facilitating them to understand the decision to be made.

Support with finances can be temporary, partial, or intermittent.



9 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008P-C0426&from=en

10 The UN set up a Working Group in May 2025 to draft a Convention on the Rights of Older Persons.

The matter of the management by adults at risk of their personal finances is intrinsically linked to decision-making capacity. There is a common law assumption, now given legal effect in the ADMCA, that all persons are presumed to have the capacity (or ability or competency) to make a specific decision or decisions until the contrary is indicated.

A person is therefore ONLY to be regarded as having reduced capacity to understand and manage their finances AFTER all efforts have been made to support their decision-making by facilitating them to understand the decision to be made. The various decision support mechanisms of the ADMCA legislation provide for a statutory structure to support all decision making and will greatly assist in safeguarding the finances of those individuals whose capacity to manage their own finances is gradually deteriorating e.g., in the case of dementia.

The 2015 ADMCA (Section 8) contains nine Guiding Principles, the critical baseline principle being that **everyone is presumed to have capacity** unless the contrary is shown in accordance with the provisions of the Act. This ensures that each person is treated individually and that no cohort of people is automatically deemed to lack decision-making capacity. The fact that a person can retain information relevant to a decision for a short period only does not prevent them from being regarded as having capacity to make the decision.

There is a common law assumption, now given legal effect in the ADMCA, that all persons are presumed to have the capacity (or ability or competency) to make a specific decision or decisions until the contrary is indicated.

The other Guiding Principles contained in the Act are:

- All practical steps to be taken to support decision-making
- A person not to be regarded as lacking capacity if they make an unwise decision
- Intervention only when necessary
- An intervention where required to be the least restrictive possible and which respects a
- person's rights
- Facilitate participation and the articulation of a person's will and preferences
- Consider the views of others who have a *bona fide* interest in the welfare of the person
- Consider the likelihood of recovery and urgency of the matter
- Maintain strict confidentiality in the collection and use of personal information.

A person is therefore ONLY to be regarded as having reduced capacity to understand and manage their finances AFTER all efforts have been made to support their decision-making by facilitating them to understand the decision to be made.

Principles outlined by the Law Reform Commission

The Law Reform Commission[11] has proposed a number of guiding principles for adult safeguarding legislation in Ireland which are relevant in the context of a rights-based approach to ensuring that people, irrespective of their decision-making capacity, can manage their finances and their property to the greatest extent possible.

Guiding principle 1 (a rights-based approach)

This means ensuring that the rights of at-risk adults are respected, including their rights to autonomy, respect, dignity, bodily integrity, privacy, control over financial affairs and property, non-discrimination, equal treatment in respect of access to basic goods and services, and respect for their beliefs and values.

Guiding principle 2 (empowerment and person-centredness)

This means:

(a) The presumption of decision-making capacity

(b) The facilitation of supported decision-making, where requested or required

(c) Ensuring informed consent

(d) Respecting the right to autonomy and the right to full and effective participation in society

(e) The realisation of the right to independent advocacy

(f) Ensuring respect for will and preferences

(g) Ensuring respect for the right to have risks and options explained

(h) Ensuring respect for the right to be consulted at every step of an action or intervention under adult safeguarding legislation.

Guiding principle 3 (protection)

This means:

(a) Responding effectively to actual or suspected abuse or safeguarding concerns in relation to at-risk adults

(b) Protective steps are taken to ensure that safeguarding actions or interventions are taken to protect at-risk adults from harm

(c) Support is provided to protect the safety and dignity of at-risk adults and to protect the physical, mental and emotional wellbeing of at-risk adults

11 https://www.lawreform.ie/_fileupload/Reports/as/lrc-128-vol-1-160424-final.pdf

(d) Protective measures are taken in relation to adult safeguarding legislation, including to ensure that:

(i) The Safeguarding Body and its authorised officers are provided with training regarding the legislation and the exercise of functions or powers under the legislation

(ii) The Safeguarding Body and its authorised officers who are engaged in exercising functions or powers under the legislation to protect at-risk adults from harm are obliged and facilitated to complete training on these principles, as well as training on their specific roles, before exercising any functions or powers under the legislation

(iii) Adequate mentoring and supervision of authorised officers is provided.

Guiding principle 4 (prevention)

This means:

(a) Taking proactive steps to ensure that safeguarding actions or interventions are taken to prevent harm to at-risk adults

(b) Providing support to ensure the safety and dignity of at-risk adults and promoting the physical, mental and emotional wellbeing of at-risk adults

> Insofar as possible, the least intrusive and restrictive of the freedom of an at-risk adult.

(c) Taking proactive measures in relation to adult safeguarding legislation, including to ensure that:

- (i) The Safeguarding Body and its authorised officers are provided with training regarding the legislation and the exercise of functions or powers under the legislation
- (ii) The Safeguarding Body and its authorised officers who are engaged in exercising functions or powers under the legislation to protect at-risk adults from harm are obliged and facilitated to complete training on these principles, as well as training on their specific roles, before exercising any functions or powers under the legislation
- (iii) Adequate mentoring and supervision of authorised officers is provided.

Guiding principle 5 (proportionality)

This means ensuring that actions or interventions under adult safeguarding legislation:

(a) Are necessary, having regard to the circumstances of each at-risk adult

(b) Are, insofar as possible, the least intrusive and restrictive of the freedom of an at-risk adult

(c) Are proportionate to the level of risk presented to an at-risk adult

(d) Are limited to the necessary duration

(e) Adopt a trauma-informed approach

(f) Are monitored and evaluated regularly, in accordance with international best practice.

Now that CPC 2025 applies a senior individual within a firm can be held individually accountable if a firm does not take reasonable steps on compliance.

Guiding principle 6 (integration and cooperation)

This means that:

(a) Coordinated and cohesive responses should be taken, in accordance with adult safeguarding legislation, to recognise the potential for harm and to prevent harm to at-risk adults

(b) Services should be integrated, and coordinated multidisciplinary responses should be taken to prevent and address adult safeguarding concerns should be taken in accordance with adult safeguarding legislation

(c) National sectoral policies should be aligned with adult safeguarding legislation to ensure the consistency of practice, policy and legislation across sectors.

Guiding principle 7 (accountability)

This means ensuring:

(a) Accountability and transparency in adult safeguarding

(b) That the Safeguarding Body and its authorised officers who take actions or interventions under adult safeguarding legislation are accountable and answerable for such actions or interventions

(c) That services are transparent, and it is clear how the providers of relevant services to at-risk adults respond to safeguarding concerns under adult safeguarding legislation

(d) That proper procedures are implemented for risk management, ownership, information sharing and reporting.

These seven principles have clear relevance for the operation of all agencies engaging with people in relation to financial and property matters. They also have relevance for the type of service that people should be able to expect – this applies in particular to prevention and accountability by financial services, by utility providers, by advertising agencies and by both mainstream and social media.

Financial services firms are subject to the Individual Accountability Regime. A senior individual within a firm has responsibility for and is accountable for a firm's compliance with CPC 2025.

The concept of legal capacity (the capacity to have rights and the power to exercise those rights) is at the very core of ensuring that people are enabled to control and manage their money and assets.

Legal Capacity

The concept of legal capacity (the capacity to have rights and the power to exercise those rights) is at the very core of ensuring that people are enabled to control and manage their money and assets. The UNCRPD guarantees that persons with disabilities have a right to legal capacity, which means that they are equal bearers of rights. Thus, persons who have reduced decision-making capacity have the very same legal rights in respect of controlling their finances and assets as persons whose decision-making capacity is not in question.

According to Article 12 (3) of the Convention, States Parties are required to take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

Article 12 (4) stipulates that States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. This provision is centrally relevant to people's right to equality of access to banking services and related supports.

The UN Committee on the Rights of Persons with Disabilities has stated that the denial of legal capacity to persons with disabilities has, in many cases, led to their being deprived of many fundamental rights.[12]

A Centre for Disability Law and Policy (CDLP) Report,[13] prepared for the UN Special Rapporteur on the Rights of Persons with Disabilities, highlighted the need to recognise the obligation to respect the legal capacity of persons with disabilities, including legal agency and standing. In discussing the negative impact of denial of legal capacity in this context, the report asserted that legislation alone would not be enough to overcome barriers and that it was necessary to address attitudinal barriers and professional practices based on the outdated understanding of disability. Again, this is a central matter in how people are supported to control and manage their finances and assets.

Financial Capacity

Financial capacity has been found to be an advanced activity of daily life, conceptually distinct from household activities and basic activities of daily life.

12 Committee on the Rights of Persons with Disabilities. Eleventh session 31 March–11 April 2014. General comment No. 1 (2014) Article 12: Equal recognition before the law. I,8. Accessible at https://docs.un.org/en/CRPD/C/GC/1

13 Centre for Disability Law and Policy, Galway. *Final Report. Access to Justice of Persons with Disabilities*. December 2019 Accessible at https://www.universityofgalway.ie/media/centrefordisabilitylawandpolicy/files/CDLP-Final-report-for-UN-Special-Rapporteur-on-Access-to-Justice-for-Persons-with-Disabilities-(21Jan).docx

The principle of risk assessment means people being provided with all relevant information relating to a product/service in a manner that is understandable by the individual involved.

Research has shown that financial capacity is already significantly impaired in mild Alzheimer's disease especially in the more complex domains of cheque book use and management, bank statement management, bill payment and financial judgement. The decline in financial capacity, therefore, can be more rapid than is sometimes presumed.

There is a ***prima facie*** question as to whether financial capacity can be fully maximised in the current situation where financial services are not fully applying the principles of the assisted decision-making capacity legislation. In other words, if the supports available under the legislation are not available in practice and/or are not clearly explained fully by financial services, then the potential for one cohort of people to enhance their financial capacity and to become more financially literate are severely restricted. This effectively undermines the implementation of Article 12(5) of the UN Convention on the Rights of Persons with Disabilities which stipulates that:

'States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.'

Other basic principles in supporting people to control their finances

Based on a rights-based perspective to adult safeguarding, there are three additional overarching principles which should be respected – risk assessment, safeguarding, individual empowerment and the elimination (as far as possible) of financial abuse.

Risk Assessment

The principle of risk assessment means people being provided with all relevant information relating to a product/service in a manner that is understandable by the individual involved and then respecting their right to make an informed decision on the matter in question.

Adult Safeguarding

Adult safeguarding refers to measures that are, or may be, put in place to promote the health, safety and welfare of adults at risk, minimise the risk of harm to and support them to protect themselves from harm, including harm that may arise from sale of goods or services where the 'buyer' is not fully cognisant of what they are being sold and/or are been manipulated or subject to coercive control in any form.

Empowerment

The principle of empowerment means the presumption of decision-making capacity, the facilitation of supported decision-making, where requested or required and, very importantly, ensuring that consent is informed and validly without any form of coercive control or manipulation by a service provider or by any other third party. The principle of empowerment means that agencies should ensure that there are inbuilt safeguards and oversight mechanisms in place that prohibit any arrangements that cede total or partial control of money, benefits or assets to a third party with no review or oversight mechanism and no accountability.

The Law Reform Commission has recommended a number of factors relating to risk assessment which are relevant to a rights-based approach:

a) A duty to ensure, as far as reasonably practicable, that services are organised, managed and provided in such a way as to prevent harm to any adult who is, may be or may become, an at-risk adult while availing of the service

b) A duty to undertake, and document, a risk assessment of any potential for harm to an adult while availing of the service

c) A duty to prepare an adult safeguarding statement – this should specify the policies, procedures and measures that a provider of a relevant service has in place to safeguard adults, including adults who are, may be, or may become at-risk adults.

The implementation in practice of a human rights approach to people controlling their finances and assets

Analysis of the various binding human rights conventions and their usage suggests that some human rights may not be adequately protected in practice in the context of people being able to manage their finances and property affairs:

1) There is a lack of clarity as to the how rights provisions are integrated into consumer protection codes and Guidance documents

2) The lack of a dedicated legally binding Convention on the human rights of older persons is likely to contribute to a lack of awareness by financial services and utility providers es about the need to respect the human rights of older persons in all domains of living.[14]

A 2021 Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons[15] highlights the "silences, neglect and relative invisibility of human rights issues experienced by older persons". It is reasonable to suggest that these deficits may apply in Ireland in respect of ensuring that people, irrespective of frailty or decision-making capacity are fully enabled possible to manage and control their finances and property.

The Assisted Decision-Making Act is guided by nine core principles.

14 Report- "We-Have-the-Same-Rights" Human-Rights-of-Older-Persons-in-Long-term-Care-in-Europe.pdf (ennhri.org) p.74.

15 https://www.ohchr.org/en/documents/outcome-documents/ohchr-working-paper-update-2012-analytical-outcome-study-normative p.5.

The principle of empowerment means that agencies should ensure that there are inbuilt safeguards and oversight mechanisms in place that prohibit any arrangements that cede total or partial control of money, benefits or assets to a third party with no review or oversight mechanism and no accountability.

People's right to manage and control their money and assets

There are basic human and legal rights principles that disability, illness, frailty associated with the ageing process or reduced decision-making capacity should not be impediments to a person retaining control over their own financial affairs. A human rights-based approach to adult safeguarding generally puts people at risk at the centre of the discourse, empowering them to participate in decision-making to the greatest extent possible. At the same time, a rights-based approach demands accountability from the State and from institutional actors who bear responsibility to uphold these rights.

A human rights approach avoids the compartmentalisation of identities (e.g., older persons, people with disabilities) and focuses instead on people in terms of the challenges and opportunities faced at each stage of the life cycle as distinct from people as members of 'identity-groups'. A human rights approach does not contradict the reality of age-specific needs or the support needs of people with disabilities or the particular needs of people with reduced decision-making capacity. On the contrary, a rights-based approach enables society to better meet needs, as required, while framing them within a human rights-based narrative.

Despite the emergence of a strong human rights discourse in recent years, it is likely that some people, e.g., frail old people or people with reduced decision-making capacity (for whatever reason/s) are often thought of as a burden, especially those who need high levels of support. There may be a tendency by service providers, including financial service providers, to focus primarily on physical or decision-making 'deficits' associated with, for example, the ageing process or an intellectual disability, and on how these 'needs' should be met rather than on people as bearers of human and legal rights.

Summary and conclusion

The introduction in Irish law (through the Assisted Decision Making (Capacity) Acts (2015 and 2022) of the statutory presumption of capacity and the legal requirement for people whose decision-making capacity may be in question to be provided whatever support that they require to maximise their decision-making capacity brings about a fundamental change in how such people are to be regarded, including in decisions about their finances.

In essence, this legislation upholds their right to self-determination and establishes in law the fact that disability, frailty associated with the ageing process, reduced decision-making capacity or mental health difficulties should not be impediments to a person exercising legal capacity and, in so doing, maintaining control over their own financial affairs to the greatest extent possible.

The next section will focus on why we need to focus on supporting adults at risk to control and manage their finances and assets.

Section Two

Why we Need to Focus on Supporting Adults at Risk to Control and Manage Their Finances and Assets

Many cases of financial abuse or exploitation go unreported either because the person being exploited does not perceive what is happening as abuse and/or is relying on the perpetrator for care and support.

Introduction

This section of the Issues Paper sets out the reasons why it is necessary to focus attention on supporting adults at risk to manage their finances and assets. Research findings analysed in a Safeguarding Ireland 2022 Discussion Paper[16] indicate a worrying prevalence of financial abuse of adults at risk and a lack of clarity as to what constitutes financial abuse. Such evidence indicates clearly that the legal and moral obligation to ensure that the right of all persons to ownership of their money and assets, irrespective of whether or not they have decision-making capacity, is not always upheld – by society in general, by the State, by financial services or by agencies providing services to adults at risk.

Providing appropriate supports to people with reduced decision-making to manage and control their finances is a requirement under the assisted decision-making legislation.

Multiple issues were identified in the research carried out for the recently published Safeguarding Ireland Guide, ***Staying in Control of Your Money, Benefits and Assets***.

The issues are discussed under five headings:

1) Obligation to ensure that the financial rights of adults at risk are upheld
2) Financial abuse
3) How ADMCA principles are applied in practice
4) General issues identified
5) Financial literacy
6) Current safeguarding regulatory framework.

Obligation to ensure that the financial rights of adults at risk are upheld

There is a clear obligation to ensure that the financial rights of adults at risk are promoted and protected. The previous section of this Issues Paper has set out the principles that should underpin the provision of financial services and state benefits to people at risk. Providing appropriate supports to people with reduced decision-making to manage and control their finances is a requirement under the assisted decision-making legislation. The Central Bank Consumer Protection Code of Practice, which came into effect in 2026 places a regulatory obligation financial services providers to cater for the needs of people in vulnerable circumstances.

16 For a detailed consideration of these issues, see Safeguarding Ireland Discussion Paper, *Identifying Risks Sharing Responsibilities*, https://safeguardingireland.org/wp-content/uploads/2022/05/6439-Safeguarding-Risks-Resp-Report-FA4_lowres.pdf

There is also a clear obligation on all stakeholders involved in the life of a person who lacks decision-making capacity to adhere to the requirements of the ADMCA legislation and to respect the absolute right of a person to be supported to control their own money and assets to the greatest extent possible. This obligation is about protecting people's human rights and their right to be in control of their money and assets and to receive appropriate support for this purpose.

The obligation to ensure that the financial rights of adults at risk are upheld can present challenges for a variety of reasons. Many people face challenges to their financial independence due to reduced decision-making capacity, physical or sensory disability, an acquired brain injury, mental health difficulties, a different communication style, lack of trustworthy family and community supports, or an inability in practice to access financial services that meet their needs.

Financial abuse

While it is likely that the majority of persons supporting people to manage their finances (e.g., those acting as agents for social welfare payments for people unable to process the payments themselves) act out of a genuine caring disposition and in good faith, there is an increasing awareness and evidence of the financial abuse of adults at risk in Ireland which has been highlighted by various agencies – Safeguarding Ireland, Sage Advocacy, the National Advocacy Service for People with Disabilities (NAS) and the HSE National Safeguarding Office.

In 2024, in almost 23% of Sage Advocacy cases (697 cases), financial issues were the primary referral while in a further 581 cases financial issues were identified during the casework process. Financial issues were a key issue across all NAS regions in 2023. The majority of unsolicited queries to Safeguarding Ireland over the years have had a financial safeguarding component

The concept of legal capacity (the capacity to have rights and the power to exercise those rights) is at the very core of ensuring that people are enabled to control and manage their money and assets.

Financial abuse is a serious form of adult abuse, often perpetrated by people known to the victim – relatives, neighbours, friends and professional carers. It can include keeping change, taking cash, misusing bank cards, being dishonest about social welfare payments, using property without permission, and pressuring changes to property deeds, Power of Attorney, or a Will.

The Central Bank[17] has defined financial abuse as the wrongful or unauthorised taking, withholding, appropriation, or use of a consumer's money, assets, or property. It also includes any act or omission by another person to gain control over a consumer's assets through deception, intimidation, or undue influence, or to interfere with or deny the consumer's ownership, use, or benefit of their money and assets.

17 https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-code/section-48-regulations/part-1-preliminary-and-general

Financial abuse is in essence a denial of people's right to control all of their assets and to have such assets used only for their benefit.

Financial abuse is in essence a denial of people's right to control all of their assets and to have such assets used only for their benefit. People can be financially exploited through the use of psychological manipulation or misrepresentation, coercion or undue influence. People can obviously also be the victims of theft, for example, in the form of cash being stolen, money inappropriately withdrawn from bank accounts and social welfare payments collected not being handed over, or property being wrongly appropriated.

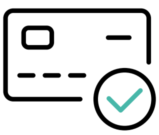
People can be at risk of financial abuse because of various (sometimes inter-related) factors:

- Frailty and/or reduced mobility associated with the ageing process
- Reduced decision-making capacity
- Communicating differently because of a physical/sensory disability or because of an accident or stroke
- A high reliance on others (relatives and carers) to manage daily living
- A lack of understanding of the fact that next-of-kin have no legal rights
- A belief by some older people (socially and culturally generated) that they should make their financial assets and property available for inheritance by their children rather than use it for their own care and welfare
- Established practice over many years where a family has regarded a person's disability payment as a payment to the household rather than to an individual
- A widespread practice of agents for social welfare payments (for example, relatives), collecting a person's payment but not giving it to the recipient or only handing over some of it
- Subtle coercive control over a person's finances or assets by a someone who has 'befriended' them.

While financial abuse may frequently not be obvious, there are several possible indicators:

- Joint accounts being controlled and managed by only one of the joint account holders
- Household finances being controlled by one person
- People being coerced into paying another person's debt or borrowing money on another person's behalf
- People being pressurised by a person who will be a beneficiary of their will to transfer money or assets during their lifetime
- Hiding or manipulating financial Information from a person who has a right to know
- Unexplained debt accumulation.

Common risky workarounds include shared PINs, shared passwords, and informal joint accounts.



The level of financial abuse reported to the HSE's National Safeguarding Office relating to older persons gives rise to concern. The National Safeguarding Office Annual Report 2023 shows that, while just over 9% of all financial concerns reported related to financial abuse, 18.5% of abuse concerns reported in respect of those aged 80 years and 15.2 % in the case of people aged 65-79 years referred to financial abuse.[18] The level of financial abuse reported relating to people aged over 80 years gives rise to particular concern. In the first nine months of 2024, 17% of concerns relating to this age-group referred to financial matters.[19]

Also, it is almost certainly the case that many cases of financial abuse or exploitation go unreported either because the person being exploited does not perceive what is happening as abuse and/or is relying on the perpetrator for care and support.

A Red C Poll[20], carried out for Safeguarding Ireland in 2024, found that:

- Just over one-in-ten adults living in Ireland have personally experienced some form of financial abuse
- One-in-five adults claim to know someone who has been financially abused
- Four out of every five individuals that have experienced financial abuse or know of someone that has, cited incidents where the abuser was known to them or the person affected
- Instances of financial abuse involving cash/change are the ones most commonly experienced.

There continues to be an absence of standardised good practice by all stakeholders that would enable adults at risk to keep control of their money, benefits and assets and not to be exposed to the risk of financial abuse.

A 2024 NAS Social Policy Paper[21] highlighted the systemic barriers people with disabilities across Ireland face in accessing and managing their own finances. These include:

- Complex authentication requirements
- A lack of accessible information, such as easy-to-read formats
- Automated customer support that is not 'user friendly' for people with disabilities
- A focus by financial services on people with disabilities as 'customers in vulnerable circumstances' rather than on citizens with rights
- Experience of financial abuse by people with disabilities from trusted third parties.

18 https://safeguardingireland.org/wp-content/uploads/2024/12/national-safeguarding-annual-report-2023.pdf

19 https://safeguardingireland.org/wp-content/uploads/2026/01/National-Safeguarding-Office-Annual-Report-2024.pdf

20 https://safeguardingireland.org/wp-content/uploads/2024/11/754024-Safeguarding-Ireland-NOV-24-FINAL.pdf

21 *Shortchanged: Barriers to Financial Autonomy for People with Disabilities in Ireland*, https://www.citizensinformationboard.ie/downloads/social_policy/NAS-Social-Policy-Paper_final-web-1.pdf

The recent Safeguarding Ireland publication, ***A Guide to Staying in Control of Your Money, Benefits and Assets*** sets out various preventative measures that people can take to maintain control of their finances, for example, creating a power of attorney, planning ahead, availing of the decision-making supports legally available under the ADMCA and engaging with an independent advocate.

Application of ADMCA principles

A question arises as to how well the principles and requirements of the assisted decision-making legislation relating to supporting people with reduced decision-making capacity to manage and control their finances the greatest extent possible are generally understood or implemented by various actors. This includes people with reduced decision-making capacity due to an intellectual disability being able to understand and carry out daily financial transactions, knowing where their money comes from, why they receive it, how much money they get and how it is spent.

The analysis of the evidence reported demonstrates that implementation of the legislation has been inconsistent. While clearly there have been some important improvements, including, in particular, a definition of financial abuse and related regulations in the Central Bank's Consumer Protection Code, there continues to be an absence of standardised good practice by all stakeholders that would enable adults at risk to keep control of their money, benefits and assets and not to be exposed to the risk of financial abuse.

Most financial abuse involves someone the person knows and trusts.

Current safeguarding regulatory framework

Ireland currently does not have legislation giving a statutory right to protections for adults at risk. In 2017, the Government approved the development of a national policy on national safeguarding in the health and social care sector and underpinning legislation. However, this proposed legislation did not make any provision for safeguarding from financial abuse in society generally. Similarly, National Standards for Adult Safeguarding developed by HIQA and the Mental Health Commission (MHC) [22] did not include safeguarding against financial abuse and exploitation other than to require (2.2.6) that services build ***"networks and relationships across a range of services and agencies so that they can respond effectively when a safeguarding concern arises, for example, with Gardaí and other statutory services, financial institutions, advocacy and support groups".***

Some financial institutions can be inflexible (at branch level) in accommodating potential customers where there is any perception of risk. Others are more accommodating and do build the appropriate networks and relationships required by the HIQA Standards.

22 https://www.hiqa.ie/sites/default/files/2019-12/National-Standards-for-Adult-Safeguarding.pdf

Research has shown that financial capacity is already significantly impaired in mild Alzheimer's disease especially in the more complex domains of cheque book use and management, bank statement management, bill payment and financial judgement.

The Adult Safeguarding Bill 2024[23], published by the Law Reform Commission (LRC) provides for the establishment of a Safeguarding Body with one of its functions being: ***'to promote the health, safety and welfare of adults at risk of harm[24] who need support to protect themselves from harm at a particular time'*** (13(1)) (a).

While the Government has included a Health (Adult Safeguarding) Bill in its current legislative programme, it is not at all clear when this will be progressed. More importantly, perhaps, is the fact that the proposed legislation is confined to the health and social care sector which was not the intention of the LRC proposed Bill. Rather the LRC recommended that ***'adult safeguarding legislation should be cross-sectoral legislation that applies across all relevant sectors rather than specific legislation being introduced for individual sectors'.***

The Department of Health recently published its ***National Policy Framework for Adult Safeguarding in the Health and Social Care Sector***.[25] It includes a range of provisions that have potential to reduce adult abuse and improve safeguarding across services and organisations.[26] However, these provisions are confined to the health and social care sector and do not include any provision for safeguarding by financial institutions.

Financial literacy and financial capacity

According to the National Bureau of Economic Research (2013), financial literacy is "people's ability to process economic information and make informed decisions about financial planning, wealth accumulation, pensions, and debt."

Many people face challenges to their financial independence due to cognitive, physical or sensory disability, an acquired brain injury, mental health difficulties, an inability to communicate effectively, lack of family and community supports, or an inability to access financial services that meet their needs. For some people, this vulnerability is due to a lifelong condition and for others their ability to manage their financial affairs effectively deteriorates slowly as a condition, such as dementia, develops over time.

23 https://www.lawreform.ie/_fileupload/Reports/as/adult-safeguarding-civil-bill-final.pdf

24 The LRC defines 'harm' for criminal law purposes as including *harm to body or mind, any injury or impairment of physical, mental, intellectual, emotional health or welfare or any form of property or financial loss*. (Section 1 of the Criminal Law Bill).

25 https://www.gov.ie/en/department-of-health/publications/national-policy-framework-for-adult-safeguarding-in-the-health-and-social-care-sector/

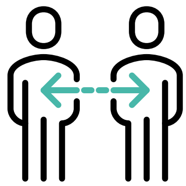
26 Appendix A and Appendix B of the Policy Framework contain lists of a range of adult safeguarding policies and protocols already in place.

Financial capacity has been found to be an advanced activity of daily life, conceptually distinct from household activities and basic activities of daily life. Research has shown that financial capacity is already significantly impaired in mild Alzheimer's disease especially in the more complex domains of cheque book use and management, bank statement management, bill payment and financial judgement. The decline in financial capacity, therefore, can be more rapid than is sometimes presumed.

A clear difficulty in enhancing financial literacy arises because so much remains to be done by stakeholders to reduce risks of financial abuse by simply universally applying ADMCA requirements as required by law.

There is a question as to whether financial capacity can be fully maximised in the current situation where not all financial services are not fully applying the principles of the assisted decision-making capacity legislation. In other words, if the supports available under the legislation are not available in practice and/ or are not clearly explained fully by all financial services, then the potential for one cohort of people to enhance their financial capacity and to become more financially literate are severely restricted. This effectively seriously undermines the implementation of Article 12(5)[27] of the UN Convention on the Rights of Persons with Disabilities.

A person may need support with access to money without giving up control.



27 https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities

Overarching matters

There are people who need 'physical' support in managing their financial affairs as, for example, their mobility deteriorates, or they experience communication challenges as a result of loss of hearing or vision, but who still understand, can make decisions, and can still give direction as to what they want done with their money and property. They may want support or assistance with paying bills or withdrawing funds for daily living but otherwise are fully capable of managing their finances. There are others who, because of reduced decision-making capacity, require additional supports and this group is particularly vulnerable to financial abuse and exploitation.

HSE Safeguarding Teams can play an important role in helping people to deal with financial abuse when a concern is reported. However, it is almost certainly the case that many cases of financial abuse or exploitation go unreported and are not referred to a Safeguarding Team, either because the person being exploited does not see what is happening as abuse and/or is relying on the perpetrator for care and support. There is also the issue of a relatively low level of public awareness about what constitutes financial abuse and where to report concerns about abuse generally.

Financial service providers have a particularly important role to play, as has An Post and the Department of Social Protection, in relation to the payment of state benefits. It is critically important that people are advised to seek the assistance of an independent advocate where difficulties are perceived or identified in relation to the proper management of the assets of an adult whose decision-making capacity may be in question.

While all of these matters present some challenges and may require time to be fully dealt with, the imperative arising from the ADMCA legislation cannot be ignored.

It is almost certainly the case that many cases of financial abuse or exploitation go unreported and are not referred to a Safeguarding Team, either because the person being exploited does not see what is happening as abuse and/or is relying on the perpetrator for care and support.

It is critically important that people are advised to seek the assistance of an independent advocate where difficulties are perceived or identified in relation to the proper management of the assets of an adult whose decision-making capacity may be in question.

/ Section Three

Regulation of Financial Institutions

Consumers also expect that firms will protect their money should they become less able to do so themselves because of reduced decision-making capacity, frailty associated with the ageing process, and/or having to rely on others to carry out their financial transactions.

Introduction

This section of the Issues Paper focuses on the regulation of financial institutions and on the role of regulation in ensuring that adults at risk are protected in their dealings with financial services.

Consumers expect that financial institutions should be trustworthy, well-managed and well-regulated; that they should provide a good standard of service; that financial institutions will handle their financial affairs with care and diligence; and that they will deal with their customers with respect and professionalism.

Banks, credit unions, An Post, building societies, pension and investment firms deliver a wide range of financial services and products to the public. Many of these services are critical to both people's day-to-day lives and to securing their financial futures. Financial institutions facilitate people to buy and sell, pay bills, plan their finances, receive benefits and income, and to be confident that their money and financial assets are held and managed safely and securely.

Irish society has moved from a time when many people could manage without a bank account to a time where bank or other account ownership is widespread and essential. Cash transactions are being replaced by electronic transactions, and the use of bricks-and-mortar bank branches is increasingly being replaced by online banking apps and services.

Consumers expect that financial institutions should be trustworthy, well-managed and well-regulated; that they should provide a good standard of service; that financial institutions will handle their financial affairs with care and diligence; and that they will deal with their customers with respect and professionalism. Financial institutions should be fully up to date with their obligations under the UNCRPD and the ADMCA.

Consumers also expect that firms will protect their money should they become less able to do so themselves because of reduced decision-making capacity, frailty associated with the ageing process, and/or having to rely on others to carry out their financial transactions.

Regulating financial firms

In Ireland, the Central Bank regulates financial service providers and works closely with other regulators such as the Competition and Consumer Protection Commission. The Competition and Consumer Protection Commission (CCPC) is responsible for enforcing a wide range of legislation aimed at protecting consumers. This covers transactions between businesses and consumers across all sectors of the economy. Consumer protection legislation creates rights for consumers and imposes corresponding obligations on traders that must be respected. The role of the Financial Services and Pensions Ombudsman (FSPO) is to independently and impartially resolve complaints from consumers against financial service providers and pension providers. It investigates disputes that have not been resolved by the provider and can issue legally binding decisions, including directing financial compensation (redress) for losses incurred.

In addition to overseeing and supervising the operation of financial institutions, the Central Bank regulates standards for business that financial institutions must abide by when dealing with their existing, potential, and former customers. These regulations exist to ensure that consumers are treated fairly and properly. The Central Bank's Consumer Protection Code (CPC 2025)[28] came into full effect in March 2026[29]. It contains a set of regulations designed to protect the interests of financial consumers. The Code builds on the protections of the Consumer Protection Code 2012, with a particular emphasis on digitalisation, informing effectively, mortgages and switching, unregulated activities[30], frauds and scams, and consumers in vulnerable circumstances.

The Consumer Protection Code requires that financial services firms act in a manner that places their customers' (and potential customers') interests at the heart of their culture, strategy, business model and decision-making.

Securing customers' interests

The Consumer Protection Code requires that financial services firms act in a manner that places their customers' (and potential customers') interests at the heart of their culture, strategy, business model and decision-making.

Securing customers' interests means that financial services should:

- Develop products and services that are fit for purpose and meet the needs and expectations of customers
- Ensure that delivery channels are effective for the products and services offered and the relevant customer base
- Provide consumers identified as in vulnerable circumstances with the support they need when engaging with financial services
- Ensure their communication and engagement with customers empowers them to make the decisions they want to and to act autonomously.

It is important to note that ***'securing customers' interests'*** does not mean that a financial services firm is ***'acting on behalf of'*** a customer, or in any way taking responsibility for making decisions that could and should be made by the customer themselves. Customers are responsible for their own decisions. However, financial services firms are required to ensure that customers are adequately informed in making their own decisions, and that customers who may require assistance are supported.

Securing customers' interests does not necessarily mean that individual customers will always be protected from poor outcomes. The Code does not impose an open-ended duty that goes beyond the scope of the firm's role and its ability to determine or influence customer outcomes or protect customers from all potential harms.

28 https://www.centralbank.ie/consumer-hub/consumer-protection-code

29 The Code took effect on 24 March 2026 following a 12-month implementation period.

30 The term 'unregulated activities' refers to financial products and services that are not regulated by the Central Bank. Financial firms that offer unregulated products are required to clearly identify such products as being unregulated.

Protecting people from financial abuse: Role of financial institutions

The Code recognises that some consumers can be at greater risk of financial abuse. Financial abuse is defined in the Code as having two elements:

- Frauds and scams typically committed by strangers to the victim
- The type of abuse generally perpetrated by people who are known to the victim, often people with a position of trust or influence.

Financial firms are required to control and manage their operations in a way that will counteract the risks of financial abuse to consumers. This means that they are obliged to monitor trends in fraud and to act where there is an increased risk. They are required to communicate clearly to consumers about risks, the supports available, and the actions consumers can take in the event of an actual or potential fraud or scam.

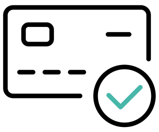
Consumers in vulnerable circumstances

Some people will need additional supports with managing their finances. People can be at risk for different reasons – life events (for example, bereavement, job loss or ill health) or because of reduced decision-making capacity or mental health difficulties. Moreover, individuals can move in and out of being at risk as conditions and circumstances change and fluctuate.

In its Consumer Protection Code, the Central Bank uses the term 'consumer in vulnerable circumstances' to refer to adults at risk and provides the following definition –

A consumer in vulnerable circumstances means a consumer that is a natural person and whose personal circumstances, whether permanent or temporary, make that consumer especially susceptible to harm, particularly where a regulated entity is not acting with the appropriate levels of care, and 'vulnerable circumstances' shall be construed accordingly.

Common risky workarounds include shared PINs, shared passwords, and informal joint accounts.



The Central Bank has also published ***Guidance on Protecting Consumers in Vulnerable Circumstances*** (March 2025)[31]. This guidance document recognises that consumers in vulnerable circumstances require additional support when engaging with financial services. Firms need to understand vulnerability, and to ensure that their culture, policies and processes take account of the needs of consumers in vulnerable circumstances. The Guidance sets out the context and background to the definition and approach to vulnerability under the Consumer Protection Code and describes the Central Bank's expectations of firms in meeting their obligations under the Code.

31 https://www.centralbank.ie/docs/default-source/regulation/consumer-protection/other-codes-of-conduct/consumer-protection-code-review/guidance-on-protecting-consumers-in-vulnerable-circumstances.pdf?sfvrsn=d55f631a_5

An underlying premise of the Code and Guidance is the overarching duty on firms to secure the interests of all customers, including consumers in vulnerable circumstances. Securing the interests of customers in vulnerable circumstances requires firms to understand risk, to anticipate that some consumers may be in vulnerable circumstances, and to ensure that their culture, strategy, business model, decision-making, systems, controls, policies, processes and procedures take account of the support which adults at risk need.

The Guidance emphasises that vulnerability is not necessarily a static, innate or a permanent characteristic of a person. It is any condition, characteristic or circumstance that makes a person more likely to suffer poor outcomes, particularly if firms do not act with the appropriate degree of care. Importantly, it recognises that individuals can move in and out of vulnerable circumstances (e.g. because of a bereavement, job loss or ill health).

Financial services firms are required to offer all reasonable accommodation and assistance to consumers in vulnerable circumstances. The Code requires that financial firms:

- Provide additional assistance to individuals who require it
- Provide appropriate training to staff so that they can identify and respond to consumers in vulnerable circumstances
- Have clear procedures in place for their staff about what they should do if they have concerns that a consumer has been the victim of financial abuse or is at risk of financial abuse
- Report concerns on financial abuse
- Record sensitive information in an appropriate manner
- Facilitate the nomination of a Trusted Contact Person (see below).

Vulnerability is not necessarily a static, innate or a permanent characteristic of a person. It is any condition, characteristic or circumstance that makes a person more likely to suffer poor outcomes.

Recording information

The Guidance acknowledges that unless financial firms are aware of the circumstances that may give rise to a consumer being in vulnerable circumstances, the firm will not be able to respond to those circumstances appropriately or at all. Since customers who are at risk may not always be willing or able, to clearly communicate those circumstances to a firm, it is important that they are assisted in doing so and are not required to repeatedly explain their circumstances on multiple occasions.

The Code includes a requirement that all firms ensure that, with the consent of the customer, the information that they have been given by the customer, detailing circumstances of vulnerability, is recorded and is available to staff of the firm when the firm is dealing with that customer on a later occasion.

A Trusted Contact Person is not a legal representative of the consumer and does not have any rights to make decisions on behalf of the consumer.

The Code requires that firms should ensure that they have appropriate policies and procedures in place to enable staff to implement this requirement including how information should be provided to customers so that they understand that this option is available to them, the purpose of recording the information, and that it can only be put in place with the consent of the customer.

Trusted Contact Person

The Consumer Protection Code includes a requirement for firms to facilitate customers, who wish to do so, to provide the name and contact information of a trusted contact. This person would be someone with whom a firm may communicate where there may be difficulty in dealing with the customer, or where financial abuse is suspected. Any customer who is a personal consumer may choose to nominate a Trusted Contact Person.

The appointment of a Trusted Contact Person allows a financial institution to contact the Trusted Contact Person for the purposes of communicating with, or receiving information about, the consumer.

A Trusted Contact Person is not a legal representative of the consumer and does not have any rights to make decisions on behalf of the consumer.

Under the Code, a firm may contact a Trusted Contact person in circumstances where:

(a) the firm has a concern about possible financial abuse of the customer, or

(b) the firm needs to confirm the specifics of:

- The customer's current contact information
- The customer's health status
- The identity of any appointed legal guardian, executor or trustee of the customer, or

(c) the firm experiences difficulties in communicating with the consumer.

The Trusted Contact Person mechanism is designed as a means of ensuring that communications between a customer and their financial institution is effective and continuous, and that the risks attached to poor communications are minimised and avoided.

Having one trusted contact should not replace wider safeguards.

If a firm is aware that a decision-making representative has been appointed for a customer under the assisted decision-making legislation, then they should defer to those arrangements instead of contacting any Trusted Contact Person who has been nominated by that customer. This ensures that there is clarity for firms on who they should engage with when dealing with customers.

When interacting with a person who needs to make a decision, the financial institution must presume they have capacity to make that decision at the time it needs to be made.

Guidance regarding assisted decision-making

The requirements and guidance under the Code relating to consumers in vulnerable circumstances are broadly consistent with, and complement, requirements under the assisted decision-making legislation. The provisions of the Code respect an individual's right to autonomous decision-making while seeking to ensure that consumers in vulnerable circumstances are appropriately assisted and supported by firms to do so. Where a customer may require assistance to make a decision, firms will need to comply with both the provisions of the assisted decision-making legislation and the Central Bank Consumer Protection Code.

The Guidance emphasises that where firms are concerned about an individual's decision-making capacity, the provisions of the assisted decision-making legislation must be complied with.

Consideration of capacity requires, among other matters, a consideration of what assistance a firm might give to enable a customer to make a decision for themselves, or to fully participate in the decision-making process possible.

When interacting with a person who needs to make a decision, the financial institution must presume they have capacity to make that decision at the time it needs to be made. A relevant person must not be considered unable to make a decision until all such steps set out in the Code and all practical steps have been taken to help them to make that decision.

Code of Practice for Financial Service Providers

Firms are required to consider the supporting Director of Decision Support (DSS) Codes of Practice, including the Code of Practice for Financial Service Providers[32]. This identifies best practice when interacting with a relevant person in the context of the assisted decision-making legislation. It also provides guidance on interacting with the relevant person's decision supporters where applicable, as well as with the Decision Support Service (DSS) and the courts.

The DSS Code informs firms about the DSS's registers of decision support arrangements. It further points out that not all arrangements may appear on the registers, and that – if a co-decision-making agreement, decision-making representation order, or enduring power of attorney does not appear on the DSS's registers – it may not yet have come into effect, or it may have been removed from the register. It is possible that a recent decision-making representation order made by the court may not appear on the register. This may occur if the decision-making representation order has not yet been notified by the court to the DSS or if it has not yet been formally registered.

32 https://decisionsupportservice.ie/resources/codes-practice/code-practice-financial-service-providers

A decision supporter or relevant person may provide the financial services firm with an authenticated copy of one of these arrangements which the firm will need to review in order to understand the authority of the decision supporter. The firm should check the decision support arrangement with the DSS to ensure that the specific decision to be made at the time comes within the scope of the decision supporter's authority.

The DSS Code states that a decision supporter may seek to obtain information from a financial firm in order to support the relevant person to make a decision, or to make a decision on their behalf. It is not a breach of the financial service provider's duty of confidentiality to engage with a decision supporter in relation to matters and decisions specified in each arrangement, if the decision supporter has authority for such engagement.

The Code clarifies that unless a family member or friend has been given specific authority in a decision support arrangement, they do not have any automatic legal right or authority in relation to the relevant person's decisions, nor are they permitted to access the relevant person's personal information. However, where the relevant person indicates that they wish a family member, friend, or advocate to be present or to receive such information, and where the firm is satisfied that there is no undue influence or coercion being exerted on the relevant person, that decision should be confirmed in writing and respected.

The capacity assessment must use a functional approach. This means that it focuses on how the relevant person makes a decision and the steps they take in the decision-making process.

Assessing capacity

Under the Code, a financial firm must have a valid reason before assessing decision-making capacity. This may include:

- Where doubt remains about a relevant person's capacity, even after appropriate support has been provided; and
- Where there is no decision support arrangement in place; or
- A decision support arrangement is in place, but the decision is outside the scope of that arrangement.

The capacity assessment must use a functional approach. This means that it focuses on how the relevant person makes a decision and the steps they take in the decision-making process. The capacity assessment must only consider the issue and circumstances in which the decision is being made at a specific point in time.

As well as dealing with all aspects of the legislation, the DSS Code informs firms that a relevant person may have an independent advocate in place. This is explained as being a person who works with and for the relevant person where they have difficulty expressing their will and preferences about a specific decision. The Code affirms that the financial firm may discuss information relating to a financial decision with an independent advocate with the consent of the relevant person. It should also be noted that that an independent advocate may act (on a non-instructed advocacy basis) in cases where the person lacks capacity, in order to vindicate their rights.

Where a financial services provider believes that a relevant person's decision supporter is not performing their functions appropriately or is acting beyond the scope of their authority, the firm may make a complaint to the Decision Support Service. This includes complaints about attorneys appointed under the Powers of Attorney Act 1996 in addition to all decision supporters appointed under the 2015 Act.

In the case of concerns relating to safeguarding issues, the firm should consider whether to contact the local HSE Safeguarding and Protection Team, and / or An Garda Síochána, if a criminal offence is suspected. This may be done in addition to making a complaint to the Decision Support Service, depending on the circumstances.

Where a financial services provider believes that a relevant person's decision supporter is not performing their functions appropriately or is acting beyond the scope of their authority, the firm may make a complaint to the Decision Support Service.

Regulation of investment product providers and services

As well as regulating financial institutions, the Central Bank also regulates investment products. and investment advisers. To operate legally in Ireland, such providers must first meet certain standards to be authorised and to continue in business. A person can search the Central Bank's register to get a list of providers who are operating in Ireland and authorised by the Central Bank. This does not include firms operating cross border, which are authorised in other countries.

The Central Bank also issues warning notices on firms who are not authorised to provide such services, as well as information on investment scams.

Firms providing unregulated products or services[33] are typically not authorised by the Central Bank, unless the firm also offers regulated products or services. This means even though the firm itself may be regulated by the Central Bank, not every product they sell may be covered by regulation. It is important that firms clearly distinguish their regulated business from any unregulated products they provide.

If a firm sells an unregulated product or service, they are required to ensure that the consumer understands the implications of purchasing an unregulated product. This should include explaining that the investor protections that apply for regulated investments, such as access to compensation schemes, client asset protections, and recourse to the Financial Services and Pensions Ombudsman, do not apply to unregulated investments.

If a firm is regulated by the Central Bank, they are obliged to explain to the consumer whether the product they are providing or recommending is regulated or not. If the product is regulated, this will be clearly stated on the documentation.

33 An unregulated investment product is one that does not fall under the supervision of the Central Bank. This means it does not have many of the investor protections that apply to regulated investment products, including access to the investor compensation scheme.

Control and manage its affairs and systems to counter the risks of financial abuse to customers.

When a financial advisor provides investment advice, they should[34]:

- Carry out a suitability assessment considering the nature and complexity of the product and whether it is suitable for the consumer
- Ensure the product is in the consumer's best interest and that the consumer fully understand it
- Carry out an assessment of the consumer's individual circumstances (knowledge/experience, risk appetite, financial situation) when determining whether the product is suitable for them
- Provide detailed risk disclosures/warnings in the product brochure and investor documentation.

CPC 2025 came into effect in March 2026. It comprises regulations which confirm that they include, where appropriate, both a potential "customer" and a former "customer".

CPC 2025 also defines financial abuse as meaning any of the following:

(a) The wrongful or unauthorised taking, withholding, appropriation, or use of a customer's money, assets or property

(b) Any act or omission by a person, including using a power of attorney, guardianship, or any other authority regarding a customer to:

- Obtain control, through deception, intimidation or undue influence, over the customer's money, assets or property
- Wrongfully interfere with or deny the customer's ownership, use, benefit or possession of the customer's money, assets or property.

CPC 2025 requires that a regulated entity shall at all times:

(a) Secure its customers' interests

(b) Act honestly and with integrity

(c) Act with due skill, care and diligence

- Act in the best interests of customers and treat them fairly and professionally
- Ensure that all information it provides to customers is presented in a way that informs the customer effectively
- Control and manage its affairs and systems to counter the risks of financial abuse to customers.

Financial risk increases during illness, bereavement, injury, or major life change.

34 https://www.centralbank.ie/consumer-hub/investing-your-money-consumer-faq

CPC 2025 also requires that:

- Firms provide appropriate staff training on the legal and regulatory framework relevant to the performance of the functions listed in the Instrument
- Ensure that if delegating tasks, that those tasks are assigned to an appropriate person with effective oversight within the regulated entity
- Manage its outsourced activities effectively to identify, monitor and manage its outsourcing risk.

Firms provide appropriate staff training on the legal and regulatory framework relevant to the performance of the functions listed in the Instrument.

Outsourcing banking services

Several financial service providers outsource elements of their services and products to other providers. An example of such arrangements is the outsourcing by AIB and Bank of Ireland of some of their services to An Post. While the everyday banking services provided to customers via an outsourced arrangement may not comprise the full suite of financial services and products as would be provided by the outsourcing financial services firm itself through its own branch network or other channels, the Central Bank expects that both parties would have agreed escalation processes in place to ensure all appropriate assistance is provided to consumers in vulnerable circumstances. It can be argued that this extends to the requirement that staff in the firm to which a service has been outsourced should be provided with adequate training and guidance regarding, for example, the provisions of the assisted decision-making legislation.

Unique role of An Post

An Post is unique in that it offers and delivers a wide range of financial services both on its own behalf and on behalf of others. It provides financial services under the ***An Post Money*** brand, NTMA State Savings, foreign exchange, Western Union and current accounts and it acts as an intermediary for credit cards and personal loans. An Post's contract with the Department of Social Protection for the delivery of welfare payments makes up a major component of its business. In 2024 over 25 million cash payments totalling over €7 billion were paid to social welfare recipients through the post office network[35].

In addition, there have been ongoing calls – for example from the Irish Postmasters' Union[36] – for a greater range of Government services to be provided through the post office retail network. It is argued that such an approach would help maintain and ensure access for people who are unable or not proficient in accessing and using online tools or services.

35 https://www.gov.ie/en/department-of-social-protection/press-releases/minister-calleary-announces-renewal-of-contract-with-an-post/

36 Grant Thornton. *Review of the economic contribution and financial sustainability of the Irish Post Office Network*. 2020. Accessible at https://communityandpostoffice.ie/wp-content/uploads/2020/09/Irish-Post-Office-Network-Review-FINAL.pdf Grant Thornton. *The Irish Post Office Network: An Update*. 2022. Accessible at; https://communityandpostoffice.ie/wp-content/uploads/2022/04/IPU-April-2022-Grant-Thorntown-Report-FINAL.pdf

The post office network is the largest retail chain in Ireland with 933 offices[37], as of October 2025, of which 45 are operated directly by An Post, and 888 are operated by contractors. Postmasters are independent SMEs contracted by An Post to run post offices across Ireland. Over 60%[38] of all contractor-owned post offices are co-located with other businesses, mainly within supermarkets and grocery stores. It is estimated[39] that the post office network employs over 1,400 staff.

The various operations of An Post are subject to authorisation, regulation, and oversight in multiple ways and involve contractual arrangements with other bodies such as DSP and NTMA. The Central Bank of Ireland (CBI) regulations apply directly to An Post's current account offering. An Post is a Credit Intermediary with regard to its credit card and loan offerings and is therefore subject to Competition and Consumer Protection Commission (CCPC) oversight. Its outsourced services on behalf of AIB and Bank of Ireland are indirectly subject to CBI regulations.

There is clearly scope for confusion on the part of consumers when they attempt to determine how their financial interactions with An Post are regulated.

A critically important point is that the An ***Post Savings (State Savings)*** business is still subject to the provisions of the outdated 1861 Post Office Savings Bank Act.[40] This is a matter of some concern in that its provisions are not in compliance with UNCRPD and ADMCA requirements, in particular, Article 4.1 (b) of the UNCRPD which requires States Parties:

> ***To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against person with disabilities.***

The Central Bank expects that both parties would have agreed escalation processes in place to ensure all appropriate assistance is provided to consumers in vulnerable circumstances.

This lack of compliance also applies to other public bodies in addition to An Post.

Impact on customers of closing, moving or merging bank branches

CPC 2025 outlines the process that banks are required to adhere to when considering branch closures.

This is important to ensure that financial institutions have considered the consumer impact of closing, moving, or merging branches and that as part of those considerations, they assess the suitability of alternative arrangements.

37 https://www.finegael.ie/investment-in-postal-services-will-give-lifeline-to-rural-communities-carrigy/ October 2025.

38 Department of the Environment, Climate and Communications. *Government Service Provision*. December 2021. Accessible at; https://assets.gov.ie/static/documents/government-service-provision-december-2021.pdf

39 https://www.finegael.ie/investment-in-postal-services-will-give-lifeline-to-rural-communities-carrigy/ October 2025.

40 https://www.irishstatutebook.ie/eli/1861/act/14/enacted/en/print.html

Where a financial institution intends to close a branch[41], it is required to carry out an assessment of the anticipated impact of the closure on customers' access to financial services and also about the range of financial services available to the consumer. The assessment is required to assess the suitability of alternative arrangements, including any plans necessary for consumers in vulnerable circumstances. The needs of consumers in vulnerable circumstances have been discussed earlier in this Issues Paper and have pointed to the regulatory requirements for staff training.

> The assessment is required to assess the suitability of alternative arrangements, including any plans necessary for consumers in vulnerable circumstances.

Errors and customer complaints

The Central Bank's Consumer Protection Code[42] states that it is important that firms take ownership and responsibility for managing errors that affect consumers, and that they have in place adequate governance arrangements to effectively identify, track, manage, and resolve errors. (Section 3.8)

Financial service providers are required to manage and resolve complaints from consumers by providing clear information to the consumer, accessible procedures for the handling of complaints, and prompt resolution of complaints. (Section 3.9). When a regulated entity receives an oral complaint, it is required to offer the consumer the opportunity to have that complaint handled in accordance with the regulated entity's complaints process. It is required to permit and facilitate submission of complaints in writing by post and by electronic means.

Under the Central Bank's Consumer Protection Code, all regulated financial services must handle consumer complaints speedily, efficiently and fairly; have a written complaints handling procedure in place; give details of a dedicated contact person who will deal with the complaint; respond and keep the consumer updated about the complaint within certain timelines; and resolve the complaint within 40 working days.

If the financial institution takes too long to resolve a complaint or if the consumer is not satisfied with the response, they have the option of bringing the complaint directly to the Financial Services and Pensions Ombudsman (FSPO).

41 In this Regulation, a 'branch' means a local branch which consumers can attend onsite for the purposes of being provided with financial services.

42 https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-code

Financial Services and Pensions Ombudsman

The FSPO is an independent officer who investigates, mediates and adjudicates unresolved complaints relating to financial services and pension providers. The FSPO will only take on a case after the consumer has gone through the normal complaints process with the financial institution involved.

A consumer can complain to the FSPO if they are a customer of a financial service company; have been offered a service by the company; or looked for a financial service from the company. The FSPO also deals with complaints about pension providers.

If the FSPO upholds a complaint, they may tell the company to rectify the problem or pay compensation, or both. If they do not uphold a complaint, they will not direct any action. The FSPO's decision is binding on both the complainant and the provider and can only be appealed to the High Court.

Competition and Consumer Protection Commission

The Competition and Consumer Protection Commission (CCPC) provides information and guidance on consumer rights and on how to progress a complaint. A consumer can, if they wish, lodge a query with the CCPC. Note, however, that the CCPC does not investigate or process complaints on behalf of individual consumers.

It should be noted that neither the Central Bank of Ireland nor the Competition and Consumer Protection Commission investigates individual consumer complaints. However, both bodies accept information from consumers that they may use – usually in conjunction with other queries and reports - to carry out their supervisory roles. Such issues tend to affect large numbers of customers, and can be widespread, persistent or connected to other issues.

It is important that firms take ownership and responsibility for managing errors that affect consumers, and that they have in place adequate governance arrangements to effectively identify, track, manage, and resolve errors.

Discussion points

Persons at risk are more likely to suffer financial detriment or harm in that they may make poor financial decisions or may be coerced into doing so. It is critically important, therefore, that financial firms take into consideration the needs of consumers at risk and provide additional supports as appropriate.

There is evidence that the obligations contained in the ADMCA legislation discussed above are not always implemented in practice. Organisations providing independent advocacy and other supports to adults at risk report variations in the nature and quality of engagement in respect of ADMCA principles, in particular, the presumption of capacity and the right of people to be able to avail of the least restrictive decision-making support.

There is also a need for the FSPO and the CCPC to have clear processes in place to deal with situations where a person lacks capacity to make a complaint. The banks need to be made aware of such processes as do independent advocates.

Despite some disconnect between regulatory expectations and reported examples of poor compliance, it is notable that data regarding actions aimed at dealing with poor compliance is scant and thin on the ground.

It would also appear that, except in instances where a person at risk or a person representing them takes individual action to formally complain or take legal action, any negative or corrective implications for the non-compliant firm or individual is rare. Greater data collection by the Department of Social Protection and regulators would be useful to inform future legislation and regulation.

Except in instances where a person at risk or a person representing them takes individual action to formally complain or take legal action, any negative or corrective implications for the non-compliant firm or individual is rare.

While pointing to shortcomings that exist, this Issues Paper acknowledges that the nature of financial services and how they are delivered to consumers is undergoing transformational change at present. Clearly, the assisted decision-making legislation has presented new challenges for everyone in the financial services sector.

It is acknowledged also that the Central Bank's Code's implementation period ensures that the updated protections for consumers are introduced without any undue delay while also allowing an appropriate implementation period for firms.

It is noted that the section of the Central Bank Guidance on Protecting Consumers in Vulnerable Circumstances in relation to the ADMCA is somewhat general. For example, there is no reference to a presumption of capacity or to ensuring that the least restrictive decision support option is put in place – both are cornerstones of the legislation. The DSS Code of Practice for Financial Service Providers requires financial services to give effect to the guiding principles as best practice when working with a relevant person. The absence of such detail in either the CBI's Guidance or the Consumer Protection Code is regrettable.

CPC 2025 places considerable emphasis on the role of a Trusted Contact Person. However, a note of caution is required in relation to identifying a trusted contact person in that the perpetrators of financial abuse are often 'trusted' and are frequently family members.[43]

There is also a need to consider the fact that family members are often likely to be ultimate beneficiaries of an older person's assets and may, therefore, have a vested, misplaced interest in 'protecting their inheritance'. Also, clearly the fact that next-of-kin have no legal status whatsoever must always be a factor. The term 'trusted' needs to be understood essentially as 'trustworthy'.

In the sections that follow the contrast between stated policy, provision and practice, and the experience of NGOs working with adults at risk will be further explored.

43 See Browne, M. et al.,(2022), Identifying RISKS – Sharing RESPONSIBILITIES: The Case for a Comprehensive Approach to Safeguarding Vulnerable Adults, Safeguarding Ireland, https://www.safeguardingireland.org/wp-content/uploads/2022/05/6439-Safeguarding-Risks-Resp-Report-FA4_lowres.pdf

Section Four

Supporting Adults at Risk to Manage and Control their Finances and Assets: Implications and Application of the Assisted Decision-Making Legislation

People, irrespective of their decision-making capacity, now have the right to be supported to participate when any decision is being made that involves them including for example, in relation to their care or to their personal finances.

The ADMCA Legislation as a watershed

The commencement of the assisted decision-making legislation in April 2023 was a watershed and a radical departure aimed at bringing about a sea-change in the way we engage with and support people whose decision-making capacity may be in question.

The legislation brings about fundamental and necessary changes in the way people who lack decision-making capacity are supported. People, irrespective of their decision-making capacity, now have the right to be supported to participate when any decision is being made that involves them including for example, in relation to their care or to their personal finances.

The legislation has major implications for the ***modus operandi*** of financial services, state payment agencies (Department of Social Protection / An Post and State Payments), for health and social care practitioners, for lawyers, financial advisors and for independent advocates. It also has implications for public understanding and awareness of the rights of people who lack decision-making capacity and the fact that such rights are now protected under Irish law.

The legislation requires that, when there is a doubt about a person's decision-making capacity, assessment of capacity should be done at the highest level of functioning and only if it is necessary. It puts the onus/burden of proof of lack of decision-making capacity on the person or agency who is exploring lack of capacity. It requires that the decision-making capacity be construed functionally: That is, it is time specific and issue specific and refers to a person's ability to understand – at the time that a decision has to be made – the nature and consequences of the decision in the context of available choices at that time.

It requires that the decision-making capacity be construed functionally: That is, it is time specific and issue specific and refers to a person's ability to understand – at the time that a decision has to be made – the nature and consequences of the decision.

The fact that a person lacks capacity in respect of a decision on a particular matter at a particular time does not prevent them from being regarded as having capacity to make decisions on the same matter at another time.

Also, the fact that a person lacks capacity to decide on a particular matter does not prevent them from being regarded as having capacity to make decisions on other matters. For example, an individual may have the capacity to decide about a small daily living expenditure but not about a matter involving a large amount of money or a valuable asset.

The legislation further requires that a person is not to be regarded as unable to understand information relevant to a decision if they are able to understand an explanation of it that is given in a manner appropriate to their circumstances and communication style – clear language, visual aids or any other appropriate means.

The fact that a person can retain information relevant to a decision for a short period only does not prevent them from being regarded as having capacity to make the decision. Under the legislation, a person will be regarded as lacking capacity to make a decision only if they are unable to undertake any one of the following four aspects of the decision-making process:

- Understand the information relevant to the particular decision
- Retain that information long enough to make a voluntary choice
- Use or weigh that information as part of the process of making the decision
- Communicate a decision by any means (including sign language or assistive technology).

The legislation implies and recognises an important distinction between decision-making autonomy and autonomy of execution in that a person may have decision-making capacity but may not be able to execute that decision without additional support. For example, a person may have the capacity to make a decision about their finances but may require help in negotiating with financial services.

A person shall not be considered as unable to make a decision… unless all practicable steps have been taken, without success, to help him or her to do so.

Underlying ethos of the legislation

The main purposes of the legislation are to:

1) Provide decision support mechanisms for people who lack decision-making capacity.
2) Abolish the wardship system
3) Update the procedure for creating, registering and the coming into effect of an Enduring Power of Attorney (EPA)
4) Introduce Advance Healthcare Directives into Irish law.

The 2015 Act (Section 8) contains nine principles, the critical baseline principle being that:

'A person shall not be considered as unable to make a decision… unless all practicable steps have been taken, without success, to help him or her to do so'. (Guiding Principle 8(3)).

This ensures that each person is treated individually and that no cohort of people is automatically deemed to lack decision-making capacity.

A person whose capacity is in question or may shortly be in question is not to be considered as unable to decide merely by reason of making or being likely to make an unwise decision.

Other important Guiding Principles contained in the Act are:

- A person whose capacity is in question or may shortly be in question is not to be considered as unable to decide merely by reason of making or being likely to make an unwise decision
- Intervention only when necessary
- An intervention where required to be the least restrictive possible and which respects a person's rights
- Facilitate participation and the articulation of a person's will and preferences
- Consider the views of others who have a ***bona fide*** interest in the welfare of the person
- Consider the likelihood of recovery and urgency of the matter about which a decision is required
- Maintain strict confidentiality in the collection and use of personal information.

The core ethos of the legislation is one of supported decision-making and of ascertaining and giving effect to a person's will and preferences in all matters that affect them.

Under the legislation, in circumstances where a person may be finding it difficult to exercise their decision-making capacity, they are entitled to support to help them to make their own decisions. The type of support to be provided should be tailored to the person's individual circumstances, their means of communication and to the specific decision to be made.

There is a responsibility on all those involved to ensure that the person is provided with all reasonable supports to help them to make choices and decisions about matters that affect them, including about their finances and assets.

Supporting a person's decision-making includes providing relevant information and ensuring that all options available to a person in respect of a particular matter are explained in a manner that the person can understand, working to the person's pace and giving the person enough time to understand and consider their options. It may include the use of communication aids, getting support from other people, using other professions and expertise and availing of the services of an independent advocate.

The Assisted Decision-Making Act is guided by nine core principles.

Options for supported decision-making[44]

Depending on the level of decision-making capacity of an individual, the legislation creates three new decision support roles:

- A decision-making assistant (no capacity assessment required)
- A co-decision-maker (a capacity assessment required and formally registered with the DSS)
- A Court-appointed decision-making representative (DMR) under a decision-making representative order (DMRO) and registered with the DSS (a formal capacity assessment required).

Family members and financial institutions were frequently perceived as regarding a DMRO as the default option and as being reluctant to pursue less restrictive options.

Respectively, they may be appointed to:

a) Assist a relevant person (under the legislation) to make a decision

b) Make a decision jointly with a relevant person

c) Make a decision on behalf of the relevant person.

These different levels of decision supporters with increasing levels of function and responsibility are aimed at enabling a person to receive support at the appropriate level to ensure that there is limited restriction on their autonomy.

It should be noted that, although the Act is titled "Assisted Decision-Making", decisions will not always be "assisted", as it will be possible for the Court or a DMR to unilaterally make decisions regarding a relevant person's personal welfare and/or their property and affairs.

If the relevant person does not have anyone who could or would step into one of these roles or who would not be a suitable person to act, the Court can make a decision for the relevant person or choose a decision-making representative from a panel coordinated by the Decision Support Service (DSS). It should be noted that, if a person has no one to act as a co-decision- maker, the Court can appoint a DMR to make decisions jointly with that person.

A DMR can only make decisions that the court has set out in a DMRO order. For example, a DMR may only include decisions about transfer of money or assets.

44 For a detailed explanation of these provisions, see the Decision Support Service website https://www.decisionsupportservice.ie/home

Implementation of the assisted decision-making legislation by financial services

There is a clear obligation on all stakeholders and State agencies involved in the life of a person who lacks decision-making capacity to adhere to the requirements of the ADMCA legislation and to respect the absolute right of a person to be supported to control their own money and assets to the greatest extent possible. This obligation is about protecting people's human rights and their right to be in control of their money and assets and to receive appropriate support for this purpose.

There is a requirement under the ADMCA legislation for all stakeholders in a person's life, including financial services staff, to explore whether or not there is a need for an appropriate decision-making support to be put in place and, in doing so, to meet the requirement to maximise their decision-making capacity.

Application of the ADMCA legislation: The experience of NGOs

Stakeholders consulted[45] during the process of compiling the ***Staying in Control*** Guide were asked to describe their experiences of financial services, disability services and families in implementing ADMCA principles. The following issues emerged from the analysis of the feedback:

- Family members and financial institutions were frequently perceived as regarding a DMRO as the default option and as being reluctant to pursue less restrictive options – a decision-making assistant or a co-decision-maker.
- Some relatives of people with an intellectual disability are fearful of moving from their previous position of control and are reluctant to 'let go' and allow family members to take ownership and control of their finances with the help of the decision-making supports provided for in the legislation.
- There was a perception that organisations providing support services to people with an intellectual disability were frequently left out of the loop when families were applying for a DMRO. The input and perspective of key support workers was not sought which could potentially have resulted in a less restrictive support option not being explored.

Respect the absolute right of a person to be supported to control their own money and assets to the greatest extent possible.

45 The agencies which provided feedback for the *Staying in Control* Guide and on which this analysis is based were Age Friendly Ireland, Disability Federation of Ireland, Irish Wheelchair Association, MABS, National Federation of Voluntary Bodies, Sage Advocacy, National Advocacy Service for People with Disabilities (NAS).

- There was a perception that sometimes an assumption was being made by relatives of people with an intellectual disability that since a DMRO was likely to be required eventually, it made more sense to choose that option in the current situation rather than exploring less restrictive options for the time being.
- There was a strong feeling that many users of residential care services are poorly prepared and educated for the challenges involved in managing their own finances since they have, in many instances, had little or no experience of using, understanding or valuing money, or of the risks that are involved.
- There was also a perception that some staff in disability services may have difficulty with the move to a totally new system where it is absolutely clear that the individual who owns the money is the appropriate and rightful person to make decisions about it with support being provided at the lowest level necessary and in accordance with ADMCA requirements.

Many financial services staff were found to be poorly trained in and/or lacking familiarity with ADMCA provisions.

- It was noted that the ADMCA, while clearly a positive development, may have inadvertently resulted in a situation where some people now have less access to financial services than previously when financial services were more likely to take other factors into account, e.g., local knowledge and the involvement of a ***bona fide*** service provider.
- Many financial services staff were found to be poorly trained in and/or lacking familiarity with ADMCA provisions.
- While safeguarding a person's finances and assets is a key and necessary component of the ADMCA legislation, there was a perception that this focus was sometimes being interpreted over-narrowly by financial services with insufficient attention being given to presumption of capacity and the need to put in place the least restrictive decision-support option for each individual.
- It was noted that disability services staff can find themselves in situations where they cannot easily support service users on their journey to control of their finances due to financial services' staff failure to properly apply the provisions of the ADMCA legislation relating to presumption of capacity and least restrictive forms of intervention.
- Disability services support staff can also be fearful that they will be seen as responsible for any negative outcomes that arise from increased service user financial activities, for example, 'unwise' decisions, exposure to fraud or exploitation.
- Older persons who, because of changed personal circumstances, e.g., reduced hearing or vision, or frailty, can sometimes find that their interfacing with financial services is more difficult because of a perception by financial services staff that they may lack decision-making capacity.

This focus was sometimes being interpreted over-narrowly by financial services with insufficient attention being given to presumption of capacity and the need to put in place the least restrictive decision-support option.

Overview and conclusion

The above analysis shows that the ADMCA implementation across the financial services sector has been slow and patchy. This means that to date full effect has not been given to the provisions of the Act and, by extension, to Ireland's commitments under the UNCRPD as is envisaged in the ADMCA legislation. This results in a failure to date to use the legislation to give people optimum control of their money and assets and thus mitigate the potential for financial abuse.

It is evident that there are significant gaps and deficits in the approach to supporting adults at risk in retaining control and autonomy over their financial affairs, and in fully vindicating their rights under the UNCRPD, the Assisted Decision-Making-Capacity Acts and exercising their rights as consumers.

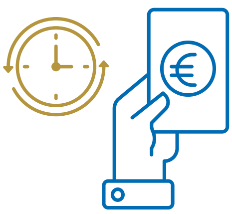
While some stakeholders, including some financial services firms, have invested significantly over the last number of years in updating processes and have actively engaged in the challenge of aligning their products and services with the ADMCA legislation, others appear less proactive in their engagement. Some are only very recently recognising the risks and deficits in their systems and modernising accordingly.

Some service providers, e.g., An Post, continue to operate under outdated legislative provisions, procedures and practices, which suggests some lack of understanding of statutory obligations under the UNCRPD and the ADMCA. In addition, it can be argued that, in the absence of any substantial public awareness campaign by Government or public bodies and agencies, the general public remains poorly informed regarding the obligations that exist under the UNCRPD and ADMCA.

There is, therefore, a need for a proactive public awareness campaign by Government to address what appears to be a huge gap both among the public and in public bodies and financial services about obligations and requirements under the UNCRPD and the ADMCA.

The next section of the Issues Paper will explore the fit between financial services stated customer policies and protocols and the experience and perspectives of NGOs working with adults at risk.

Support with finances can be temporary, partial, or intermittent.



/ Section Five

Financial Services and Adults at Risk: Existing Practice and Shortcomings

A special focus on people who need additional support in conducting their financial affairs and in managing their money, benefits and assets.

Introduction

This section of the Issues Paper will outline the nature and extent of the information and guidance for consumers provided by financial institutions. It will explore the transparency, adequacy and accessibility of the information and guidance provided; and will assess the degree to which the practice of financial service providers matches the commitments that are contained and/or are implicit in the providers' communications to the public as well as requirements under existing Codes of Practice.

Explore the transparency, adequacy and accessibility of the information and guidance provided.

In order to carry out this task, the analysis drew on the publicly available information issued on financial service providers websites; on a review of relevant case material from the Financial Services and Pensions Ombudsman; on feedback and case material received by Safeguarding Ireland from advocacy and representative bodies, and from disability service providers; and on issues raised by these organisations, financial institutions, and relevant state bodies in response to a consultation carried out to inform the ***Staying in Control*** Guide.

The analysis in this section is set out in two parts:

(i) A description of the stated policy of financial institutions

(ii) An outline and some analysis of issues identified in feedback from NGOs working with adults at risk.

It assesses what is happening in practice, with a special focus on people who need additional support in conducting their financial affairs and in managing their money, benefits and assets.

Financial institutions are required to meet certain standards in dealing with consumers. In particular, they are required to serve the needs of customers at risk in a way that complies with the various codes of practice described and discussed in Section Three above. They are also required to comply with relevant legislation and regulation.

Financial institutions present the procedures and processes that they utilise when interacting with consumers – including specifically consumers in vulnerable circumstances – in various ways, including pamphlets, posters, advertising materials, statements of terms and conditions, and, increasingly, on their websites and through their banking apps.

What the financial institutions offer

The Banks

Many of the main banks have a dedicated phone line for customers who need additional support and for people caring for a customer as well as for people concerned about financial abuse. These helplines are promoted as being of value where a person needs help to organise banking from their home or who is concerned that someone else is controlling their money without their permission.

The banks, on their websites, offer advice about what a customer should do if they suspect that fraud has happened on their bank account or if they see unusual activity on it.

Many of the main banks' websites offer outline information and advice on matters such as assisted decision-making, Enduring Power of Attorney, accessibility and language. They generally recommend using their helplines and/or calling into a branch office to discuss matters.

All the main banks point customers toward the Banking & Payments Federation Ireland (BPFI) publication ***– Guide to Safeguarding your Money Now and in the Future***[46]***.***

Many of the main banks have a dedicated phone line for customers who need additional support and for people caring for a customer as well as for people concerned about financial abuse.

Banks vary in how they approach the matter of serving the needs of customers at risk, their families and carers. Some have dedicated, central specialist teams that can act as a reference point for 'where to next?' questions. They feature information and links to resources concerning areas such as financial abuse, dementia, incapacity, Power of Attorney, ADMCA, and related matters. They generally offer advice and information on how to resolve a number of common issues.

Banks use differing terminology to label their provision of support – ***Vulnerable Customer Unit, Extra Help Hub, Additional Support contact points, Enhanced Customer Support Team.***

In many instances accessing the services offered by the bank involves attending at a customer's local branch. An ability to access and navigate the banks' appropriate websites is also an advantage – and in some cases an essential skill – in taking initial steps toward protection and/or resolution of problems.

Banks offer advice on their websites aimed at warning older people about financial abuse and fraud. They generally recommend that a concerned customer should contact a trusted relative or friend for advice, their bank (where staff are trained to offer support and guidance), An Garda Siochána, a Doctor/Solicitor, Citizens Information or the Money Advice and Budgeting Service (MABS).

46 https://bpfi.ie/wp-content/uploads/2024/02/BPFI-Guide-to-Safeguarding-your-Money.24.pdf

Banks use differing terminology to label their provision of support – Vulnerable Customer Unit, Extra Help Hub, Additional Support contact points, Enhanced Customer Support Team.

The main banks offer more limited information and guidance for customers in vulnerable circumstances within their online banking apps.

It is noted that only one of the banks – Bank of Ireland – has a guide to third-party accounts. It offers a range of options to customers, including a carer package[47].

Credit Unions

Credit unions tend to emphasise the importance of personally visiting its branch offices to get advice and support. Many individual credit unions offer advice, guidance and information for customers at risk on their individual websites. However, this is not evident as a general policy or provision across all credit unions. It should be noted that credit union are distinct, separate entities, although the vast majority are affiliated to the Irish League of Credit Unions.[48]

It should be noted that the Irish League of Credit Unions did address issues of decision-making, capacity, and access in its publication for member credit unions in 2010[49]. This publication, while discussing issues such as capacity, was issued prior to the ADMCA Act 2015 and, therefore, could not reflect the more comprehensive and nuanced provisions of the 2015 legislation.

Many credit unions refer customers to the Irish League of Credit Union's publication ***Managing & Safeguarding your Credit Union Account***[50] for advice and guidance. The Irish League of Credit Unions publishes a wide range of information and advice, including of a safeguarding nature, on its website.

Digital ebanks

In general terms, the digital banks, including Revolut and N26, confine interaction with customers to on-line communications and 'chat' applications, with less telephone communication and paper-based postal communication. N26, for example, only provides phone support to customers who are on one of its ***Premium Accounts.***

Revolut asserts, in its submission[51] to the CBI Consumer Code Consultation Paper, that Revolut continually performs a "Vulnerability Analysis" on customers, which contains details on: manually recorded vulnerabilities - vulnerabilities that were disclosed by a customer (via chat, email or phone) and recorded manually by an agent; and potential vulnerabilities - vulnerabilities that were identified by the model which looks for the signs of potential vulnerabilities (e.g. transactional data, account behaviour patterns and chat analysis).

Online banking can increase independence, but without safeguards can increase risk.

47 https://personalbanking.bankofireland.com/financial-wellbeing/extra-help/carers-package/

48 Membership of credit unions varies substantially with some have over 50,000 members and other less than 5,000. The Central Bank lists 203 credit unions in the Republic of Ireland (October 2025).

49 *For Service, For All. "Not for profit, not for charity, but for service" A practical guide for credit unions to improve accessibility for their members*. ILCU. 2010.

50 *Managing & Safeguarding your Credit Union Account.* ILCU. May 2020.

51 https://www.centralbank.ie/docs/default-source/publications/discussion-papers/discussion-paper-10/revolut---response-to-dp10.pdf?sfvrsn=4d329f1d_2

Revolut believes that technology can play a pivotal role in ensuring that those customers identified as vulnerable receive the support they require at all times.

Revolut states that it strives to identify, recognise and support vulnerable customers effectively to reduce the risk of potential harm and has a series of policies and procedures in place to protect customers at risk.

Revolut believes that technology can play a pivotal role in ensuring that those customers identified as vulnerable receive the support they require at all times.

According to Revolut, its agents will take time to listen to the needs of vulnerable customers and take those needs into account when offering practical solutions.

Revolut states that, in addition, it has a team of 'vulnerability champions' that can offer more tailored support when a customer's needs go beyond the support team's vulnerability training. Agents can reach out to vulnerable customers by phone, which they can trigger through the in-app chat. With this option, customers can talk to agents directly and reduce any communication barriers of the in-app conversation.

The non-traditional business model pursued by the digital banks – i.e. no paper-based communications, no/limited voice telephone contact – has been recognised as a barrier and carrying additional risks for customers at risk, including, for example, potential for financial abuse by relatives because of lack of adequate oversight.

However, the Financial Ombudsman Service in the UK has recently accepted[52] that consumers who buy into the digital model cannot expect that the digital banks should provide non-digital means of contact. Nevertheless, the Ombudsman Service did find that digital banks can be expected to provide adequate supports through digital channels.

The digital banks are clear that their offering is especially attractive to younger consumers. Revolut places considerable emphasis on the need for increasing financial digital literacy.

An Post

An Post – on its website – provides basic recommendations regarding how to avoid financial abuse. The website directs people to the BPFI publication referenced earlier. It should be noted that, in addition to its own financial products and services, An Post provides outsourced services on behalf of AIB and Bank of Ireland. It is not clear whether AIB and Bank of Ireland customers who have need of special supports can avail of such supports at a post office or whether they will need to contact their bank directly. This is an apparent information gap which needs to be addressed.

An Post acts as a credit intermediary on behalf of Bankinter S.A., who provide loan and credit card services and facilities. An Post trading as ***An Post Money*** is authorised as a credit intermediary by the CCPC. Bankinter S.A. (trading as Avant Money) is regulated by the Central Bank of Ireland. Also centrally relevant is the fact that An Post processes a significant proportion of social welfare payments.

52 https://www.financial-ombudsman.org.uk/decision/DRN-4052595.pdf

Banking & Payments Federation Ireland (BPFI)

BPFI offers the single most informative and up-to-date information – ***Guide to Safeguarding your Money Now and in the Future*** – available online – and which addresses issues connected with financial abuse as well as offering guidance on how to avoid or cope with it.

In addition, BPFI publishes its ***Principles on Financial Abuse***[53] aimed at informing and alerting bank staff regarding the issues involved.

The BPFI website provides information, guidance and links around all the major issues that confront customers in vulnerable circumstances. BPFI publications are frequently referenced by banks and other financial service providers.

Irish Banking Culture Board (IBCB)

The IBCB published four '***Banking How To'*** guides, which were developed based on feedback from customer listening sessions. The four guides are in an easy-to-read format to help people with some common banking transactions. The stated aim of the guides is to support and empower people with financial independence and to facilitate positive engagement with banking services. The guides do not address issues of financial abuse or coercive control except in the most general way.

Other financial service providers

Other financial service providers publish information that addresses the issue of customers who are or may be in vulnerable circumstances. Irish Life, for example, has published a Vulnerable Customers Charter. EBS has an Additional Support Helpline.

People with underdeveloped digital literacy skills and/ or poor or no internet access will clearly experience challenges in using any channels other than those involving face-to-face contact.

Other official agencies

Other state organisations such as the Competition and Consumer Protection Commission, the Central Bank of Ireland, and various Government Departments publish support information on their websites and through other channels.

Main features of information provided by financial services

Most financial service firms publicise the processes they have in place to assist customers who are in vulnerable circumstances and who need support. Their methods of communicating this message vary, with considerable dependence on website-published materials. In most instances, the firms encourage consumers to use online, phone or app-based methods of accessing support, with some financial service providers placing greater emphasis on face-to-face service at a branch office. People with underdeveloped digital literacy skills and/or poor or no internet access will clearly experience challenges in using any channels other than those involving face-to-face contact.

53 https://bpfi.ie/wp-content/uploads/2024/02/BPFI-Principles-on-Financial-Abuse.2024-1.pdf

The closure of more-localised bank branches and their replacement in many instances with limited, outsourced provision, creates a considerable barrier to people's ability to access person-to-person supports.

While there is a growing proportion of the population for whom online systems are a familiar and preferred mode of seeking information and of acting on it, the online banking system will continue to pose challenges for a cohort of the population. For example, UK research[54] indicates that, while the proportion of people who are adopting digital banking practices is increasing, a segment of the population continues to be digitally excluded, hold a strong preference for face-to-face options, and have a reliance on branch offices of financial service providers. In the UK, 2.3 million adults (4% of the population) had specific accessibility requirements, e.g. due to a disability or health condition, which could not easily be met through online banking systems.

Access to financial services: The experience of NGOs

The basis of the analysis and discussion below is the feedback from NGOs[55] who responded to the consultation on the ***Staying in Control*** Guide.

Trusted Contact Person

The Central Bank's ***Consumer Protection Code 2025***[56], complemented by its ***Guidance on Protecting Consumers in Vulnerable Circumstances***[57] signalled the introduction of the Trusted Contact Person role, referenced earlier in this Issues Paper. Feedback from financial service providers indicates a general welcome for this initiative. Financial firms also indicated that they are already willing to allow a customer to nominate a specified individual to act on their behalf, subject to the customer giving consent and having capacity to do so.

NGOs also viewed the initiative in a positive manner. However, they also voiced a wish for clear safeguards to be put in place to ensure that the trusted contact person acts in a bona fide manner, in keeping with the will and preferences of the account holder, and within the limits laid out in the Consumer Protection Code.

54 *Financial Lives 2024. Key findings from the FCA's Financial Lives May 2024 Survey*. Financial Conduct Authority. 2025. Accessible at https://www.fca.org.uk/financial-lives/financial-lives-2024

55 Feedback from independent advocacy and representative organisations, and from disability service providers and other non-financial service providers is referred to as being from NGOs.

56 https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-code

57 https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-code/guidance-on-consumer-protection-code-2025

NGOs pointed to the variations, inconsistencies and breaches of proper protocol that they have observed in how financial institutions and their staff sometimes deal with the nomination, recognition, and in some cases the non-acceptance of people to support or act on behalf of account holders. These examples of poor and ill-informed practice raise doubts and misgivings about how well the trusted contact person mechanism will work in practice.

There was also concern expressed regarding the occasional practice of financial services staff to automatically (and mistakenly) attribute legal decision-making rights to nominated trusted contact persons, as opposed to limiting such rights to persons appointed under the assisted decision-making legislation. Experience to date on the part of NGOs leads them to question the extent to which staff preparation, training and support for ADMCA-related tasks and processes is adequate and effective.

Feedback did, however, acknowledge the practical and empathetic service received at a local and face-to-face level by many financial service customers who need support. This positive feedback, while mainly referencing local post office and credit union staff, also included bank staff.

Next-of-kin

Financial institutions were clear in their understanding that ***next-of-kin*** is not recognised as giving any entitlement to another person's finances, accounts, or financial information. Firms insist that the involvement of a third party, including relatives, can only occur where the account holder gives consent – normally written – or where a legal agreement such as provided for by ADMCA is in place.

Feedback from NGOs offers a different perspective. While some feedback is critical of approaches that are inflexible to individual needs, and other feedback points to a strict practice by firms in not permitting automatic next-of-kin access, the consultation feedback pointed to inconsistencies in the practice of firms and of staff within firms. These inconsistencies include the provision of access to next-of-kin in cases where the account holder has full decision-making capacity, automatic assumptions that next-of-kin signifies a legal right to access, defaulting to next-of-kin without engaging with the account holder or prospective account holder, acceptance of information from next-of-kin regarding an account holder's decision-making capacity, and exclusion of an account holder from discussions between next-of-kin and staff of the financial service provider.

Financial pressure is often emotional as well as practical.

Feedback suggested that financial services often default to engaging with relatives without verifying the person's will and preference or exploring whether they have any legal arrangements in place such as an Enduring Power of Attorney or a decision-making representation Order.

Third party access

Financial institutions pointed to the existence of strict procedures and processes where there was a request for third party access to and involvement with the account of another person. They emphasised the need for account holder consent or for a legal agreement to be in place. Some firms identified services that involve third party access and involvement and for which they believe that their procedures are robust and legal.

NGOs reported occasional abuse by unauthorised third parties of the accounts of people in vulnerable circumstances. For example, in some cases, independent advocates worked with their clients to have online access to accounts by third parties removed. However, most feedback acknowledged that financial institutions apply protections quite strictly and consistently.

Feedback suggested, however, that financial institutions can behave inconsistently and poorly when supporting customers who simply need support in conducting their financial affairs – as opposed to customers requiring or requesting third party access ***per se***. There also appears to be some lack of understanding of the respective roles of a decision-making assistant and co-decision-maker.

Third-party authority (or a third-party mandate) allows the account holder to select a third party (usually a trustworthy relative or close friend) to do day-to-day banking on their behalf. Not all financial institutions offer this facility.

> There was also concern expressed regarding the occasional practice of financial services staff to automatically (and mistakenly) attribute legal decision-making rights to nominated trusted contact persons.

Third party support: UK research

A report by Money and Mental Health UK[58] on the need for third-party support explored how financial services and policy makers can improve access to financial services for people experiencing mental health difficulties.

While the research findings are not all relevant in the Irish context, it is reasonable to suggest that some of them have some relevance to adults at risk in Ireland, as follows:

- Many people with mental health problems rely on friends or family to help them manage their everyday finances and spending
- One in five people with mental health problems have resorted to using risky workarounds to get support from a third party, such as sharing their PIN or bank account details, leaving them at risk of financial abuse
- People with mental health problems and those that support them can face challenges to setting up third party access mechanisms, including long and complicated. processes, inaccessible (e.g. in-person only) channels and staff who are unaware of the processes or who are insensitive to the situation

58 Lees C. (2025), *If I needed someone: Improving access to third party financial tools for people with mental health problems*. Money and Mental Health Policy Institute. October 2025. https://www.moneyandmentalhealth.org/wp-content/uploads/2025/10/If-I-Needed-Someone.pdf

- Formal tools for sharing the making of financial decisions are not working well for many people with mental health problems – for example, a Power of Attorney mechanism was regarded as too complex to set up and does not offer the right flexibility for someone with a fluctuating condition
- This leaves people with mental health problems and those that support them facing a labyrinth to get the support they need or having to resort to unauthorised workarounds and accept the associated risks in order to get the vital support they need.

A key recommendation in the report is that banks and building societies should:

Jointly agree a minimum suite of Third-Party Access tools, offered by all relevant banks and building societies, prescribing certain features including carers cards and transaction monitoring functionality. To achieve this the government and providers should make a voluntary agreement following the precedent of basic bank accounts (p.7).

New accounts and digital literacy

Financial institutions reported that they provide multiple options for new customers to open accounts, especially involving attendance at branch offices and engaging with specialist staff – preferably by appointment. Some firms will arrange home visits to facilitate new customers.

Feedback from NGOs expressed general satisfaction that most firms, though not all, were supportive and facilitated new customers who needed special assistance. Obvious difficulties were noted with regard to prospective customers who lived at a distant from branch offices, had mobility issues, were in nursing homes or other such settings, or who could not attend at a branch office for other reasons. The problem of access to ebanking options was noted, as was the inability of some customers to benefit from new financial products and options that are only accessible through banking apps.

The general sense that emerged from the feedback was that opening and managing a bank account can be problematic for some people. Those experiencing difficulties include people with sight, hearing or writing difficulties as well as those with an intellectual disability. It was noted that some post offices continue to have physical barriers to access by people with a disability.

People do not have standard ID (e.g., driving licence or passport) sometimes face difficulties in opening a Bank Account, particularly nursing home residents. In addition, the ID requirement may vary especially in local, rural post offices where the person is known and may collect their weekly payment. Alternative ID procedures are inconsistent or unavailable even in financial services – post offices/credit unions – which in the past would have offered more flexibility for smaller accounts .

Financial services staff are experienced as insisting on applying rules in a 'black or white' way. For example, staff may require that a customer physically signing a form, rather than allowing for other methods of validation.

A particular difficulty arises with potential customers who cannot confirm their acceptance of a financial institution's terms and conditions (due to a perceived lack of capacity to do so). It would also appear that some support staff in disability services are reluctant to be seen as supporting/encouraging people to agree to terms and conditions at this stage of opening an account.

Financial services staff were reported as often appearing to be inadequately informed or trained regarding how to deal with customers who 'exhibit' characteristics that are perceived by bank staff as demonstrating a lack of capacity. This can range from physical features to difficulties in comprehending procedures or because a person communicates differently.

Financial services staff are experienced as insisting on applying rules in a 'black or white' way. For example, staff may require that a customer physically signing a form, rather than allowing for other methods of validation.

A centrally crucial point made by NGOs was that the designation by financial services of customers at risk is inconsistently applied and not always explained clearly to the customer.

Consumers without required ID documentation

Financial service providers pointed to their obligations under anti-money-laundering legislation to require customers to produce identity and proof of address documentation. While their websites and documentation limit the range of acceptable photographic ID to passports, driving licence and national ID cards, several firms were able to confirm that, if necessary, alternative arrangements could be utilised.

Feedback from NGOs indicated that most financial institutions, while insisting on standard photographic ID, have alternative procedures in place that are used in exceptional cases. However, it was noted that these alternative options are poorly publicised – if at all – and are inconsistently applied across and even within financial institutions.

In many cases the assistance of an independent advocate or an appropriate professional was essential. Individuals at risk were seen as being unlikely to be aware of, be informed of, or be capable of working the alternative options without support. NGOs noted that good working relationships between their staff and financial service provider staff, where it had been cultivated, eased any difficulties.

In some instances, attendance at a branch office was required, which created difficulties for a cohort of people with mobility difficulties and/or lack of access to transport.

Decision-making support arrangements

Financial service providers report that they have well-defined procedures in place to support customers who have entered assisted decision-making agreements. Staff are trained to follow specific protocols tailored to the type and scope of each agreement. Access to accounts by ADMCA supporters will depend on the type and extent of the agreement in place. It is not clear whether or how online-only banking (ebanking) providers deal with this issue.

In cases where there is no formal legal agreement in place, staff are equipped to assess the circumstances, and to escalate concerns internally. Some institutions have a designated team in place who handle cases where there is a decision-making support arrangement in place.

NGOs report that a financial service provider's staff can be unfamiliar with specific ADMCA requirements and can be inconsistent in their approach. In particular, staff can be confused regarding the different arrangements available under the legislation. In some instances, the application of the appropriate decision-making support arrangements can be slow and drawn-out.

Customer in vulnerable circumstances designation

Financial service providers report a move away from the categorisation of customers as 'vulnerable' or other such terminology. They are moving to a rights-based approach and are focusing on ensuring that appropriate measures are in place to ensure that customers receive appropriate assistance and support and that staff are trained accordingly. Some institutions do have an existing process of 'flagging' customers who need special supports. Customer consent is sought for this procedure.

NGOs report generally positive experiences of 'flagging' by institutions. However, some instances are reported where presumptions of 'vulnerable' or 'at-risk' designations without customer consent or knowledge have resulted in poor outcomes for customers.

The designation of 'vulnerable customer' by financial services is inconsistently applied and not always explained clearly to the customer and is sometimes based on a person's physical features rather than any clear evidence of risk or a lack of decision-making capacity.

Presumptions of 'vulnerable' or 'at-risk' designations without customer consent or knowledge have resulted in poor outcomes for customers.

Exceptional / suspicious transactions

Financial institutions report having robust procedures in place for monitoring transactions, identifying unusual and suspicious account activities, and alerting customers to such events.

NGOs acknowledge that firms do respond effectively to exceptional and suspicious account transactions. However, NGOs also reported instances where the responses of firms to suspicious activity was not sensitive to the particular needs or limitations of a customer with a disability. NGOs suggested that, in some cases, there is a need for alerts or notifications to be transmitted to or through an intermediary with the consent of the customer. At a minimum, consideration needs to be given to ensuring that the channels of communication are appropriate and effective for the customer in question.

Joint accounts

Banks reported that joint accounts are generally considered to be 'survivorship' accounts – i.e. accounts which are repayable to the surviving person named on the account – unless the customer instructs the firm otherwise. Other accounts that share some features in common with the normal joint account include third-party mandate accounts established and operated in accordance with a power of attorney, assisted decision-making, or other arrangement. Banks noted that an account held in the name of a single person cannot be 'converted' into a joint account – a new account must be opened.

NGOs pointed to the challenges attached to joint account arrangement, both with regard to the risk of abuse by the 'second' account holder and the risk arising – on the death of the primary account owner – that the funds in the account would become the property of the survivor, as opposed to becoming part of the primary account owner's estate[59].

It is likely that joint accounts are sometimes set up without due cognisance having been given to the serious legal (and potentially gift and inheritance tax consequences) of a transfer of assets from the name of an account owner into a new joint account in the names of the original account holder and a third party. No understanding of the distinction between a joint survivorship account and a joint agency account. This issue has also been discussed by the Law Society in a guidance document for Solicitors[60].

No understanding of the distinction between a joint survivorship account and a joint agency account.

NGOs reported issues arising from situations where a person has a joint bank account with a relative and where they now lack decision-making capacity and where money is being taken from the joint account without proper authorisation and without any appropriate legal mechanism having been put in place. People in such a situation may have very little recourse to redress even when allegations of financial abuse are reported to the Gardaí or to a financial institution because the alleged perpetrator is a joint account holder with a right to withdraw money.

NGOs reported positively that banks, on occasions, have sought assistance from advocacy organisations in order to ensure that a customer at risk fully understands the consequences of opening a joint account. In many cases a meeting at a bank branch was required, offering an opportunity for discussing the matter and ascertaining the purpose for putting an account into joint names.

However, NGOs also reported instances where the implications of opening a joint account were not explained to either the person at risk or to their supporters. It was noted that the default option in opening a joint account is that it will be a survivorship account, and that account holders are required to

59 Sage Advocacy. *Best Practice in Supporting Adults Who May Be Vulnerable to Manage Their Own Finances.* May 2020. Accessible at https://sageadvocacy.ie/policy/#reports
Sage Advocacy. *Managing Finances Supporting adults who may be vulnerable.* March 2023. Accessible at https://sageadvocacy.ie/policy/#reports

60 Law Society of Ireland. *Joint Bank Accounts – Guidelines for Solicitors.* 2008. Accessible at https://www.lawsociety.ie/Solicitors/knowledge-base/Practice-Notes/Joint-Bank-Accounts---Guidelines-for-Solicitors

specifically request that the account not be a survivorship account as opposed to two options (a survivorship account and an agency account) being offered in the first instance.[61]

A standard credit union application form[62] for a joint account makes no direct reference to an option other than a survivorship account:

> ***All shares and deposits in the credit union will be held jointly by us. On the death of a joint tenant, all his/her interest in the joint tenancy including all accruals, additions thereto and insurances shall become the property of the surviving tenant(s).***

While issuing warnings[63] regarding a joint account, there are rarely any references to the options of creating a 'non-survivorship' or 'agency' joint account:

> ***The savings in a joint account are jointly owned by the two tenants on the Joint Account. If one tenant dies, the remaining savings, and the Benefit (if any) thereon, become the property of the surviving tenant.***

It is also the case that Post Office Savings has provision only for a Survivorship Joint Account.[64]

Access to accounts – temporary incapacity

Circumstances can occasionally require that – when people are temporarily incapacitated due to an illness or accident, and/or where they are unable to manage their finances physically or electronically – access to their financial accounts needs to be facilitated.

Financial institutions variously reported that:

a) Their processes did not allow access in situations like this unless there was a third-party arrangement already in place

b) Where the inability to access an account was confirmed by a medical professional, a carer package could be applied to the payment account (and subsequently removed once the customer is confirmed as having regained capacity)

c) Situations were assessed on a case-by-case basis and that where a legally authorised representative was not an option, staff would escalate internally to ensure that the customer's needs were addressed appropriately, subject to verification and safeguards.

61 https://aib.ie/content/dam/aib/personal/docs/our-products/current-accounts/personal-current-accounts/personal-current-acc-app-joint.pdf
Revolut Ireland. *Joint Accounts*. August 2025. Accessible at https://www.revolut.com/en-IE/legal/joint-accounts/
N26. https://n26.com/en-eu/joint-bank-account

62 Life Credit Union. Accessed 03/11/2025 at https://lifecu.ie/download-forms/

63 Affinity Credit Union. Joint Account Warning Letter. Accessed 03/11/2025 at https://affinitycu.ie/membership/joint-membership

64 See https://www.anpost.com/Money/Current-Account/Joint-Account

They presume that all individuals have capacity unless demonstrated otherwise. When concerns arise, the institution evaluates the person's ability to understand, retain and weigh relevant information.

NGOs reported that most financial institutions required an instruction from the customer either in writing or via a phone call. In some rare instances the institution would visit the person. Some NGOs reported excessive bureaucracy in these cases. Others noted occasions where financial institutions were able and willing to release funds for specific, urgent purposes.

Requesting proof of decision-making capacity

Financial institutions reported that requests for proof of decision-making capacity are assessed on a case-by-case basis in keeping with the principles and functional assessment framework outlined in the ADMCA legislation. They presume that all individuals have capacity unless demonstrated otherwise. When concerns arise, the institution evaluates the person's ability to understand, retain and weigh relevant information and communicate their decision effectively in the context of the specific matter at hand.

Staff are trained to recognise when additional supports may be needed and to escalate appropriately, in line with legal and regulatory obligations. Some firms may refer cases when concern exists to a specialist team. Financial services report that their specialist units maintain logs/registers of accounts involving assisted decision-making arrangements.

NGOs report that financial institutions will request proof of capacity where the bank had previously dealt with a customer and now has concerns; where an advocacy or safeguarding body has raised issues; where failure by a customer to complete security checks or respond to communications suggest a lack of capacity; in cases where suspicious account activity has raised red flags.

NGOs report occasional cases where staff did not demonstrate that everyone must be afforded the presumption of capacity. Instances were reported where a financial service requested proof of capacity simply following on from a request that the customer receive support from an independent advocacy organisation.

Urgent access to accounts and decision-making arrangements

Financial services confirm that, while they will not permit third-party access to an account without a valid legal authority, they do, where appropriate, facilitate the payment of critical expenses such as nursing home fees, medical bills and Fair Deal contributions. However, they view such an arrangement as exceptional.

NGOs report that financial institutions do respond to the need for payments that are urgent and critical. However, occasional cases involving excessive delays are also noted.

Equity Release products

Financial institutions that offer equity release type products reported that their teams are trained to recognise situations of potential risk for some customers in relation to equity release products. Engagement with a trained mortgage specialist is seen as important.

NGOs reported little interaction with clients at the application phase but did report cases where client eligibility for Fair Deal had been seriously jeopardised by a previous equity release obligation[65]. NGOs felt that the implications of equity release products need to be given substantially greater attention where older consumers (some of whom may be at risk of exploitation) are concerned.

The Central Bank of Ireland, under Regulation 139 of the Consumer Protection Code[66], requires that a regulated entity shall inform the personal consumer of the legal and practical consequences of entering into a lifetime mortgage. The financial institution is also required to inform the personal consumer of the importance of obtaining independent legal and financial advice regarding the proposed transaction.

The financial institution is required (Regulation 143) to provide warnings that, amongst other matters, specifically state:

- "Warning: Purchasing this product may negatively impact on your ability to fund future needs. Before purchasing this product, you should get independent legal or financial advice." (2e)
- "Warning: Purchasing this product may negatively impact on your ability to fund future needs as a result of transferring a share in your home." (3b).

These Consumer Code Regulations make it clear that there is a requirement on a regulated entity to inform a personal consumer of the potential risks and consequences of entering into a lifetime mortgage.

You should get independent legal or financial advice regarding the proposed transaction.

Financial institutions' staff training

Financial institutions all reported that their staff receive thorough and detailed training and support regarding how customers who may be at risk are to be dealt with.

65 For additional information, see Safeguarding Ireland. *Equity Release Schemes*. 2021. Accessible at https://safeguardingireland.org/wp-content/uploads/2021/06/Equity-Release-Schemes-FINAL.pdf and; Competition and Consumer Protection Commission. *Equity Release Mortgages*. Accessible at https://www.ccpc.ie/consumers/money/mortgages/equity-release-mortgages/

66 S.I. No. 81/2025 - Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Consumer Protection) Regulations 2025 accessible at https://www.irishstatutebook.ie/eli/2025/si/81/made/en/print

NGOs reported examples of very good staff skills, knowledge and understanding. However, they also noted variation across institutions and expressed concern at the implications of staff turnover.

There is a perception of a 'vulnerable' customer being frequently identified based on financial services' staff judgment and perceptions without any input from the person themselves or from a support worker.

There is evidence of refusal by banks to open bank accounts or engage with persons regarding accessing their finances purely based on their address, e.g., living in a known residential health or social care setting in a locality.

There is evidence of financial services refusing to engage with customers, e.g., in relation to withdrawing money from their account, without any reason or explanation being given.

'Red flags' that are indicative of financial abuse, risk, and / or the need for safeguarding actions

Both financial institutions and NGOs recognised a wide range of red flags including:

- Unusual and unexplained account activity
- Unauthorised third-party involvement
- Customer confusion, distress and hesitation
- Customer reluctance to interact freely with staff
- Suspicious requests to add joint account holders or change mandates
- Large and unexplained withdrawal requests
- Unpaid debts
- Extensive online or card activity at unusual times
- Strange locations of ATM withdrawals
- Benefits being lodged to accounts other that the beneficiary's.

A 'vulnerable' customer being frequently identified based on financial services' staff judgment and perceptions without any input from the person themselves.

Outsourced financial services

Those financial institutions that outsource some of their services report that they have robust frameworks in place to ensure that the third-party outsource providers deliver in accordance with the outsourcing firms standards and practices. Third parties are considered as an extension of the firms' internal teams and are held to the same standards and expectations. Outsourced staff are provided with the same mandatory training.

NGOs registered concern at reported instances of outsourced staff relying on long-standing personal familiarity with the family of persons at risk as opposed to complying with the regulations. While recognising that some benefits attach to being familiar with a local customer base, NGOs recognised such practices as risky, open to abuse, not compliant with regulations, and representing a slow 'creep' of non-compliance.

NGOs also voiced concern at the lack of appropriate private spaces in outsourced premises for the conduct of business in a sensitive manner. The locating of post office branches within the confines of supermarkets was especially noted. NGOs also questioned whether outsourced arrangements continue to possess the valuable, local knowledge and links that they are sometimes assumed to hold.

In general terms, NGOs were not convinced that outsource staff are adequately trained and prepared for roles involving customers at risk.

Online and eBanking

The three pillar banks, credit unions and An Post have services that can be accessed not only online but also through branch offices. The combination of in-branch support, telephone support and online channels is viewed as catering well for the needs of consumers who may be at risk.

NGOs noted the existence of a digital divide with some people being very unlikely to use ebanking channels. Some disability service providers note the positive aspects of ebanking for their service users, particularly for user access to money for relatively minor day-to-day transactions. However, it was noted that the use of ebanking options – arranged by others for family members with disabilities – does raise questions regarding account ownership, administration and control. These 'pocket-money' arrangements appear to disregard the rights of the person concerned.

Some disability service providers have developed and used some 'work-around' arrangements to allow clients (restricted) access to debit cards. This typically involved the setting up of accounts – with debit cards – in the sole name of the client, but with only limited funds being lodged on a regular basis, thereby removing the risk associated with access to substantial sums of money. Much safer options that should be used are one of the arrangements under the ADMCA.

Feedback from NGOs suggest that digital banking procedures will need to evolve further before online banking becomes a realistic option for many. The point was made that, as of now, local branch access remains a necessary provision for most users of disability services and for many older people.

The move to online and digital banking presents challenges for some older people, but many have no problem in online engagement. Many older people remain steadfastly 'cash-only'. However, many others are confident of their own skills in this regard and are pleased with the degree of access and control that online banking provides.

> Many older people continue to be 'scared' of online banking and view it as risky and open to scams... the absence of person-to-person options was considered a serious shortcoming.

It was suggested that, since many older people continue to be 'scared' of online banking and view it as risky and open to scams, financial service providers should work to develop greater trust in online banking and to assist people to develop the relevant skills.

It was also suggested that there is a need for financial institutions to develop new models of online access that can better meet the needs of older people.

The limitations on customer support provided by ebanks were noted. There was concern expressed at practice of ebanks to provide support services only in app or online. The absence of person-to-person options was considered a serious shortcoming.

There was a consensus that digital banking procedures will need to evolve further before online banking becomes a realistic option for many older persons. Notwithstanding this, the development of new technology-driven ebanking products was seen as a positive initiative.

Risky practice by relatives

Independent advocacy organisations reported that that engagement with some clients' relatives carried out as part of the advocacy casework process regularly frequently revealed instances of relatives regularly using the older person's bank card for purchases, and their bank details for online transactions, without any oversight from the older person, and sometimes without the older person's knowledge.

In some instances, consent given for one transaction continues to be presumed to apply to other transactions. For example, independent advocacy casework identified instances where banking details were shared with a relative by a person who was in hospital for a specific financial transaction, but this was interpreted by the relative as general consent for other transactions using the person's account.

Credit unions' nomination facility

Credit unions offer a 'nomination' facility whereby – upon the death of an account holder – an amount of cash from the account is transferred to the nominated person (current amount is €27,000). Respondents to the query regarding this facility were unclear as to whether the purpose of this facility was simply to meet immediate expenses or as a means of transferring money from the account to the nominated person.

Another issue identified was that pressure may sometimes be put on an older person to nominate a specific family member. A person's right to nominate a person of their choice should be made clear and people should be advised to regularly update their nominated person.

Escalation of cases of suspected financial abuse

Financial institutions reported having processes and procedures in place for the referral of cases to An Garda Síochána, HSE Adult Safeguarding and Protection Teams, and the DSP's Safeguarding Unit. Customers may or may not be informed of these referrals depending on the circumstances of the case in question. It was noted that Safeguarding bodies do not, generally, share feedback on cases brought to their attention by a financial service.

NGOs acknowledged that these processes are in place and are used. They noted very rare instances of financial services staff not being aware of the required process.

Data regarding consumer complaints/refusal to open an account

Financial institutions report that they log and record data regarding complaints from customers in vulnerable circumstances and data regarding refusals to open a personal account.

While not having access to an analysis of such data, NGOs expressed some concern regarding refusals to open accounts and the reasons involved.

Private Property Patient Accounts (PPPA)

Independent advocacy organisations reported that difficulties regarding PPPAs include problems with arranging access to and benefits from the accounts; limits on the amount a person can withdraw from a PPPA; limited (if any) review of decision-making capacity; improvements and developments in banking technology and in the provision of reasonable accommodation for persons with disabilities not being taken into account; difficulties for people in private nursing homes (where a different accounts management system to the public sector operates).

NGOs reported generally good practice, with occasional cases involving residential care services deferring to families as decision-makers in instances where no capacity concerns had arisen or where there was a question about decision-making capacity but the support options available under the ADMCA legislation had not been pursued. Cases were also noted where services restricted access to accounts or failed to provide statements for accounts held by the facility (see below).

Pressure may sometimes be put on an older person to nominate a specific family member. A person's right to nominate a person of their choice should be made clear.

People having their account blocked because of an assessment of a lack of decision-making capacity while in hospital and having difficulty in having the block lifted when they returned home.

Specific instances of breach of a person's right to control their finances and assets

Feedback from NGOs identified several specific instances relating to people who were at financial risk for any reason or multiple reasons. These included:

- People providing access to their money to relatives, neighbours or home care workers without any protective mechanisms or provision for transparency
- People having their account blocked because of an assessment of a lack of decision-making capacity while in hospital and having difficulty in having the block lifted when they returned home and now had capacity and were well capable of managing their finances
- Online banking done by third party without authority or oversight – this can be a particular issue where the person who owns the money does not have a good understanding of the way on-line transactions work or their implications
- Private nursing home residents not being provided with regular statements of their account held for them by the nursing home
- Nursing home staff restricting certain transactions, for example, when a resident wanted to make a gift, where this would not be their normal practice
- A lack of continuity of support or oversight from the HSE Safeguarding Team because a person moved to a different county to live.

Other issues

- Some financial institutions pointed to the fact that, where a customer lacks capacity and does not have a decision-support arrangement in place, the financial institution is currently unable to provide information to, for example, the HSE or to an independent advocate. Such a transfer of information may be required for the customer to access the Fair Deal scheme
- There are still significant deficits in public understanding of people's right to manage their own money to the greatest extent possible and to be supported in so doing. For example, some parents are hesitant about handing over control of their own money to individuals and disability payments are still regarded by some as part of general household income. Some siblings are also continuing this practice
- Feedback suggests that many adult children consider it entirely appropriate to take over the management of the finances of their parents (online or as pension agents), if, for example, the parent has become frail or has been admitted to a nursing home
- It was felt that there remains a cohort of family members and of staff in support settings which continues to usurp financial control from people. In many instances, this was attributed to benign if misplaced attitudes associated with the role of the 'consummate carer'.

Conclusions

The provisions of the ADMCA legislation, the Central Bank's Consumer Protection Code and the Codes issued by the Decision Support Service provide a robust framework for the treatment and protection of consumers at risk.

Consultations with stakeholders from the financial services sector, independent advocacy organisations, representative organisations, and payments providers were valuable and instructive in describing a system that has not, as yet, come fully to terms with the need to provide people at risk with equal access to financial services, supports and protections.

Financial institutions have made considerable progress in meeting their obligations under the assisted decision-making legislation. However, there continue to be inconsistencies, variations and examples of sub-optimal practice in how some institutions interact with customers who are in vulnerable or at-risk circumstances.

Many families and service providers struggle to come to terms with the new, rights-based landscape, and with its implications for how they acknowledge, respect and support their family members and clients in maximising control and management of their finances, benefits and assets. As already suggested, there is a significant need for a Government-led proactive public information campaign about the ADMCA legislation.

The sections that follow will explore additional issues that have been identified in this and earlier sections and some overarching considerations relevant to maximising people's right to control and manage their finances and assets will be considered.

Written records help protect both the person and those supporting them.

/ Section Six

Role and Functioning of Department of Social Protection and State Payments in Safeguarding Adults at Risk from Financial Abuse

The Department of Social Protection (DSP) plays a significant role regarding the income and finances of a wide proportion of the population – and especially in relation to the finances of adults at risk.

For many adults at risk their social welfare benefits constitute the sole or main source of their income.

Introduction

The Department of Social Protection (DSP) plays a significant role regarding the income and finances of a wide proportion of the population – and especially in relation to the finances of adults at risk – through the processing of numerous benefits and entitlements. This Section outlines the scope and nature of the DSP's functioning and explores its role in safeguarding and protecting the finances of adults at risk.

The Section will also consider the role of other government bodies that carry responsibility in respect of people's money – the National Shared Services Office (responsible for paying public service pensions) and State Savings (responsible for managing people's savings). The role and position of An Post is also considered.

Department of Social Protection (DSP) expenditure and recipients

DSP expenditure on benefits is on a large scale and impacts on the financial security and well-being of a substantial proportion of the population. For many adults at risk their social welfare benefits constitute the sole or main source of their income.

In 2025, DSP expenditure on its various social welfare programmes amounted to over €26.6 billion[67]. Of this, total spending on pensions[68] was €11.5 billion, representing an increase of 3.1% on the previous year and of over 13% on 2023. The State Pension (Contributory) accounted for the bulk of this figure, with the State Pension (Non-Contributory) and Bereaved Partner's Contributory Pension accounting for the balance.

In Quarter 4 2025 a total of 555,747 people were recipients of the State Pension (Contributory). There were 101,789 recipients of the State Pension (Non-Contributory) and the Bereaved Partner's Contributory Pension had 129,555 recipients.

Data relating to 2024 shows that there were 49,826 people aged 85 years or older in receipt of State Pension (Contributory). Almost 183,000 recipients were aged between 75 years and 84 years.

There were, therefore, 787,091 people who received a payment across the three main pension schemes in the fourth quarter of 2025, a year-on-year increase of 3% (25,779) compared to the fourth quarter of 2024.

67 DSP. Quarterly Statistical Report, Quarter 4 2025. Published 5th February 2026. Accessible at https://assets.gov.ie/static/documents/34b5c65d/2025Q423__Quarterly_Statisticial_Report.pdf2024 Data is extracted from Department of Social Protection.
Statistical Information on Social Welfare Services 2024. Accessed 07/11/2025 at https://assets.gov.ie/static/documents/30d48047/20260204_2024_Annual_Statistics_Report.pdf

68 The term **Pensions,** in this instance, includes State Pension (Contributory); State Pension (Non-Contributory); Bereaved Partner's Contributory Pension.

In addition to the State Pensions, DSP is responsible for expenditure on Illness, Disability, and Caring Schemes. These involved a total expenditure of over €6.2 billion in 2025. This expenditure included payments under the Disability Allowance, Illness Benefit, Carer's Allowance, Carer's Benefit and Invalidity Pension Schemes.

There were 175,725 people in receipt of Disability Allowance in Q4 of 2025, an increase of 1,390 people on the previous quarter. The scheme's average weekly payment received in Q4 2025 was €309. The total number of people receiving Carer's payments in the fourth quarter of 2025 was 112,555, a rise of 2,179 or 2% from the last quarter. On average, Carer's Allowance recipients received a payment of €285, while Carer's Benefit recipients received a payment of €359 in Q4 2025.

It is estimated[69] that 64% of Carer's Allowance recipients are married/cohabiting to/with their care recipient. A quarter of care recipients were aged less than 15 years.

DSP payments to scheme recipients are, with a small number of exceptions[70], made through Electronic Fund Transfers to recipient's bank, credit union or An Post accounts; or are paid in cash at post offices across the country. In 2024, over 25 million cash payments totalling over €7 billion were paid to social welfare recipients through the post office network[71]. The percentage paid through post offices for 2023[72] was estimated as being 31%. This demonstrates the continued importance of direct access to cash payments for many people and indicates that more than one quarter of DSP payments are delivered through the post office network, involving collection of benefits by the entitled recipient or by an authorised nominee of the recipient.

Illness, Disability, and Caring Schemes... involved a total expenditure of over €6.2 billion in 2025.

The available statistics for the percentage of payments through the post office network do not provide a breakdown by social welfare scheme. However, it would be reasonable to assume that the proportion of payments to recipients of the State Pension and to recipients of Disability Allowance that are processed through post offices is likely to be substantial. The State Pension (Non-contributory) Control Survey 2024[73] estimated that just under half of recipients (48%) received their payments at the post office.

69 Carer's Allowance Control Survey 2017/2018 (2018) Accessible at https://assets.gov.ie/static/documents/carers-allowance-control-survey-2017.pdf

70 A small number of ad hoc payments are made by cheque. https://www.oireachtas.ie/en/debates/question/2024-01-17/987/#:~:text=My%20Department%20%20provides%20two%20main%20payment%20options,hoc%20payments%20%20were%20also%20made%20by%20cheque

71 https://www.gov.ie/en/department-of-social-protection/press-releases/minister-calleary-announces-renewal-of-contract-with-an-post/

72 https://www.oireachtas.ie/en/debates/question/2024-01-17/987/#:~:text=My%20Department%20provides%20two%20main%20payment%20options,hoc%20payments%20were%20also%20made%20by%20cheque

73 State Pension (Non-contributory) Control Survey 2024 (Published 8th March 2025). Accessible at https://assets.gov.ie/static/documents/state-pension-non-contributory-control-survey-2024.pdf
This Survey focuses on establishing the prevalence of incorrect payments to recipients.

These segments of data combined would suggest that of those people who are in receipt of a State Pension, a significant number use their post office for collection of their benefit, and a significant proportion of Disability Allowance recipients do likewise.

Regulations 2025... provides a definition for when a person is deemed unable to manage financial affairs for the purposes of social welfare claims and payments.

Agents for social welfare payments

New Regulations for Agents

The Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Persons Unable to Manage Financial Affairs and Bereaved Partner's Pension) Regulations 2025 came into effect on 9th September 2025. This is hugely important in that it provides a definition for when a person is deemed unable to manage financial affairs for the purposes of social welfare claims and payments.

These Regulations take into account the provisions of the ADMCA legislation which significantly changes the landscape for social welfare payments directly to agents by taking account of the different levels of capacity of a relevant person. This should eliminate the practice of the overzealous appointment of Type 2 agents in instances where appropriate support should have been given to the person to manage and control their pension and benefits themselves.

Agency arrangements

There are two types of agency arrangements (Type 1 and Type 2) to support people in managing their social welfare payments where they are unable to do so themselves. New Nomination Forms for both types of agents have been published by the Department of Social Protection in February 2026.[74]

Type 1 Agent

If, for any reason, a person is unable to collect their social welfare payment at a post office for the foreseeable future, they can nominate a person to collect the payment on their behalf. This person is known as a Type 1 Agent.

The person nominated is required to pass the full payment on to the beneficiary without any deductions.

A Type 1 Agent Nomination Form must be completed and submitted to the Department of Social Protection and, once the Department receives this form, it will send a letter to both the beneficiary and the nominated Agent confirming the agency appointment and make arrangements with the post office. The post office will then allow the Agent to pick up the payment on the person's behalf. (It should be noted that, frequently, informal arrangements are put in place between parties for the collection of pensions and other social welfare benefits, such arrangements can create a potential context for financial abuse).

74 https://www.gov.ie/en/department-of-social-protection/forms/authority-to-appoint-an-agent-application-form-agent/

A Type 1 agent must be over 18 years of age and is required to:

- Pay the full amount of the payment to the beneficiary without deduction of any kind
- Notify the Department without delay of any changes in the beneficiary's circumstances, including a deterioration in their capacity to make informed decisions about their financial affairs.

A Type 1 agency arrangement can be cancelled at any time by the beneficiary contacting the Department – the consent of the nominated agent is not required for this. The Department may cancel an agency arrangement at any time where it has reason to believe that the arrangement is not working satisfactorily.

Type 2 Agent

A Type 2 Agent can be appointed where a person is unable to manage their own financial affairs.

In order to have a Type 2 Agent appointed, a person must be assessed by a medical practitioner as being unable to manage their own financial affairs for reasons which may include one or more of the following[75]:

(a) An inability to understand the information relevant to possible entitlements to benefit

(b) An inability to retain information long enough to make voluntary choices relevant to possible entitlements to benefit

(c) An inability to use or weigh relevant information as part of the process of making any decision necessary to manage any benefit payments received

(d) An inability to communicate any decision or respond to correspondence or enquiries concerning the claim or benefit, whether by talking, writing, using sign language, assistive technology, or any other means, or if the communication of the decision or response requires the act of a third party, to communicate by any means with that third party.

The Type 2 Agent is required to:

- Act in a personal capacity and not delegate responsibility to any other person
- Receive and deal with any sum payable by way of benefit on behalf of the beneficiary
- Use the payment for the benefit of the recipient and in accordance with their will and preference

75 Article 202(2) of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007,

- Ensure payments are not spent on items or services to which the beneficiary is already entitled
- Ensure that all reasonable expenses of the beneficiary are paid for, assuring their personal welfare
- Lodge the balance of the payment to an interest-bearing account for the benefit of the recipient and ensure the funds are available to and accessible by them
- Keep a record of all sums received and all transactions made on behalf of the recipient
- Make the records available if requested by either the beneficiary or an officer of the Department
- Receive and deal with any correspondence issuing from the Department in relation to the beneficiary.

The Type 2 Agent must notify the Department without delay of any changes in the beneficiary's circumstances that may have a bearing on their continued entitlement to their current rate of payment.

The Department may cancel a Type 2 agency arrangement at any time where it has reason to believe that the arrangement is not working satisfactorily or that the payment is not being used for the benefit of the recipient. If a Type 2 agent wishes to withdraw from the role they must do so in writing to the Department, giving one month's notice.

A Type 2 agent is responsible for ensuring that:

- The payment is used for the benefit of the recipient
- Monies are not spent on items or services that the recipient has an entitlement to and are available
- The payment is lodged to an interest-bearing account for the benefit of the recipient
- Any changes in the recipient's circumstances are reported to the Department
- The Agent must also keep a record of all sums received and all transactions made in relation to the benefit payment and produce the records if requested to do so by either the recipient, his/her advocate or an officer of the Department.

A Type 2 Agent can be appointed where a person is unable to manage their own financial affairs.

Very importantly, under the revised provisions, a Type 2 Agent may **not** be appointed where the beneficiary:

- Is a Ward of Court
- Has appointed a person to be their attorney under an Enduring Power of Attorney, appointed in accordance with the Powers of Attorney Act 1996 (No. 12 of 1996) or the Assisted Decision Making (Capacity) Act 2015 (No. 64 of 2015)
- Has had a Decision-Making Representative appointed under the Assisted Decision-Making (Capacity) Act 2015 in respect of the customer and in respect of the management of social welfare matters concerning them
- Has appointed a Decision-Making Assistant under a Decision-Making Assistance Agreement, or a Co-Decision-Maker has been appointed by the customer under a Co-Decision-Making Agreement in accordance with the Assisted Decision-Making (Capacity) Act 2015.

Institutional agents

In some instances, the agent will be an institution such as a nursing home or other residential care facility in which the beneficiary is resident, and this role is sometimes referred to as an institutional agent.

SI 142/2007[76], as amended by S.I. No. 378 of 2009,[77] stipulates (202A) that the agent should:

(d) Make payments only on items or services which are of benefit to the claimant or beneficiary including all reasonable expenses for assuring the personal welfare of the person concerned

(e) Not spend money on items or services to which the claimant or beneficiary has an entitlement where those items or services are available and accessible to the person concerned

(f) Ensure that the balance of any benefit is lodged to an interest-bearing account for the benefit of the claimant or beneficiary

(g) Keep a record of all sums received by way of benefit which have been lodged to an interest-bearing account on behalf of the claimant or beneficia

(h) keep a record of all other transactions made in relation to sums received by way of benefit on behalf of the claimant or beneficiary.

76 S.I. No. 142/2007 - Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 Accessible at https://www.irishstatutebook.ie/eli/2007/si/142

77 S.I. No. 378/2009 - Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Nominated Persons) Regulations 2009 Accessible at https://www.irishstatutebook.ie/eli/2009/si/378/made/en/print

The DSP has indicated that it is satisfied that the accounting obligation in paragraph (f) of the legislation can be met by a designated centre if it has in place a secure and reliable internal structure/system for individualised accounting and tracking of patients/residents' finances. This means that once there is a detailed account of every transaction which is traceable to each individual resident then the entirety of the funds for all residents can be held in one dedicated client account. It is important to note that, while the latter is acceptable practice, it may not be best practice.

Type 1 and Type 2 agents who are relatives of the claimant

There is some evidence from independent advocacy casework that the level of control which may be exercised by family members over a person's finances with reference to the Agency system for social welfare benefit payments is inappropriate and does not give due cognisance to the fact that the social welfare payment belongs to the recipient.

While DSP requirements in respect of agency for social welfare payments provide some protection in that the Department will act promptly to investigate any case of alleged non-compliance by an agent with the obligations set out in its legislation (which the nominated person/agent will have undertaken to comply with), there is a basic issue in respect of if and how the Department monitors compliance. There is no information as to the oversight arrangements that the Department has in place to proactively monitor general compliance, rather than simply responding when an alleged non-compliance case is brought to its attention.

The Control Survey referenced above recommended that… 'claimants considered vulnerable due to advanced age, will continue to be selected for a SWI visit to ensure continuing eligibility to pension and additional allowances and to establish they are satisfied with any Agent arrangement that may be in place.'

It should be noted that there is no data published with regard to monitoring or oversight by the Department of Social Protection.

Review of Agency arrangements

The DSP is in the process of reviewing and revising the widespread use of Agents for receiving the State payments of adults who may be at risk in the context of ensuring best practice and in order to meet the requirements of the Assisted Decision-Making (Capacity) Act 2015.

Public Service Pensions

In addition to the payment of pensions by DSP, the State pays pensions to many retired public servants, both from the Civil Service and from various other branches of Government both national and local. It is difficult to estimate the total number of recipients who are in receipt of these pensions, the bulk of which are administered by the National Shared Services Office (NSSO). The NSSO[78] provides shared services to a total of 54 Public Service Bodies (PSBs), including all Government Departments and Offices. These services include human resources, pensions, payroll and finance management services.[79]

Estimates of the number of retired public servants in receipt on a state-paid pension vary from 140,000 to 190,000[80]. The Department of Public Expenditure's ***Actuarial Review***[81] indicates that a high proportion of retired public servants are in receipt of relatively low pension payments, with approximately a third receiving less than €10,000 per annum and half receiving less than €20,000 per annum (Chart 4.3 p.18). It is likely that some of these retired persons will also be in receipt of a DSP provided pension.

Approximately a third receiving less than €10,000 per annum and half receiving less than €20,000 per annum.

NSSO financial safeguarding protocols

There is a ***prima facie*** question about how well the NSSO monitors the status of pension recipients, some of whom may have moved into the adults at risk cohort for various reasons and may be susceptible to financial abuse. All State bodies (as well as financial services) have a responsibility to prevent financial abuse. State bodies should be accountable in the same way that financial service providers are under the Individual Accountability Framework. The Law Reform Commission has placed considerable emphasis on the need for financial services to have robust systems in place to identify and address financial abuse and financial services firms now have obligations in this regard under CPC 2025.

Measures implemented by the NSSO to prevent fraud may mitigate against financial abuse. For example, both the end-user and a witness must sign a payment declaration form. Where the payment is processed to a joint account, both account owners must provide co-signatures.

Each year the NSSO randomly selects a sample of accounts and requires the pension declaration form to be recompleted, returned forms are subsequently cross-referenced with the existing signature copy for account validation purposes. (There does not appear to be any data on the outcomes of this exercise.)

78 https://assets.nsso.gov.ie/documents/Annual_report_2023_Final1.pdf

79 It is understood that the expenditure in this area was about €3 billion in 2023.

80 Nevin Institute. (2014), https://www.nerinstitute.net/blog/monday-blog-some-data-public-sector-pensions-republic-ireland Alliance of Retired Public Servants (Ireland). https://arps.ie/about-the-arps

81 Department of Public Expenditure. *Actuarial Review of Public Service Occupational Pensions in Ireland*. 2022. https://assets.gov.ie/static/documents/actuarial-review-of-public-service-occupational-pensions-in-ireland-adc1dbbf-f8de-43a0.pdf

The NSSO does not currently provide training related to adult safeguarding to staff or have an internal adult safeguarding policy nor does it formally record data on cases of suspected financial abuse of payments processed. Also, NSSO Data Protection Policy does not mention sharing of data with An Garda Síochána or mention any issue about safeguarding/ fraud/financial abuse.

State savings

In addition to pension providers, the State – through the National Treasury Management Agency – manages State Savings (of which An Post acts as a key agent). These financial products are typically medium to long-term savings products which offer guaranteed interest on maturity after a specified number of years. Concerns have been expressed regarding the risk that, especially in the case of older people, these savings are forgotten or neglected, resulting in them becoming ***dormant accounts***[82], or in the funds lying in a zero-interest yielding account.

Under the Dormant Accounts Acts 2001-2012[83] and the Unclaimed Life Assurance Policies Act 2003[84], balances on dormant accounts with banks, building societies and An Post and the net encashment value of certain life assurance policies are remitted to the State annually. The balances on dormant accounts are paid into the Dormant Accounts Fund, which is managed by the NTMA. In addition, moneys from the Intestate Estates Fund Deposit Account may, on the direction of the Minister for Finance, also be paid into the Fund. Institutions are required to make reasonable effort to contact the account holders of accounts designated as dormant with a view to ascertaining the wishes of the customer and having the account reactivated[85].

Important questions arise as to whether State Savings takes adequate steps to ensure that adults at risk who hold these accounts are communicated with in an adequate and effective manner.

Department of Social Protection

As discussed above, DSP distributes considerable amounts of money to a wide range of adults at risk – pensions, illness or disability benefits, payments to carers.

There are a number of sections and offices within the Department dealing with fraud and abuse, including the Safeguarding Unit (SGU). The Department acts on reports of alleged abuse of recipients of pensions or benefits and consults, as appropriate, with other bodies such as the HSE and the Garda Síochána.

Accessible information improves confidence and participation.

82 A dormant account is an account that has shown no activity for 15 years.

83 Approximately €70 million is transferred to the Dormant Accounts Fund each year. A total of just under €91 million rested in the Fund at the end of 2024 https://www.ntma.ie/annualreport2024/documents/NTMA-Annual-Report-2024.pdf

84 https://www.irishstatutebook.ie/eli/2003/act/2/enacted/en/html
See also https://www.citizensinformation.ie/en/money-and-tax/personal-finance/insurance/unclaimed-life-insurance-policies/

85 https://bpfi.ie/wp-content/uploads/2025/07/Dormant-Account-Form_Web.pdf

The SGU only takes direct action – for example to suspend payments – when there is evidence that the regulations attaching to a particular DSP scheme are being broken.

Investigations of alleged abuse are coordinated by the Safeguarding Unit within the Department.

The Safeguarding Unit oversees the social welfare agent arrangements and undertakes preliminary screenings of social welfare abuse claims involving adults at risk. Allegations are brought to the SGU's attention by external sources (sometimes anonymous), by concerned family members or members of the public, and by the staff of other agencies such as the HSE or An Garda Síochána.

The SGU only takes direct action – for example to suspend payments – when there is evidence that the regulations attaching to a particular DSP scheme are being broken. In other instances, the SGU refers concerns and transfers information to HSE Safeguarding and Protection Teams and/or to An Garda Síochána.

The DSP is well placed to receive information regarding, and/or to detect, both risks of financial abuse and actual instances of financial abuse. Clearly, the operation of collaborative and information-sharing procedures with other agencies is crucial to the DSP's effectiveness in this area.

Data provided to Safeguarding Ireland by the DSP[86] relating to reported concerns about abuse, points to a number of alleged cases of financial abuse. Of the 208 cases brought to the Department's attention in 2020, 154 involved financial abuse. In the majority of cases the reports related to alleged abuse by a family member.

The relatively small number of allegations of financial abuse reported to the DSP in comparison with the much higher number reported to HSE Safeguarding Teams is worth noting. This is indicative of financial abuse extending much wider than just the misappropriation of social welfare payments.

In addition to the work of the Safeguarding Unit, the Department's Control Division accepts reports of possible fraud by members of the public in relation to the Department's schemes. In general, these reports show that non-means-based schemes have a lower rate of fraud than means based schemes.

DSP's Special Investigation Unit (SIU) conducts fraud investigations. In 2023[87], the DSP scheme with the highest number of cases where an element of fraudulent activity was suspected was Jobseekers' Allowance at 71% of cases. State Pensions accounted for only 2% and Disability Benefit 1%. It is clear, however, that much of the energy and resources involved in the work of the SIU is focussed on cases involving incorrect payments to recipients – as opposed to the funds due to recipients being stolen or inappropriately used by third parties.

86 DSP Communication to Safeguarding Ireland November 2021.

87 https://www.oireachtas.ie/en/debates/question/2024-01-30/367/?highlight%5B0%5D=367

In practice, there is only limited oversight by the DSP in respect of agents for social welfare payments. While the Department does act when complaints are made, there is no proactive or systematic oversight of the system. Notwithstanding any planned ADMCA-related changes to the Type 2 Agent arrangements, Type 1 agents will continue in existence and allow for financial abuse, especially by a family member exercising coercive control over a claimant who is living at home and not in contact with any service.

There is strong anecdotal evidence that a proportion of both Type 1 and Type 2 agents receive State payments on behalf of claimants and simply keep all or some of the payment or use it for household expenditure. This is not in accordance with the basic principle that everyone has a right to their own money. Equally important is the casework evidence that indicates that agents frequently fail to inform the DSP that a beneficiary now lacks capacity. It is not clear whether or to what extent DSP conducts follow-up or audits aimed at identifying such occurrences.

A related issue is that there is some evidence of people receiving the Carer's Allowance social welfare payment to provide care to people at home but who are not providing the care required or, indeed, any care. It is, of course, clear that many carers provide very high levels of dedicated care and frequently on a 24/7 basis.

From a safeguarding perspective, it should be noted that care recipients are often very vulnerable people who rely heavily on the carer for essential needs so that they do not have to move to long-term residential care. Therefore, their vulnerability leaves them reluctant to complain or report poor quality or non-existent care. The DSP and the HSE rely on the care recipient to complain if the care they are receiving is not adequate, but clearly not everybody can or wants to make a complaint due to reduced decision-making capacity, disability, a controlling carer or an abusive situation. In addition to constituting abuse against care recipients, this also represents abuse of State funds.

Strong anecdotal evidence that a proportion of both Type 1 and Type 2 agents receive State payments... and simply keep all or some of the payment.

Information from DSP confirms that – other than entitlements collected at a post office in cash - it permits a person's benefits to only be lodged to either an account held solely by the beneficiary, an account held jointly with another person, or a residential care account. DSP advises that account features such as right of survivorship in joint accounts is a matter between the person and their bank. Payment of benefits, where a beneficiary so chooses, may be delivered through An Post. Responsibility for delivery of this service, according to DSP, lies with An Post. It is clearly important that both DSP and An Post staff be aware of their obligations under the UNCRDP and ADMCA and that they are adequately trained.

Responsibilities of State Bodies

As noted earlier in Section 3, An Post operates a national network of over 900 post offices, the vast majority of which are operated under contract by independent postmasters. There is obviously a need to ensure that the staff involved under these contracts are fully and adequately trained with regard to the provisions of the ADMCA, and with regard to their role in protecting the financial interests of their customers, be that in respect of DSP welfare payments, savings or banking transactions.

A further point deserving of attention relates to premises and physical facilities. In order that the particular needs of persons who are at risk, or who require special support in conducting their financial affairs, are adequately met, it is important that the premises – including post offices – in which business is transacted are designed to enable people to conduct their business in a discreet manner. There are understandable concerns in relation to how the privacy and confidentiality which people should rightly expect are met in some instances, especially in post offices that are co-located.

Designed to enable people to conduct their business in a discreet manner. There are concerns in relation to how privacy and confidentiality are met.

While DSP arrangements provide a range of options to the customer, they do necessitate the involvement of others, ***viz.*** An Post and/or banks. This means in effect that DSP has only partial responsibility in ensuring that benefits reach the proper recipient. This suggests a clear need for close collaboration regarding safeguarding between the parties involved which has not been the case to date.

It is worth noting than the DSP and the National Shared Services Office (NSSO) are not the only government agencies that manage the distribution of funds to a wide population, some of whom may be at risk. For example, the Department of Agriculture, Food and the Marine oversees a wide range of payments to farmers and clearly has a responsibility to monitor possible financial abuse. As mentioned earlier, the NTMA manages State Savings products and has a duty to ensure that people's savings remain available for their use and benefit.

Since a very high proportion of adults at risk are dependent on State payments of one type or another, any loss through theft, coercive manipulation or other methods of misappropriation, will have grave consequences for the individual.

The visible and predictable nature of these State payments also means that unscrupulous actors are likely to see these people and their funds as easy targets. In a proportion of cases the actual payment vehicle for State payments – i.e., cash from a post office – creates additional risk.

Stakeholder consultations in respect of the compilation of this Issues Paper suggest that there may be a resistance and reluctance on the part of State agencies responsible for the disbursement of pensions and benefits to acknowledge their responsibility and role in ensuring that recipients are well protected. While proactive actions are aimed at perpetrators of fraud, this is primarily focused on fraud connected to claiming and receiving benefits to which the perpetrator is not properly entitled or eligible.

There is a lack of an appropriate, adequate and proportional audit, control and oversight specifically aimed at identifying financial abuse of adults at risk. As noted above, the Department of Social Protection carries out control surveys. However, the primary focus of these is on identifying incorrect payments for whatever reason/s. There does not appear to be a corresponding and specific focus on protecting people from financial abuse by, for example, having a mechanism to establish that the recipient has received the full benefit or pension. The situation is similar in the case of the NSSO where no specific measures are in place to identify and prevent misappropriation of public pension beneficiaries.

The National Treasury Management Agency has an important role in relation to citizens' funds and is reliant on An Post to implement adult safeguarding measures with respect to State Savings, and on relevant financial institutions to ensure dormant accounts – as noted earlier in this issues paper - are returned to their owners. There appears to be poor consideration, if any, of mitigating measures to prevent dormancy, or the impact of 'lost' accounts on the financial circumstances of adults at risk, or the risk of abuse when dormant accounts are re-instated.

Despite the presence of some processes on the part of DSP, An Post, and the NSSO to detect fraudulent activity relating to the services they provide, there is a clear need for the development and implementation of a more robust approach to the specific detection and management of suspected financial abuse of adults at risk, particularly as related to State payments. In the foregoing context, it is important that due cognisance be given to principles enunciated by the Law Reform Commission and referenced in Section One of this Issues Paper, in particular:

- ***Guiding principle 4 (prevention)*** which includes taking proactive steps to ensure that safeguarding actions or interventions are taken to prevent harm to at-risk adults
- ***Guiding principle 7 (accountability)*** which includes ensuring accountability and transparency in adult safeguarding.

It is also important to include a note of caution that the tendency to equate fraud predominantly with illegal actions by online scammers, persons unknown, and persons who illegally claim state benefits, will not be adequate or effective in tackling financial abuse of adults at risk by persons who are in positions of trust in the context of State pensions and benefits.

There is a lack of an appropriate, adequate and proportional audit, control and oversight specifically aimed at identifying financial abuse.

The State has a clear public duty and a key role to play in ensuring that all adults can avail of systems to safely manage their money, benefits and assets in a manner that meets their needs, upholds their autonomy, and respects their privacy.

Designed to enable people to conduct their business in a discreet manner. There are concerns in relation to how privacy and confidentiality are met.

A silo mentality has led to significant blind spots in terms of the actual level and extent of protection offered to adults at risk of financial abuse. The recently published National Payments Strategy[88] states:

'Greater anti-fraud information sharing in the Irish banking and payments sector is critical to pre-empt and counter emerging fraud patterns. To facilitate this information sharing, the Department of Justice will develop legislation in 2025 to provide the necessary legal basis for a shared banking fraud database. Banking & Payments Federation Ireland will then develop a database to share information across participating organisations for the purposes of helping to identify and prevent fraud' (p58).

There is a strong case that the National Payment Strategy should include in its scope and recommendations the payments provided by the State to its citizens and provide that any entity providing a payments service to citizens complies with the obligations described by the Central Bank of Ireland in its Standards for Business relating to financial abuse.

There is a need for a strengthened role for State Payments providers and the Department of Social Protection in preventing and addressing financial abuse particularly regarding the use of third-party agents by the DSP.

The full application of ADMCA requirements by DSP and the NSSO should proceed with haste. It is critically important that any ADMCA arrangements that are put in place are notified to the Department of Social Protection and to the NSSO. This should assist in reducing the continuance of any other arrangements which may give rise to financial abuse.

While the implementation of adult safeguarding legislation is a vital and necessary requirement for adult safeguarding, we do not need to wait for legislation to embed a safeguarding approach in all financial services and State bodies. This should be based on the principles set out by the Law Reform Commission, in particular. the principle of ***accountability*** which is provided for in the Individual Accountability Framework which is applies to regulated financial services providers and over which the Central Bank of Ireland has oversight.

88 Department of Finance. *National Payments Strategy*. October 2024. Accessible at https://assets.gov.ie/static/documents/national-payment-strategy.pdf

Vulnerability leaves them reluctant to complain or report poor quality or non-existent care... not everybody can or wants to make a complaint due to reduced decision-making capacity, disability, a controlling carer or an abusive situation.

/ Section Seven

The Role Independent Advocacy in Supporting Adults at Risk to Control Their Money and Assets

Independent advocacy is of a different order in that it focuses only on representing the voice of the person in all engagements with services.

Introduction

Independent advocacy plays a very important role in enabling adults at risk to stay in control of their money and assets. For example, in 2024, in almost 23% (697 cases) of Sage Advocacy cases, financial issues were the primary reason for referral, while in a further 581 cases financial issues were identified during the casework process.[89] Financial issues were a key issue across all NAS regions in 2023.[90] As already noted, a 2024 NAS Social Policy Paper[91] highlighted the systemic barriers people with disabilities across Ireland face in accessing and managing their own finances.

While the term 'independent advocacy' is relatively new, historically, there have consistently been people willing to speak up for others to ensure that their interests are represented. During the 20th century, out of a diverse range of movements concerned with human, civil, social and political rights for the individual citizen, there emerged concepts, practices and services which can broadly be described as independent advocacy.

Areas in which independent advocacy has been to the fore in recent decades include the promotion of the rights and voice of people with disabilities and users of mental health services and, more recently, users of health care services generally. In Ireland, the role of independent advocacy has become more centre stage since the commencement in 2023 of the Assisted Decision-Making (Capacity) Acts.

What is independent advocacy?

It is important to have a good understanding of what independent advocacy is, how it differs from the advocacy provided by other professionals and where it fits in the overall social support infrastructure. Many of those who provide social and health care services to people – nurses, doctors, social workers – see advocacy as part of their role. The principles and values of advocacy resonate closely to those espoused by these professions and the relationship between the client/patient and advocate is an important component of the role of many professionals.

While legal practitioners and many health and social care professionals have an advocacy role, there is an important distinction between the advocacy role of such professionals and the role of independent advocates. It is necessary to recognise that independent advocacy is of a different order in that it focuses only on representing the voice of the person in all engagements with services.

89 Sage Advocacy Annual Report 2024, https://sageadvocacy.ie/wp-content/uploads/2025/09/Sage-Advocacy-Annual-Report-2024-for-web.pdf

90 NAS Annual Report 2023, https://advocacy.ie/app/uploads/2024/12/24.12.09_NAS_Easy_to_READ_Report-2.pdf

91 NAS (2024) *Shortchanged: Barriers to Financial Autonomy for People with Disabilities in Ireland*, https://www.citizensinformationboard.ie/downloads/social_policy/NAS-Social-Policy-Paper_final-web-1.pdf

It is also the case that families frequently carry out a significant advocacy role. This is particularly the case in relation to people who are full-time carers and who frequently must engage forcefully with health and social care providers to get the services needed by their loved ones.

While the advocacy role of health and social care professionals and of families and relatives is crucially important, there is an additional and necessary perspective that independent advocacy can bring to ensure that the voice of the person is clearly articulated in all circumstances, and, particularly, where the will and preference of a person are different to those of relatives or professionals where crucial decisions are being made in relation to, for example, place of care and a person's finances and assets. The role of an independent advocate can be essential in ensuring that the person's voice is heard and that their right to self-determination is protected in all such matters.

Independent advocacy has the potential to provide significant impetus in the following areas of safeguarding, social inclusion, and empowerment as they apply to adults at risk:

The role of an independent advocate can be essential in ensuring that the person's voice is heard and that their right to self-determination is protected.

(i) Enhancing people's right to have their 'voice' heard and to participate in the making of decisions which affect them, and to fully participate in choices concerning their well-being, including their finances and assets

(ii) Promoting the concept of supported decision-making as provided for in the ADMCA legislation to enable people to retain control of all their affairs to the greatest extent possible

(iii) Supporting individuals' will and preferences in relation to their care arrangements and managing their finances and assets

(iv) Helping to ensure that communication difficulties or people's different ways of communicating are not in any way equated with reduced decision-making capacity.

(v) Supporting the general thrust of enabling people to live in the community and, where this is not possible, enhancing people's continuing connectedness with their community

(vi) Assisting people during any court processes arising from the provisions of the ADMCA legislation[92] and any other legislation relating to adult safeguarding and protection of liberty that may be introduced

(vii) Building on the concept of a multi-perspective approach whereby multi-disciplinary teams involve independent advocates (either alone or accompanying a vulnerable person) in discussing and planning supports and services for individuals

92 See ADM Act 2015, Section 35(8) and Section100 (12).

(viii) Complementing the role of statutory bodies such as the Decision Support Service, HIQA, HSE Safeguarding Teams, the Financial Services and Pensions Ombudsman, the Consumer and Competition Protection Commission and the Office of the Ombudsman.

Instructed and non-instructed advocacy

Independent advocacy may be instructed or non-instructed:

- ***Instructed advocacy*** is working with or on behalf of an individual person or group on the instructions and informed consent of the person or group

- ***Non-instructed advocacy*** is where the advocate acts independently of the individual, in some cases through necessity, as the individual's decision-making capacity may be reduced and they may not have anyone to put in place a process for availing of decision-making supports provided under the ADMCA.

Non-instructed advocacy has been defined as:

'Taking affirmative action with or on behalf of a person who is unable to give a clear indication of their views or wishes in a specific situation. The non-instructed advocate seeks to uphold the person's rights; ensure fair and equal treatment and access to services; and make certain that decisions are taken with due consideration for their unique preferences and perspectives'.[93] (Scottish Independent Advocacy Alliance 2009).

Non-instructed advocacy has three inter-related dimensions:

1) All people have certain fundamental human rights that need to be protected, irrespective of their decision-making capacity or place of residence

2) The vindication of the human and legal rights of some people because of their vulnerability or living situation requires the presence of an independent witness/observer in the form of an advocate who can monitor how they interact with those providing care and support and how their safeguarding needs are being met

3) The development of long-term, trusting and mutually respectful relationships between advocates and individuals can help give voice to a person with reduced decision-making capacity.

There is a lack of an appropriate, adequate and proportional audit, control and oversight specifically aimed at identifying financial abuse.

It is reasonable to suggest that non-instructed advocacy, while the most challenging form of independent advocacy, may be the most important from a human rights and safeguarding perspectives. It is noted that 3% of

93 Scottish Independent Advocacy Alliance (2009), *Non-Instructed Advocacy Guidelines*, https://www.gain.org.uk/documents/siaanoninstructedadvocacyguidelines.pdf P.5.

Sage Advocacy cases in 2024 were carried out based on a non-instructed advocacy approach with a broadly similar percentage in 2025 to date.

Clearly, there is a requirement under the ADMCA to explore whether there is a need for a capacity assessment and for an appropriate decision-making support to be put in place where required. There will be ongoing need for a watching brief role by an independent advocate even where an ADMCA decision-support arrangement is in place.

Why an independent advocacy service is important in enabling people to stay in control of their finances and assets

The reality is that adults at risk are not always well protected in relation to controlling and managing their finances by either financial services or by people who provide them with care and support – relatives and statutory / voluntary social care providers. This makes it even more important that such adults have access to an advocacy service that is independent of both service providers and family members.

Adults at risk are not always well protected in relation to controlling and managing their finances by either financial services or by people who provide them with care and support.

Many people face challenges to their ability to control and manage their money and assets due to illness, disability, reduced decision-making capacity, lack of a trustworthy relative or an inability to access financial services that meet their needs. The latter may be due to various barriers, e.g., lack of clear and accessible information, reliance on others for their care and support or their inability to access financial services because of the move to digital banking.

Some people face a challenge in making and communicating financial decisions because of dementia, intellectual disability, autism, or mental health difficulties. Such conditions do not come as discrete and separate challenges. Some individuals experience a range of these conditions and, in addition, can face even further challenges such as coercive control, financial, psychological or physical abuse.

People in such situations can frequently benefit from independent advocacy support to ensure that their rights, freedoms and dignity are promoted and protected and that they are enabled to exercise their own will and preferences on matters of finance and assets.

The reality is that some people are not able without support to defend their rights and interests. For example, they may not be aware that financial abuse is taking place or may not know or have access to a means of dealing with violations to their human and legal rights. In addition, in many cases where abuse or violation of rights occur, such people are under the control of the perpetrator of the abuse and fear retaliation.

Financial decisions vary in complexity, risk, and consequence.

While it is reasonable to suggest that all adults may be potentially at risk at some stage of their lives or in some circumstances, people whose decision-making capacity may be in question, for whatever reason, are more likely to benefit from the involvement of an independent advocate. People considering making decisions about transferring money or assets to another person during their lifetime can clearly benefit from the support of an independent advocate.

A key factor that needs to be considered in exploring why independent advocacy is necessary is that the population of Ireland is ageing and that, while more people are living longer and better lives, a growing number will require some form of support. An increasing number of adults either born with a disability or who have an early onset disability are surviving to older age.

These trends in the nation's population structure will result in a growing number of people being in categories and situations where they may be risk of being deprived of the right to fully participate in the making of decisions that affect them, of being socially isolated, and of being subjected to financial exploitation and abuse.

People who experience reduced decision-making capacity because of dementia or an acquired brain injury are likely to face additional challenges in managing and controlling their finances. Support from an independent advocate can help to ensure that they can retain control of their money and assets to the greatest extent possible.

Independent advocacy and human rights

Independent advocacy does not operate in a vacuum, and the literature suggests that it is useful to adopt a rights-based approach when discussing independent advocacy. Advocacy is both grounded in and reflects a rights-based approach. The human rights approach places the individual centre stage in all decisions affecting them. A rights-based approach is particularly relevant to at risk adults in that it views people as subjects rather than objects and as equal citizens and stakeholders in society and challenges the "social impulse to rank people in terms of their usefulness and to screen out those with significant differences"[94] .

Rights-based advocacy discourages compartmentalisation of identities (***viz.*** older persons, people with disabilities) and focuses instead on individuals in terms of the challenges and opportunities faced at each stage of the life cycle rather than on people as members of 'identity-groups'.

A number of components of a rights-based approach can be identified which are centrally relevant to independent advocacy and which are set out in Figure 7.1 below.

94 Quinn, G. and Degener, T. (2002), 'The moral authority for change: human rights values and the worldwide process of disability reform' in Quinn, G. and Degener, T. (eds.) with Bruce, A., Burke, C. Castellino, J., Kenna, P. Kilkelly, U., Quinlivan, S. *Human Rights and Disability,* United Nations, New York and Geneva.

Figure 7.1 Components of rights-based advocacy

Citizenship	The right of individuals "to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in society" – it confers a social and economic status independent of the market and a redressing of imbalances in market outcomes.
Social inclusion	Positive affirmation of people's shared citizenship at all points of engagement with societal structures and institutions.
Recognition	Based on the notion of each person being able to observe and feel that s/he has a recognised identity, experiences a sense of belonging and is given due regard by others accordingly.
Individual autonomy	Being able to determine one's own life course, including at the end of life. It assumes that physical and functional independence is not a prerequisite to retaining autonomy. There is a crucial distinction to be made between 'decisional autonomy' and the 'autonomy of execution.'
Personal agency	Participation and inclusion in critical decisions that affect one's life. There is a need for a more collaborative conception of agency (involving others in a supportive role), Supporting people to maximise decision-making capacity is a basic tenet of the Assisted Decision-making (Capacity) Act 2015.
Voice	The right of each individual to express their views freely in all matters affecting them – this includes having control over one's accommodation, daily routines, money and assets.
Equality	All citizens being equally enabled to maximise their potential. While people may differ profoundly in capacity, character and intelligence, they are equally entitled as human beings to equality of access, including to financial services.

It should be noted that a report from an independent advocate has now become the norm in Circuit Court hearings of applications for the appointment of a Decision-Making Representative under the ADMCA legislation. A high proportion of independent advocacy reports to the Courts provided by Sage Advocacy refer to financial and/or property matters

Current independent advocacy landscape in Ireland

The independent advocacy landscape in Ireland is very fragmented mainly because of the different origins of independent advocacy services. The first specific reference in Ireland to advocacy was in the 1996 Report of the Commission on the Status of People with Disabilities, ***A Strategy for Equality.***

This report suggested that advocacy should be provided in institutional settings and that authority for this type of advocacy should be set out in legislation to ensure access to justice or access to essential social services.

However, in subsequent reports, this broad interpretation of advocacy was confined to the need for legal advocacy in the mental health care setting. This was recognised in the Mental Health Act 2001, which provides for a person to be appointed independent legal representation in the review process of involuntary detention.

While the term advocacy is not used in the Act, effectively, there is statutory provision for legal advocacy for people with mental health difficulties in that it provides for a person to be appointed independent legal representation in the review process of involuntary detention. It should be noted, however, that legal advocacy in the context of the Mental Health Act does not include independent advocacy in the more general understanding of the concept, as outlined above.

The current independent advocacy landscape in Ireland is quite varied in terms of responsibilities, funding and independence. For example, the National Advocacy Service for People with Disabilities (NAS) is funded by the Department of Social Protection through the Citizens Information Board; Sage Advocacy is funded by the HSE, the Department of Education and the Department of Justice; the Patient Advocacy Service (delivered under the auspices of NAS) is funded by the Department of Health; while public funding for other independent advocacy services is provided by the HSE.

Current legislative provision for independent advocacy in Ireland

Regulations for nursing homes, Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2022, introduced in March 2023, have changed the situation regarding access to independent advocacy. Regulation 9 of the Principal Regulations was amended by inserting after paragraph (4) the following paragraph: "(5) A registered provider shall ensure that a resident has access to independent advocacy services, including access to in-person awareness campaigns by independent advocacy services and access to meet and receive support from independent advocacy services. These services should be made available to residents in the designated centres and in private, as required".

There is a lack of an appropriate, adequate and proportional audit, control and oversight specifically aimed at identifying financial abuse.

The Government should adopt a consistent approach to the provision of independent advocacy across all care settings.

An important point is that there is no general legal provision for independent advocacy in Ireland. This is despite the concept of independent advocacy coming much more to the fore in policy discourse in recent years and, notwithstanding the regulatory provision for independent advocacy in nursing homes introduced in 2023 and the provision for advocacy in the Mental Health Act 2001.

The ADMCA legislation makes provision for the development of a Code of Practice "for ***the guidance of persons acting as advocates on behalf of relevant persons"*** (Section 103 (2)). The reference to the Code of Practice is the only reference to advocacy in the ADMCA legislation. A Code of Practice for Independent Advocates has been published by the DSS.

This Code provides guidance for independent advocates on how to engage and interact with, and advise, clients who are relevant persons under the ADMCA.

It is noted that the recently published Department of Health Policy ***A National Policy for Adult Safeguarding in the Health and Social Care Sector*** stipulated (p.31) that 'service providers will be required to facilitate access to an independent advocate (on site and in privacy if required) where safeguarding issues arise'.

Need for regulation of independent advocacy

Regulation of independent advocacy is supported by the Law Reform Commission in its 2024 report on adult safeguarding.

The following are the main relevant recommendations made by the Commission:

> *The Government should adopt a consistent approach to the provision of independent advocacy across all care settings.*
>
> *The Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013) should be amended to require designated centres for people with disabilities to facilitate access to independent advocacy services for adults residing in those centres.*
>
> *The Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006) should be amended to require approved centres to facilitate access to independent advocacy services for adults residing in those centres.*
>
> *Amendments to the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013) and the Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006) should provide that where a resident wishes for an independent advocate to engage with a service provider for the purposes of making a complaint on behalf of the resident, the service provider must engage with the independent advocate.*

Adult safeguarding legislation should introduce a duty on the Safeguarding Body to facilitate, so far as is reasonably practicable, access to independent advocacy services for an adult who is, or is believed to be, an at-risk adult where it engages with such adult directly for the purposes of exercising its functions under adult safeguarding legislation.

The proposed duty to facilitate access to independent advocacy services should only apply where the Safeguarding Body is satisfied that, without access to independent advocacy services, an adult who is, or is believed to be, an at-risk adult may experience significant challenges in doing one or more of the following:

(a) Understanding relevant information

(b Retaining that information

(c) Using or weighing that information as part of the process of engaging with the Safeguarding Body

(d) Communicating their views, wishes or feelings (whether by talking, using sign language or any other means).

The proposed duty should apply only where the Safeguarding Body is satisfied that there is no suitable person who could effectively support the adult who is, or is believed to be, an at-risk adult to enable their engagement with the Safeguarding Body.

Current Government funding structures for the delivery of independent advocacy services are fragmented and largely operate as silos.

The Government should consider whether a form of regulation of independent advocates or independent advocacy services is required.

The Commission recommends that adult safeguarding legislation should include a provision to allow the relevant Minister or the Safeguarding Body to publish a code of practice for independent advocates providing support to adults who are, or are believed to be, at-risk adults.

It is relevant to note that the significant potential role of independent advocacy in enabling people to control and manage their money and assets and to have equality of access to banking services has remained somewhat under the radar and has not received the attention it warrants in either policy-related discussions or in relevant Codes of Practice.

Fragmentation of independent advocacy funding structures

As stated above, current Government funding structures for the delivery of independent advocacy services are fragmented and largely operate as silos. This fragmentation creates an uncertain and somewhat dysfunctional landscape for the development and consolidation of advocacy services.

There is a critical need at this juncture to put a national framework in place for the development of independent advocacy as an integral part of the rights protection and service delivery infrastructure.

This is necessary to ensure that all adults at risk, irrespective of ability/disability or geographical location or place of residence are fully protected. The current approach to the provision of independent advocacy is inadequate in the context of meeting the requirements of the UN Convention on the Rights of Persons with Disabilities and the related provisions of the Assisted Decision-making (Capacity) Act 2015.

The components of a national framework required for independent advocacy are outlined in Diagram 7.2.

Diagram 7.2: A national framework for independent advocacy: Suggested core components

Education and training courses to ensure that all independent advocates have the skills and competencies required.

The components identified include legislation, clear funding streams, an 'unpacking' of the concept of independent advocacy to highlight its critical role. Also required are national standards and codes of practice for independent advocacy and, importantly, education and training courses to ensure that all independent advocates have the skills and competencies required.

If the practice of independent advocacy is to get the recognition and status that it requires to give effect to its undoubted potential, there is a need for a uniform and standardised approach as distinct from the ad hoc and piecemeal approach that has been adopted to date. There is a need for equitable and fully transparent funding structures for independent advocacy and for ensuring that skills and competencies required for a professional independent advocacy service are provided for through appropriate education and training opportunities. Finally, it is essential that there are clear pathways for complaints and redress and a full acknowledgement of the role of an integrated approach to independent advocacy therein.

In order to develop the national framework proposed and to create an integrated context within which the practice, skills, development and coordination of independent advocacy can be effectively realised, there needs to be an integrated national framework which would both regulate all providers of independent advocacy and bring together inter-sectoral entities such as Safeguarding Ireland, Government agencies and financial regulators.

It is suggested that, pending the establishment of a National Adult Safeguarding Authority and Adult Safeguarding legislation, as recommended by the Law Reform Commission, within which independent advocacy would be regulated, active consideration should be given to establishing a mechanism in the short-term that would explore the following in the Irish context.

- What competencies and qualifications are required of independent advocates and how would these be achieved?
- Who will overall responsibility for ensuring that all independent advocacy services are adequately funded?
- How can the experience to date of delivering independent advocacy services in Ireland be built upon?
- What standards will be used to define the minimum quality of service and how would these be enforced?

Overview and conclusion

Given the growing emphasis on decision-making capacity in Ireland and the provisions for supported decision-making in the Assisted Decision-making (Capacity) Act 2015, independent advocacy has become a necessary mainstream activity and is an important safeguard in a democratic society which 'gives voice' to the wishes and preferences of vulnerable adults.

The central emphasis in the ADMCA on supported decision-making reflects a significant paradigm shift in how we understand and respond to the needs of people with reduced decision-making capacity. This has huge implications for the role of independent advocacy as well as other decision supporters identified in the legislation.

The replacement of a 'best interests' approach with the principle of giving effect to people's will and preferences establishes the context for independent advocacy.

Feedback from independent advocacy organisations indicates that financial services often do not understand the role of independent advocacy and are reluctant to engage with an advocate on the basis that there is no provision for independent advocacy in the ADMCA legislation. In many instances, this effectively negates the potentially important role of an independent advocate in ensuring that an adult at risk gets the most appropriate support to manage their finances.

Independent advocacy alone is not the full answer to protecting people's right to self-determination in respect of their money and assets. There needs to be a strong focus throughout policy discourse and regulatory instruments on concepts such as legal capacity, supported decision-making, presumption of capacity and financial literacy.

The commencement of the Assisted Decision-making (Capacity) Acts 2015 and 2022 provides important and necessary impetus for the practice of independent advocacy. The replacement of a 'best interests' approach with the principle of giving effect to people's will and preferences establishes the context for independent advocacy to become a central component in enabling people to control their finances and assets as well as in the delivery of health and social care. This role for independent advocacy would be given further impetus by the passing of the Adult Safeguarding legislation.

In addition to the creation of new legislative rights to supports in the ADMCA legislation, legislative provision for independent advocacy is essential in order to identify a clear and undisputed space for the practice of independent advocacy as a vital adult safeguarding component.

Clear explanations improve understanding and retention.

It is important that the underpinning principles of independent advocacy are well understood by society generally, by Government and by agencies delivering public services and by financial services. These include in particular:

- Safeguarding people's human and legal rights
- Helping to ensure that adults at risk have access to services and supports on an equal basis with others
- Empowering people to assert their will and preferences and to self-determine
- Identifying and addressing abuse and exploitation, including, in financial abuse.

There is a critical need at this juncture to put in place a national framework for the development of independent advocacy as an integral part of the rights protection for adults at risk.

Financial services often do not understand the role of independent advocacy and are reluctant to engage with an advocate.

/ Section Eight

A Framework for Addressing the Issues

There are a number of human rights considerations which have significant implications for how people are enabled and supported to manage and stay in control of their money, benefits and assets. These are outlined and discussed in this opening section of the Issues Paper.

Figure 8.1: Optimising the ability of adults at risk to stay in control of their money and assets: Suggested components of a policy framework

This section of the Issues Paper outlines the components of a more targeted and integrated approach to enabling adults at risk to control and manage their money and assets. These components are summarised in Figure 8.1 and then discussed.

Need for a public attitudinal and cultural shift

The cultural and attitudinal shift required is one where adults at risk who experience challenges in controlling and managing their finances can have confidence that all stakeholders – the public, financial services, State bodies, health and social care professionals and lawyers – give due recognition to their legal capacity, their right to be provided with financial services that meet their needs and on an equal basis with others, and their right to have full access to the legislative supports available. Since such an approach has to date remained somewhat aspirational, there is a need for a fundamental re-think about attitudes and practices.

> Financial abuse and coercive control are named for what they are and never normalised by society.

Much of the potential for financial abuse, especially in subtle forms, is rooted in a culture that accepts and condones certain attitudes, practices and behaviours. This suggests a need for a cultural shift in attitudes where financial abuse and coercive control are named for what they are and never normalised by society.

How the ADMCA legislation is implemented in practice will obviously depend on the extent to which the cultural and attitudinal change envisaged in the legislation takes place in practice among financial services staff, disability services staff, relatives of people with reduced decision-making capacity and the public in general. This is particularly important in respect of people's right to presumption of capacity and a right to have access to the least restrictive form of decision-making support.

In order to achieve the cultural and attitudinal change required, the quality of education and training of those who are tasked with implementing the ADMCA legislation at all levels is of paramount importance.

Legal capacity: A core consideration

The concept of legal capacity (the capacity to have rights and the power to exercise those rights) is at the very core of ensuring that people are enabled to control and manage their money and assets. The UNCRPD guarantees that persons with disabilities have a right to legal capacity. This means that people who have reduced decision-making capacity have the very same legal rights in relation to controlling their finances and assets as people whose decision-making capacity is not in question

According to Article 12 (3) of the Convention, States Parties are required to take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

Article 12 (4) stipulates that States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. This provision is centrally relevant to people's right to equality of access to banking services and related supports.

The UN Committee on the Rights of Persons with Disabilities has stated that the denial of legal capacity to persons with disabilities has, in many cases, led to their being deprived of many fundamental rights.[95]

A Centre for Disability Law and Policy (CDLP) Report,[96] prepared for the UN Special Rapporteur on the Rights of Persons with Disabilities, highlighted the need to recognise the obligation to respect the legal capacity of persons with disabilities, including legal agency and standing. In discussing the negative impact of denial of legal capacity in this context, the report asserted that legislation alone would not be enough to overcome barriers and that it was necessary to address attitudinal barriers and professional practices based on the outdated understanding of disability. Again, this is a central matter in how people are supported to control and manage their finances and assets.

Financial literacy education

According to the OECD, financial literacy is the combination of skills, knowledge, attitudes, and behaviours that enable individuals to make informed and effective decisions about their

money.[97] It involves understanding financial concepts and risks, having the necessary skills to apply that knowledge, and developing the right attitudes to manage financial well-being.

Adults at risk and financial literacy

> Legislation alone would not be enough to overcome barriers… it was necessary to address attitudinal barriers and professional practices.

The Central Bank has affirmed that adults at risk (consumers in vulnerable circumstances) require an additional and informed response from providers of regulated financial services.[98] Adults at risk, especially those whose capacity is, or may be, in question clearly require accessible, straightforward processes and services that enable them to manage their finances (money, benefits, and assets) autonomously to the greatest degree possible and with safe support (as necessary).

95 Committee on the Rights of Persons with Disabilities. Eleventh session 31 March–11 April 2014. General comment No. 1 (2014). Article 12: Equal recognition before the law. I,8 Accessible at https://docs.un.org/en/CRPD/C/GC/1&opi=89978449&psig=AOvVaw2w8ePld88r7Ql0UNrt-V2Ki&ust=1762862305408000

96 Centre for Disability Law and Policy, Galway. *Final Report. Access to Justice of Persons with Disabilities.* December 2019 Accessible at https://www.universityofgalway.ie/media/centrefordisabilitylawandpolicy/files/CDLP-Final-report-for-UN-Special-Rapporteur-on-Access-to-Justice-for-Persons-with-Disabilities-(21Jan).docx

97 https://www.oecd.org/en/topics/financial-education.html

98 Central Bank Code, https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-code

Developing expertise and financial literacy – financial service providers

There is no central locus of expertise on financial literacy. For example, while Safeguarding Ireland does not have a specific role in directly providing financial literacy programmes to the public or advising individuals, nevertheless it regularly receives queries and concerns from organisations, members of the public, professionals and others, the vast majority of which relate to finance and adult safeguarding and related Irish law and regulation.

The BPFI facilitates and supports the development of expertise for its members, but beyond this, and especially regarding firms and providers that are not regulated by the CBI, there is no analogous source of expertise or forum for the development of shared and standardised good practice.

It is, however, noted that the Competition and Consumer Protection Commission (CCPC) has a role in promoting the development of financial education and capability in Ireland, and ensuring that consumers are empowered to make informed financial decisions.[99]

There is a pressing need for increasing the financial literacy of both financial institutions and public-sector stakeholders involved in the design and delivery of financial services. This relates to their knowledge and understanding of their obligations under the UNCRPD, the ADMCA legislation and the related DSS Code for Financial Services Providers[100], and the detailed observations of the Law Reform Commission on financial abuse, and issues identified in the 2022 Safeguarding Ireland Discussion Paper.[101]

As stated in Section Two of this Issues Paper, there is a prima facie question as to whether financial capacity can be fully maximised in the current situation where financial services are not fully applying the principles of the ADMCA legislation.

There is a clear need for financial literacy for all stakeholders involved in the delivery of financial services in line with both the 'Vision' for the National Financial Literacy Strategy,i.e., financial wellbeing and financial resilience can be supported through stakeholder initiatives and on the basis of how stakeholders interact with consumers. As key principle of the National Payments Strategy is innovation and Inclusion – future focus that enhances interoperability and inclusion.

Increasing financial literacy is essential for all cohorts and in particular for adults who may have been denied autonomy over their financial affairs, investment will be sub-optimal unless there is a more coherent and joined-up

99 https://www.ccpc.ie/consumers/about/financial-education/our-money-our-future/about-our-money-our-future/

100 Code of Practice for Financial Service Providers, https://decisionsupportservice.ie/resources/codes-practice/code-practice-financial-service-providers

101 Browne, M. et al.,(2022), Identifying RISKS – Sharing RESPONSIBILITIES: The Case for a Comprehensive Approach to Safeguarding Vulnerable Adults, Safeguarding Ireland, https://www.safeguardingireland.org/wp-content/uploads/2022/05/6439-Safeguarding-Risks-Resp-Report-FA4_lowres.pdf

approach to service provision across sectors. This means that all financial services and relevant State agencies must develop information systems and access pathways that are transparent, easy to use and, most importantly, are applied at all points of interaction with the public.

Financial literacy is linked to the concept of financial capacity which has been found to be an advanced activity of daily life, conceptually distinct from household activities and basic activities of daily life. The following domains of financial capacity have been identified - basic monetary skills, financial conceptual knowledge, cash transactions, cheque book management, bank statement management, and management of finances. Clearly, everyday financial transactions are of a different order from, for example, the more complex task of managing investments.

Research has shown that financial capacity is already significantly compromised in mild Alzheimer's disease, especially in the more complex domains of cheque book use and management, bank statement management, bill payment, and financial judgement. In some instances, the decline in financial capacity can be rapid.

The absence of a coherent, joined-up approach across all payment providers and financial services makes it difficult to progress financial literacy among some cohorts of people simply because the system is too fragmented.

Full application of ADMCA legislation

The commencement of the legislation was a watershed moment, modernising the whole area of law for a very vulnerable population cohort.

The provisions of the Assisted Decision-Making (Capacity) Acts 2015 and 2022, commenced in April 2023, have particular relevance for adults at risk in respect of controlling their finances. The ADMCA legislation introduced a legal framework for supported decision-making in Ireland and include new statutory principles and practical supports for persons who may have difficulties with their decision-making capacity.

The commencement of the legislation was a watershed moment, modernising the whole area of law for a very vulnerable population cohort. It places the person at the centre, with a move from 'best interests' to 'will and preference'. It provides for a tiered approach to supported decision-making along a continuum that moves from assisting a person with decision-making to making decisions on a person's behalf where the latter is deemed by the Courts as being the only viable option.

As stated in Section Four of this Issues Paper, the Guiding Principles of the ADMCA legislation are: a presumption of capacity; all practicable steps must be taken to support a person with making a decision; no intervention unless necessary and, where necessary, be proportionate and limited in duration.

These principles require, inter alia, minimal restriction on a person's rights and freedom of action, due regard to a person's rights to dignity, privacy, autonomy and control over their financial affairs and property. Supported decision making involves maximising participation and considering a person's past and present wishes.

The picture that has emerged from an analysis of stakeholder feedback is that there continues to be a failure in many instances to implement the legislation as it applies to people's right to be supported to manage their finances and assets to the greatest extent possible and to be protected from exposure to financial abuse as a result of practices that are not in compliance with either the legislation or the need to recognise all individuals, irrespective of their decision-making capacity, have legal capacity.

Establishing a National Adult Safeguarding Framework

There is an urgent need to establish a Framework for Adult Safeguarding as recommended by the Law Reform Commission (LRC).

There is an urgent need to establish a Framework for Adult Safeguarding as recommended by the Law Reform Commission (LRC)[102]. The LRC sets out a comprehensive framework to improve adult safeguarding and includes draft legislative proposals for consideration by Government.

Importantly, such a framework must encompass safeguarding in respect of people's right to control and manage their finances and their right to avail of the provisions of the ADMCA legislation. To date, the focus in policy discourse has been mainly on safeguarding in a health and social care context. The primary focus of the current HSE Safeguarding policy is on safeguarding in a health and social care context in keeping with the remit of the HSE. While this is very important, it leaves the adults at risk of abuse outside the loop. This omission is significant as when financial abuse is perpetrated on an adult at risk it deprives them of the ability to fund essential health and care needs.

The Law Reform Commission has identified a number of ways in which Irish law could be strengthened to address the issue of financial abuse, some of which are to be welcomed as part of CPC 2025:

- The Central Bank of Ireland's CPC 2025 provides for obligations on regulated financial service providers ("RFSPs") to prevent and address actual or suspected financial abuse of at-risk adults who are customers of RFSPs ("at-risk customers")
- RFSPs, credit unions and post offices should be under a statutory obligation to ensure that relevant personnel receive regular adult safeguarding awareness training
- RFSPs should be provided with a power in primary legislation (i.e. an Act of the Oireachtas) or in secondary legislation (i.e. regulations) to temporarily suspend the completion of a financial transaction where there is knowledge or a reasonable belief that an at-risk customer is being, has been or is likely to be subject to financial abuse
- Some of the provisions of the Social Welfare Consolidation Act 2005 and the Social Welfare (Consolidated Claims, Payments

102 Law Reform Commission. Report on a Regulatory Framework for Adult Safeguarding. https://www.lawreform.ie/_fileupload/Reports/as/lrc-128-vol-1-160424-final.pdf

and Control Provisions) Regulations 2007 should be amended to ensure consistency with the Assisted Decision-Making (Capacity) Act 2015, the United Nations Convention on the Rights of Persons with Disabilities, and the Council of Europe Recommendation (CM / Rec(2014)2) of the Committee of Ministers to Member States on the promotion of human rights of older persons

- The provisions of S.I. No. 424/2025[103] relating to persons unable to manage their affairs are important in that they amend previous social welfare regulations concerning the handling of payments for individuals unable to manage their financial affairs and thus aligns them with the provisions of the ADMC legislation.

National Adult Safeguarding Authority

There is a very strong argument for the establishment of an independent National Adult Safeguarding Authority with overarching responsibility for safeguarding. Its functions would include:

- The promotion of standards in the safety and quality of services (including financial services
- Undertaking investigations
- Providing education, training, and raising public awareness
- Collecting and collating accurate data on abuse of adults (including financial abuse).

Such an Authority would provide overarching governance to a National Safeguarding Service, the Mental Health Commission, HIQA, the Decision Support Service and an Independent Advocacy Service on a statutory basis. The body would also have explicit oversight in respect of adult safeguarding responsibilities for other relevant regulatory bodies falling outside of the health and social care sector, including the financial services sector.[104]

There is a very strong argument for the establishment of an independent National Adult Safeguarding Authority with overarching responsibility for safeguarding.

As far back as 2017, an Adult Safeguarding Bill 2017 was published which set out, inter alia, the following functions for such an Authority:

- Promote standards in the safety and quality of services provided to adults at risk
- Undertake investigations where the authority believes on reasonable grounds that there is a risk of abuse or harm to an adult at risk
- Receive reports from mandated persons

103 S.I. No. 424/2025 - Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Persons Unable to Manage Financial Affairs and Bereaved Partner's Pension) Regulations 2025, https://www.irishstatutebook.ie/pdf/2025/en.si.2025.0424.pdf

104 For a detailed discussion on the role of a National Adult Safeguarding Authority, see the Safeguarding Ireland 2022 Discussion Paper, *Identifying Risks: Sharing Responsibilities*, https://safeguardingireland.org/wp-content/uploads/2022/05/6439-Safeguarding-Risks-Resp-Report-FA4_lowres.pdf

> The majority of Irish adults say that they have either never heard of (44%) or do not understand (16%) the assisted decision-making legislation.

- Promote education, training and public awareness regarding matters concerning adults at risk
- Provide information to adults at risk in respect of abuse and harm that they may be experiencing
- Supervise compliance with the duties imposed by or under the legislation
- Provide information and guidance to service providers, organisations and State bodies in relation to their interaction with adults at risk, including the carrying out of risk assessments and safety statements
- Determine if an adult needs support and assistance.
- The proposed legislation would also empower the Authority to make provision, where appropriate, for independent advocacy to an adult at risk who is the subject of an investigation.
- Progressing the matter in the short-term
- As an initial step to establishing a national adult safeguarding framework, there is a need to establish a high level Inter-Departmental/Interagency Working Group to work towards the establishment of a fully independent National Adult Safeguarding Authority.

Such a Working Group could progress the implementation of the Adult Safeguarding Bill 2024 and the Criminal Law (Adult Safeguarding) Bill 2024 (drafts of both are contained in the LRC report)

It is suggested that the following could be introduced as interim measures by the Department of Justice:

- Statutory obligation and permission for information sharing between agencies both public and private when there is a safeguarding concern
- A broadening of the offence of coercive control to apply to all persons beyond intimate partner relationships.

ADMCA awareness training for those supporting people with reduced decision-making capacity

The research on which this Issues Paper is based indicated that there is some concern among independent advocacy and disability service organisations about the level of control which may be exercised by family members over people's finances in some instances, with particular reference to the Agency system for social welfare benefit payments.

An important contextual point here is the poor understanding of the public about the assisted decision-making legislation. A recent RED C Poll, carried out for Safeguarding Ireland, found that the majority of Irish adults say that they have either never heard of (44%) or do not understand (16%) the assisted decision-making legislation. Just 15% say they know what is required by the legislation. Almost half (46%) were not aware of the greater legal responsibilities it places on health services, financial service providers, utilities, and Government services to support the voice of all adults.

Since the Assisted Decision-Making (Capacity) Act came into effect in 2023, all people now have legal protections – particularly adults with communication or decision-making capacity challenges – to ensure that their important decisions about money, health and welfare are voiced and respected.

Since the ADMCA is particularly relevant for adults who live with an intellectual disability, an acquired brain injury, a mental health challenge, dementia, or age-related frailty, the poor level of public awareness is alarming. Shortfalls in the understanding of the legislation across the population inevitably have an impact on families and support services staff (public and voluntary) who play a critical role in the lives of these people.

The ADMCA legislation requires a radical re-think by all those caring for adults at risk. As a starting point, there is a clear need for a Government Public Awareness Programme. This is all the more important as it is evident that some Government Departments and many public bodies continue not to be fully aware of their obligations under both the UNCRPD and the ADMCA legislation and some still continue with practices which do not take account of current legal obligations and duties.

This includes the need for people to have a clear understanding that the legislation requires people to be supported to manage and control their money and assets to the greatest extent possible. This means that practices that do not have a legal basis should be discontinued. This presents challenges for families who may be fearful about 'letting go' and for disability services staff who would previously have supported people with managing their finances in a transparent manner but in a way that did not fully take into account the basic principle of presumption of capacity and the need for any support system to have a legal basis.

People may need more support during transitions.

Raising ADMCA awareness among the public will also help to raise awareness among families caring for adults at risk and disability services staff. This will be an ongoing challenge.

ADMCA awareness training and education for financial services and relevant State agencies

Financial institutions, because they have sight of people's financial transactions, are uniquely positioned to identify which of their customers might be at risk and to take appropriate action/s.

For example, they are well positioned to notice sub-optimal timing of inter-generational transfer of financial control which may be a result of some form of coercive control and may significantly impact subsequently on an individual's choices and related quality of life. It has been suggested that undiagnosed cognitive decline can result in financial instability in a household because of reduced decision-making capacity, mental health challenges or other factors. This is something which a financial service may be able to notice. Money management difficulties can prove a key lead indicator of a diagnosis of dementia.[105]

"Financial institutions serve on the frontlines in protecting their older customers' finances and can play a critical role in helping to identify, prevent, and report suspected elder financial exploitation. Financial institutions' vigilance matters. Their reporting matters."* *(FinCEN Acting Director Himamauli Das)

The nature and quality of education and training for financial services staff who can be reasonably expected to have a safeguarding role and a duty of care to their customers is of paramount importance. ADMCA awareness training should be part of every financial institution training and continuing professional development requirements.

An enhanced role for independent advocacy

Independent advocacy has a necessary and critical role to play in ensuring that adults at risk are protected and have their human and legal rights upheld. The Decision Support Service (DSS) has developed a Code of Practice for Independent Advocates.[106]

Independent advocacy is particularly important where people are at risk because of reduced decision-making capacity, place of residence or the non-availability of trustworthy relatives, friends or social networks. However, there is no current mechanism to compel, or even encourage, financial institutions to facilitate the involvement of an independent advocate.

105 C Muckley, Presentation to Adult Safeguarding Day Seminar 2024, https://safeguardingireland.org/wp-content/uploads/2024/11/C-Muckley-Adult-Safeguarding-Day-Seminar-final.pdf

106 https://decisionsupportservice.ie/sites/default/files/2023-04/9.%20COP_for_independent_advocates_0.pdf

There is a compelling argument that new legal provision for an independent advocacy service is essential to enable the State to comply better with the requirements of the UNCRPD and the Assisted Decision-Making (Capacity) Act.

There is a cogent argument that statutory provision for an independent advocacy service would greatly enhance the ability of people whose decision-making capacity may be in question or who are otherwise at risk, for example because of frailty associated with the ageing process, to manage and control their money and assets.

Legislative underpinning for the practice of independent advocacy in Ireland is required to provide an additional safeguarding mechanism for adults at risk of financial abuse and exploitation. The right of access to independent advocacy should be seen as a core component of adult safeguarding.

People who are the victims of different forms of financial abuse and/or who are being subjected to coercive control can benefit from the support of an independent advocate in order to ensure that they can deal with the abuse and receive appropriate protection.

While the provisions for supported decision-making included in the Assisted Decision-Making (Capacity) Act 2015 address many of the issues around supporting people with reduced decision-making capacity to make decisions about their money and assets, independent advocacy has a clear role in ensuring that people who have reduced decision-making capacity get the appropriate and least restrictive decision support under the ADMCA legislation.

Many people who are old and frail but have full decision-making ability are greatly assisted to exercise their capacity by being assisted by an independent advocate.

Money management difficulties can prove a key lead indicator of a diagnosis of dementia.

Addressing the digital divide

Despite significant progress in Ireland during the past decade in addressing the digital divide, there continue to be cohorts of people who, for various reasons remain digitally isolated. Danish research[107] has concluded that digital disengagement reinforces health and economic disadvantages.

A Citizens Information Board Social Policy Report[108] identified a number of areas that need to be addressed if equality of access to services is to be protected in the digital age.

Digital disengagement reinforces health and economic disadvantages.

Providing broad-based education to ensure that those who can benefit from digitisation are fully able to benefit.

This means education across all ages and societal groups – building in appropriate interventions in schools, universities and developing targeted interventions for older people.

Building trust in digital services

Citizens need to know how their personal data will be treated and how their money will be secure in a digital banking context.

Providing digital assistance to people who cannot access digital services directly

Provision of support to people to access on-line services through intermediaries such as Citizens Information Services.

Role of Citizens Information Services

While a focus has evolved in both public services and financial services on digital access as the default option and, while there is clear merit in this, it needs to be accompanied by an assisted or alternative route to the services for those who cannot or do not want to access them digitally.

While in many cases, the non-digital options will become less used over time as citizens become more educated and trust builds in the digital options, there will almost certainly continue to be a need for the provision of non-digital alternatives by financial services.

In the short to medium term, it is clear that Citizens' information Services (CISs) with their nationwide network of services can play a pivotal role as trustworthy intermediaries in enabling people to bridge the digital divide.

107 Siren A, Knudsen SG. "Older Adults and Emerging Digital Service Delivery: A Mixed Methods Study on Information and Communications Technology Use, Skills, and Attitudes". *J Aging Soc Policy. 2017* https://doi.org/10.1080/08959420.2016.1187036

108 Michelle Norris, Joanne Kelleher, Jack Bwalya (2022), *Digital Exclusion and E-government in Ireland,* Citizens Information Board, https://www.citizensinformationboard.ie/downloads/social_policy/social_policy_digital_exclusion_june2022.pdf

The DPER document referenced above emphasises how important it is for public services to be citizen-centred, inclusive and accessible. It suggests that design methods based on citizen-centred principles can bring vital new energy to public services by helping them to listen to citizens about their lived experiences.

Need for a stronger user-centric approach

Maximising people's ability to control and manage their finances and assets requires joined up thinking involving Government and financial regulators based on a citizen-centric approach to financial services delivery and regulation.

The Department of Public Expenditure and Reform (DPER) 2022 document, ***Designing our Public Services***,[109] identifies ten service design principles, which, if implemented, would lead to public services becoming more effective, accessible and simpler. This was followed in 2023 by the ***Better Public Services-Public Service Transformation Strategy***.[110]

The design principles identified in the document aspire to the design of citizen-centred services in a holistic, inclusive way, which includes a bottom-up approach.

The policy design principles, set out in the DPER document focused on a new way of working by public services to deliver human-centric solutions to complex social issues. These include:

- Designing services to meet the needs of people first, rather than the internal needs of the organisation
- Beginning with what the user is trying to achieve when accessing services, not what is already on offer
- Designing services to give users choice and allow them to feel in control
- Aligning processes in organisations and across the public services to create seamless services
- Working to understand people with diverse needs and designing with, not for them
- Working in multi-disciplinary project teams - designers, subject matter experts, analysts, ICT developers, policymakers
- Asking, at every level, "What does this mean for the service user?"

Citizens' information Services (CISs)... can play a pivotal role as trustworthy intermediaries in enabling people to bridge the digital divide.

109 https://www.ops.gov.ie/app/uploads/2022/10/Design-iPrinciples-for-government-in-Ireland-web.pdf

110 https://assets.gov.ie/static/documents/better-public-services-public-service-transformation-2030-strategy.pdf

- Taking responsibility for creating coalitions across agencies and departments to tackle complex issues
- Putting indicators in place to understand and quantify how well the solution meets the needs of the public
- Ensuring that services are easier to understand and engage with, so that users get the best outcomes
- Designing to remove redundant activities and behaviours
- Questioning assumptions and orthodoxies.

It is becoming increasingly recognised that financial services (as well as public services) can only become truly user-centred when the perceptions, concerns, experiences and expectations of all users are fully considered.

The analysis of the data provided in this research shows clearly that this is not seen as being always the case for some population cohorts – people with an intellectual disability, people who are not digitally literate, people whose decision-making capacity may in question, people with a physical/sensory disability and people who communicate differently.

Designing services to meet the needs of people first, rather than the internal needs of the organisation.

It is suggested that the adoption and implementation of these principles by all agencies directly or indirectly involved in people's financial affairs would significantly enhance the ability of people to control their financial affairs and would help to ensure that services are better designed to cope with people's current and changing needs. The integration of these principles with ADMCA principles would provide a robust framework for anticipating and addressing gaps in access to financial services and potential for financial abuse.

While there is a spectrum of levels of engagement by financial services, some people's multi-faceted and changing financial management support needs are not being well catered for. It is necessary to ensure that due cognisance is taken of the experience and perceptions of people whose voice may not heard for one reason or another.

There is an argument that this citizen-centred approach should inform the Department of Social Protection social welfare agency payment system and that much more emphasis should be placed on ensuring that the system is built around the specific support needs of individuals, with particular reference to those who require a decision-making support arrangement or already have one in place. It is noted that in the DSP Statement of Strategy 2025-2028,[111] Strategic Goal 1 is to p***ut the customer at the centre of policy and service delivery.*** Such an approach is important in relation to all DSP's engagement with people in respect of their pensions and benefits. It is also relevant to the role of the National Shared Services Office (NSSO) (responsible for paying public service pensions).

111 https://assets.gov.ie/static/documents/30f67424/20251013_-_Statement_of_Strategy_2025-2028_Final_Version.pdf

There is a need for some overarching framework within which all of the relevant actors can 'talk to each other'.

Inter-agency collaboration

There is a plethora of actors in the broad area of financial services delivery and regulation. On the delivery side, these include the main banks, An Post, credit unions. Fintech and ebanks,. Regulatory authorities include the Central Bank Competition and Consumer Protection Commission and the Data Protection Commission. Relevant actors in the public service domain are DSP, NSSO, and State Savings. In relation to supports for people with reduced decision-making capacity, there is a role for the Decision Support Service and the Courts.

Problems arising from a multiplicity of agencies can be exacerbated where there is a lack of awareness on the part of the public both about the right of individuals to control their money and assets to the greatest extent possible and about the provisions in the ADMCA legislation which enable a person with reduced decision-making capacity to do so.

The involvement of multiple actors at various levels can be said to represent a somewhat bewildering landscape when viewed from the bottom up. This landscape is likely to be particularly confusing for people with underdeveloped digital or literacy skills or reduced decision-making capacity. It can be argued that that this complex landscape results in adults who are already at risk being placed at additional risk.

There is a need for some overarching framework within which all of the relevant actors can 'talk to each other' in order to develop agreed and shared approaches within which the citizen as end-user is at the centre and where they can be facilitated to be in control of their money to the greatest extent possible, have their legal capacity acknowledged and their decision-making capacity maximised.

Pending the establishment of a National Safeguarding Authority which would provide an integrated framework for identifying and addressing current fragmentation, some mechanism should be put in place to explore areas where a shared understanding of what is required can be explored and mechanisms developed which would eliminate some of the dysfunctionality of the current system for the end-user.

Just over one-in-ten adults living in Ireland have personally experienced some form of financial abuse.

Need for national disaggregated data on financial abuse

We know that financial abuse is pervasive in Ireland and, indeed, is likely to be much wider than generally reported.

A Red C Poll[112], carried out for Safeguarding Ireland in 2024, found that:

- Just over one-in-ten adults living in Ireland have personally experienced some form of financial abuse
- One-in-five adults claim to know someone that has been at the receiving end of financial abuse
- Four out of every five individuals that have experienced financial abuse or know of someone that has, cited incidents where the abuser was known to them or the person affected
- Instances of financial fraud involving cash/change are the ones most commonly experienced.

Financial abuse is regularly reported to HSE Safeguarding Teams and is also a recurring issue in Sage Advocacy and NAS casework.

In order to capture the true nature of financial abuse in Ireland, there is a need to collect comprehensive disaggregated data at national level. Such data needs to be disaggregated by age, gender, ability/disability, geographical location, banking arrangements and arrangements for pension and disability payments.

There is a need for greater sharing of data with the Central Bank of Ireland, Competition and Consumer Protection Commission and Department of Social Protection.

Strenghtened data and sharing of it would provide a necessary vehicle for a meaningful consideration of the issues and for the formulation of an integrated policy response in an overall national adult safeguarding context.

112 https://safeguardingireland.org/wp-content/uploads/2024/11/754024-Safe-guarding-Ireland-NOV-24-FINAL.pdf

Overview and conclusion

There is a need for education across ages and societal groups, and targeted interventions to bring about the cultural and attitudinal changes required to give full effect to the ADMCA.

Financial services have a centrally important role in monitoring activity on accounts and identifying possible abuse.

The role of the assisted decision-making legislation in safeguarding adults at risk of financial abuse would be significantly complemented by adult safeguarding legislation and the establishment of a National Adult Safeguarding Authority.

The Department of Social Protection and the National Shared Services Office have an important role in preventing and addressing financial abuse particularly regarding the use of third-party agents,

There is crucial need for more joined-up thinking with an emphasis on the implications of a user-centric approach on how financial services and relevant State bodies are integrated and delivered.

> There is a need for some overarching framework within which all of the relevant actors can 'talk to each other'.

/ Section Nine

Agenda of Issues Requiring Attention and Agencies Responsible

There are a number of human rights considerations which have significant implications for how people are enabled and supported to manage and stay in control of their money, benefits and assets. These are outlined and discussed in this opening section of the Issues Paper.

> There continue to be risky workarounds such as the sharing of passwords... or arrangements which cede total control of money... with no review or oversight.

This Issues Paper has highlighted multiple and multi-faceted issues relating to both people's right to control their money and assets to the greatest extent possible and their right to be provided with the appropriate supports to do so.

Even though the ADMCA is now in operation since April 2023, there remain gaps in its application across the board – by financial services, by State agencies, by families of people with reduced decision-making capacity and, in some instances, by disability services. There continue to be risky workarounds such as the sharing of passwords or credentials, inappropriate joint-banking arrangements, or arrangements which cede total control of money, benefits or assets to a third party with no review or oversight mechanism and little or no accountability.

The principles of the ADMCA legislation are frequently not being applied. This is the case particularly in relation to presumption of capacity, the right of everyone to be supported to control and manage their money and assets to the greatest extent possible and, related to the latter, their right to be provided with the least restrictive form of decision-making support.

In many instances, there continue to be practices that are clearly not in keeping with either the principles or the legal requirements of the ADMCA legislation.

There are multiple stakeholders who have a responsibility to enable people with reduced decision-making capacity to have equality of access to banking services and in that context to have their money and assets fully protected. These include financial institutions generally (Banks, An Post, Credit Unions, pensions and insurance providers), service providers for older persons and people with a disability, State agencies with responsibility for social welfare and pensions payments and for managing people's savings, representative and advocacy groups for adults at risk and An Garda Síochána.

Legislation has a central role to play in ensuring that there are appropriate regulatory frameworks in place for safeguarding adults at risk. While there is a clear need for adult safeguarding legislation generally and in the context of protecting adults at risk from financial abuse, regulation on its own will not be sufficient. Also required is a major cultural and attitudinal change throughout Irish society which:

a) Acknowledges everyone's legal capacity and their right to own money and assets irrespective of their decision-making capacity.

b) Recognises a legal obligation to apply the principles of the ADMCA legislation relating to presumption of capacity and a person's legal right to be provided with the least restrictive form of decision-making support.

c) Shows zero tolerance for any 'workarounds' that do not have a clear legal basis.

d) Recognises financial abuse in any of its multiple manifestations, including:

a. The use of joint accounts where the actual account ownership is blurred.

b. Inter-generational transfer of assets associated with coercive control being exercised over an adult at risk.

There is also a need for financial services to develop more user-friendly financial products to meet the needs of people who have decision-making capacity but cannot access banking services because of underdeveloped digital literacy or financial literacy skills or because of mobility difficulties. Targeted provisions to address this need would help to significantly reduce opportunities for financial abuse by reducing the need for third-party arrangements.

There is a need for robust information sharing between the DSS, the Department of Social Protection and financial services about the ADMCA generally and about the role of the three decision-making support options available under the legislation and the legal requirement to give these provisions due consideration in any engagement about their finances and assets with adults at risk.

There is a need for all organisations to appropriately share information to address financial abuse. The Law Reform Commission recommends ***that both a statutory obligation and a statutory permission should be in primary legislation to specifically provide for information sharing between relevant bodies whose functions relate, in whole or in part, to safeguarding the health, safety or welfare of at-risk adults.***

While CPC 2025 is important in that it emphasises the need for financial services to meet the needs of customers in vulnerable circumstances, there are aspects of the Code that may not be sufficiently robust. In particular, the focus on the role of a Trusted Contact Person in the Code does not reflect the fact that many adults at risk may not have a trustworthy person in their lives. Also, the Code does not include any requirement for financial services to engage with independent advocates where there is a question about either a person's decision-making capacity or where there is actual or suspected financial abuse.

Much of the potential for the financial abuse of adults at risk, especially in subtle forms, is rooted in a culture that accepts and condones certain attitudes, practices and behaviours that deprive people of their basic right to control over their own money and assets. Challenging and changing this culture across society is an integral part of adult safeguarding.

Both a statutory obligation and a statutory permission should be in primary legislation to specifically provide for information sharing.

Table 9.1 provides a summary of the issues that have been identified in the previous sections of the Issues Paper and sets out some proposals for addressing these issues and identifies the agencies responsible for implementing each of the proposals. The agencies identified as responsible include financial services, regulatory authorities, statutory agencies involved in paying benefits and pensions, Government departments and NGOs providing services to older persons and people with disabilities.

The Table shows the large number of agencies involved which points to the fact that developing a system that protects the right of adults at risk to control their money and assets to the greatest extent possible requires the proactive and collaborative involvement of multiple actors. This presents multi-faceted challenges and requires clear leadership. The application of the principle of a citizen-centric approach as promulgated by Government is critical if adults at risk are to be fully empowered and supported to control their money and assets and to be safeguarded from financial abuse.

The focus on a Trusted Contact Person… does not reflect the fact that many adults at risk may not have a trustworthy person in their lives.

Table 9.1: Agenda of issues to be addressed and proposals for action

	Issue	Change Context	Action/s Required	Agencies Responsible
1	**Poor public awareness of obligations under the ADMCA and the UNCRPD**	Need for the general public, public agencies and financial services to be more attuned to obligations under the legislation.	A Government-led public information campaign.	An integrated whole of Government approach, including the Department of Public Expenditure and Reform.[113]
2	**Poor public understanding of the basic right of adults at risk to control their own money and assets**	Need for public attitudinal and cultural shift in respect of people's basic right to be in control of their money and assets and their right to legal capacity.	A strong and proactive public awareness and information campaign.	Central Bank Decision Support Service Department of Social Protection Competition and Consumer Protection Commission.
3	**Need to increase the awareness of legal requirements under the ADMCA**	Financial services and State agencies understanding and becoming fully attuned to their obligations under the UNCRPD and the ADMCA.	More and targeted educational programmes with a focus on legal obligations.	Banking & Payments Federation Ireland Central Bank Department of Social Protection National Shared Services Office Irish League of Credit Unions An Post.
4	**The principles of the ADMCA legislation not being implemented as required**	ADMCA principles embedded in policy and practice of financial services as distinct from being an 'add-on'.	Embedding the principles of the ADMCA legislation in the practice of financial services and State agencies.	Banking & Payments Federation Ireland Central Bank Department of Social Protection National Shared Services Office Irish League of Credit Unions An Post.

113 See *Better Public Services-Public Service Transformation Strategy, https://assets.gov.ie/static/documents/better-public-services-public-service-transformation-2030-strategy.pdf*

	Issue	Change Context	Action/s Required	Agencies Responsible
5	Poor awareness of ADMCA legislative requirements relating to presumption of capacity and least restrictive decision support option	Informed understanding by stakeholders of the underlying principles of the ADMCA legislation and what is required to implement these.	Training and education for financial services staff, intellectual disability service providers, health and social care staff, relatives of people with reduced decision-making capacity.	Banking & Payments Federation Ireland Irish League of Credit Unions Central Bank Department of Social Protection Competition and Consumer Protection Commission An Post.
6	Inappropriate use of DMROs	The use of a Decision-Making Representative Order (the most restrictive intervention) should always be avoided where a less restrictive option would be adequate.	Development of a fully informed understanding of how the three decision-making supports provided in the ADMCA should be used.	Banking & Payments Federation Ireland Irish League of Credit Unions Central Bank Department of Social Protection Decision Support Service An Post Department of Justice.
7	Absence of National Adult Safeguarding Legislative Framework	The Law Reform Commission (LRC) has set out a comprehensive framework to improve adult safeguarding and includes draft legislative proposals for consideration by Government.	The LRC legislative proposals should be progressed with some urgency.	Department of Justice.
8	Financial abuse and coercive control	The pervasiveness of financial abuse of adults at risk in the context of various forms of coercive control needs to be more fully acknowledged and addressed.	The offence of coercive control should be broadened to apply to all persons beyond intimate partner relationships.	Department of Justice.

	Issue	Change Context	Action/s Required	Agencies Responsible
9	**Adult safeguarding is not well understood or implemented in the context of people's money and assets**	A stronger focus on positive adult safeguarding should be an overarching consideration in all engagements with adults at risk about their money and assets.	The introduction of adult safeguarding legislation as proposed by the Law Reform Commission should be progressed with some urgency.	Department of Justice.
10	**Inadequate provision for information sharing between agencies.**	Information sharing between agencies (both public and private) is critically important where there is any safeguarding concern.	There should be a statutory obligation and permission for information sharing between statutory agencies and financial services where a safeguarding concern arises.	Department of Justice HSE Department of Social Protection Data Protection Commission.
11	**Absence of legislative provision for the practice of independent advocacy**	Independent advocacy can play a critical role in the ensuring that adults at risk are enabled to control their assets – but there is no provision in Irish law for independent advocacy practice.	Legislative provision in Ireland for independent advocacy practice is required as a matter of some urgency with related integrated state funding.	Department of Justice Department of Health.
12	**Lack of disaggregated data on financial abuse**	To address the issue of pervasive financial abuse in Irish society, there is a need for disaggregated data on the true nature and extent of financial abuse	National research should be undertaken to collect data on financial abuse, disaggregated by age, ability/disability, household composition, income and geographical location.	Central Statistics Office Economic and Social Research Institute Central Bank.
13	**Implementation of DSS Code of Practice for Financial Service Providers**	It is not at all clear how well the DSS Codes of Practice for Financial Service Providers being adhered to in practice.	The Decision Support Service should put in place a mechanism to capture actual practice under the Code.	Decision Support Service.

	Issue	Change Context	Action/s Required	Agencies Responsible
14	Digital literacy	Some people are excluded from equality of access to banking services because of deficits in their digital literacy skills.	User-friendly financial products should be developed to meet the needs of people who have decision-making-making capacity but cannot access banking services because of underdeveloped digital literacy skills or mobility issues.	Central Bank Department of Finance Banking & Payments Federation Ireland Retail financial services (including pillar banks, ebanks and Fintech).
15	Agency Arrangements for social welfare payments	A more robust system for oversight of agency arrangements for social welfare payments would significantly help to reduce financial abuse.	A strong and fully transparent oversight mechanism for social welfare payment agency arrangements needs to be established.	Department of Social Protection An Post.
16	Public service pensions	Stronger oversight mechanisms for the payment of public service pensions and for ensuring that people can benefit from money held by State Savings would enhance the safeguarding of people's money.	New oversight mechanisms need to be put in place by the National Shared Services Office.	National Shared Services Office Department of Public Expenditure and Reform.
17	State Savings	Many older people have money invested in State Savings accounts and this money needs to be fully protected in the event that people lose decision-making capacity.	There is a need for more monitoring of State Savings accounts on which there has been no activity by the owner for a period of time.	An Post National Treasury Management Agency Department of Finance.
18	Need for a collaborative ADMCA implementation mechanism	A national forum of key agencies (including financial institutions) to address interorganisational and operational issues arising from the ADMCA would help bring about the transformative practice required across all agencies.	A National ADMCA Stakeholders' Forum should be established with an independent chair.	Department of Children, Disability and Equality Department of Justice The Law Society, Bar Council, Courts Service & Judiciary.

/ Notes

HSE Safeguarding and Protection Teams

There are nine Safeguarding and Protection Teams covering each HSE region throughout the country which can be contacted where there are concerns about financial (or other) abuse. Concerns of financial abuse can be reported via the HSE's online portal reporting system and / or the local Teams can be contacted directly by phone or email.

Online portal for reporting concerns of adult abuse:

https://adultsafeguardingportal.hse.ie/web/portal/pages/home

Phone and email details for the nine regional Teams (scroll down the page to view the contacts):

https://www2.hse.ie/complaints-feedback/report-a-concern-about-a-vulnerable-adult/

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