

Safeguarding
I R E L A N D



Staying in Control

A Guide to Staying in Control of
Your Money, Benefits and Assets

safeguardingireland.org



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/ Foreword

Safeguarding Ireland is delighted to present this comprehensive guide on financial safeguarding, titled *Staying in Control of your Money, Benefits and Assets*.

The Guide is a significant resource which goes into detail on all aspects of financial safeguarding including managing money, support arrangements for people 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.

In many areas of financial safeguarding similar principles apply and each section of the Guide can be read as standalone best principles relevant to the specific content of that chapter.

The document also contains a section of 11 different personas. These are created scenarios to thematically reflect circumstances when challenges with financial safeguarding arise, and advice is provided on how to best navigate them. Scenarios covered include people who are older and may be less independent, have an acquired brain injury or are living with a disability.

At the end of the Guide there is a comprehensive listing of organisations to contact for support and services, with phone numbers and links included.

The Guide is part of a suite of three documents. It is accompanied by a Plain English Summary and also an Issues Paper which sets out recommendations on policy developments to strengthen financial safeguarding.

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

This body of work links back to earlier work on financial safeguarding carried out by the Centre for the Protection of Older People (NCPOP) at UCD, and particularly the 2014 report *Keep Control, Safeguarding Your Finances in Later life*.

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 give my gratitude to Dr. Michael Browne (Lead Researcher) and Gearóid Mac Eochaidh Coauthors of the Guide, and also Safeguarding Ireland Programme Manager Annmarie O'Connor, who led the project.

I hope this Guide is helpful to many. Safeguarding Ireland sees this work as a beginning rather than an end, as we have herein a mapping of comprehensive information which can over time be updated to maintain its value and usefulness.

Patricia Rickard-Clarke
 Chair, Safeguarding Ireland.

May 2026.

Summary of key messages contained in Guide

The Guide aims to provide useful and practical information, advice and guidance on how people in different life situations can stay in control of their finances and assets. In addition, the Guide identifies the following key messages that should be of value to people in knowing and exercising their financial rights and in taking appropriate actions whatever their circumstances and life situation are.



Keep control of your money and decisions.



Get help that supports you, not replaces your choices.



Put simple arrangements in place early.



Talk to someone you trust, and get advice.

Your right to control your money and assets

- ✓ Any money or assets that you own is yours and yours only to manage. There are now strong legal provisions and supports in place to enable you to do this to the greatest extent possible.
- ✓ If you have decision-making capacity, another person can only be given full control of your money where you decide or where this is provided for legally.
- ✓ Where you lack decision-making capacity, another person can only be given control of your money and assets by means of a formal court decision and when no other form of support is deemed sufficient to enable you to manage your money and assets.
- ✓ Notwithstanding public perceptions to the contrary, the reality is that your nominated next-of-kin has absolutely no right to make any decisions for you about your financial affairs – their role simply refers to the person to be contacted in an emergency.

Your right to have your money used only for your needs

- ✓ Where an agent is appointed by the Department of Social Protection to receive social welfare payments on your behalf, all of this money is yours and should only be used by the agent to meet your daily living expenses for food, personal care, social inclusion activities, or other expenditures of your own choice.
- ✓ If you live in a residential care facility, a portion of your social welfare income can legally be used to cover some of the charges, but you must be left with sufficient income to cover personal daily living costs and adequate social activities at a level compatible with recognised minimum living standards.

Keeping your money and assets safe

- ✓ Keeping your money and assets safe can be a particular challenge when your circumstances change, for example, if you become ill, experience loss of mobility, experience reduced decision-making capacity or serious illness or the death of a significant person in your life.
- ✓ You have a right to keep your financial business private – however, you may wish to share certain information with a trustworthy person to help you manage.
- ✓ You should, therefore, be aware of the various supports and information resources that are available, in particular:
 - Citizen Information Services available nationwide (general information on services, benefits and support is available and on your legal rights)
 - Money Advice and Budgeting Services (MABS) (information and advice on budgeting, dealing with debt and help with dealing with financial services and utility companies)
 - Your bank or credit union (support with managing your finances and carrying out transactions should you require additional help)
 - An independent advocacy organisation (support with asserting your own will and preferences about your financial affairs and assets)
 - HSE Safeguarding and Protection Teams, available nationwide (for support if you have experienced financial abuse)
 - Gardai (if you think that a criminal offence may have been committed (your money or assets stolen or misappropriated)).
- ✓ You should never make financial transactions under pressure -- if someone else insists that you keep any money or assets transaction to them secret, this should 'sound alarm bells.'
- ✓ If you feel that you could benefit from gaining a better understanding about managing finances, there are courses available – information on such courses is available from MABS, Citizens Information Services, the Competition and Consumer Protection Commission and the National Adult Literacy Agency (NALA).

Planning ahead

- ✓ You should have one central location where you have documented your financial affairs – account numbers (but not passwords or credentials) and have this information in a safe location capable of being accessed if you become ill, lack decision-making capacity or if you die. This should include information relating to accounts (current and savings) and investments.
- ✓ You should consider creating an Enduring Power of Attorney that nominates another person to manage your affairs should you at some stage in the future lack decision-making capacity.

Acknowledging that people's circumstances and needs change over time

- ✓ It is important to keep up to date with new ways of managing money, including apps and new financial products.
- ✓ Since your circumstances and priorities can change over time, you should review how you are managing your money once a year – you may have reduced income from work and/or you may have a new entitlement to financial support from the State.
- ✓ You might want to switch banks for easier access, or you may wish to explore online banking in order to make managing your money easier.
- ✓ You may wish to look again at who you regard as a trustworthy person in the context of your changed financial situation – just because you trusted someone in the past does not mean that they are the right person to trust with every financial decision you make now and into the future.
- ✓ Your capacity to make decisions may change over time and if you have a support system in place under the assisted decision-making legislation, it may need to change because of a need for additional support, or you may want to change your named supporter/s. More detail about the assisted decision-making legislation can be found at page 67 of the Guide.

Support from financial services

- ✓ Financial services have provision for special support for people who require additional assistance with banking for any reason. These may be dedicated units within the service or dedicated support staff. If you need help, you should ask your bank about such supports.
- ✓ Most financial services have provision for Third Party Authority – this allows a trustworthy person, like a family member or financial adviser, to access and manage your bank accounts with your permission, either for a specific period or indefinitely. This authority typically covers activities like paying bills or transferring money. You should ask your bank about this facility.

Getting help

- ✓ Consider letting a trustworthy person know of your intentions if you are thinking of making a new and significant financial transaction.
- ✓ You should get independent legal and financial advice about significant financial transactions and get answers to any questions you have.
- ✓ You should know that there is now provision in Irish legislation for people who lack decision-making capacity (for example, because of an intellectual disability or dementia) to be provided with appropriate supports to manage their finances and assets to the greatest extent possible. The legislation requires that other people can only make financial decisions for a person as an option of last resort.
- ✓ Many financial services – the three main pillar banks, several credit unions and An Post as well as the Department of Social Protection now have a facility for the JAM (Just a Minute) Card which supports people with an invisible disability or a communication barrier to let others know that they need extra time and patience. JAM cards are available as a physical card or as a digital App. You should avail of this facility if you need to.

Online banking

- ✓ There are many advantages to online banking – 24-hour access, reduced need for branch visits and provision for most banking tasks to be completed online, saving time and effort. While some people may be reluctant to or unable for various reasons to do online banking, there is a strong case for everyone to explore this option.

Making a complaint and seeking redress

- ✓ The right to complain or seek redress is available to everyone who believes that they have not been treated fairly by a financial institution. You should be able to feel that you can make a complaint directly to whoever provides you with your banking service or to an independent body if you are not satisfied with the response. Details of how and where to make a complaint are included in section five of the guide.

Privacy

- ✓ You have a right to keep your financial business private – however, you may at times wish to share certain information with a trustworthy person.

/ Section One

How to use this Guide

The first part of the Guide will give you a better understanding of what rights people have, how these rights are protected by the law, and how these rights can and should be protected.

This Guide is set out in five parts

1. A person's right to manage and control their money and assets (Sections One and Two).

The first part of the Guide (Sections One and Two) describes and explains why it is important that everyone should have the right to manage and control their own finances and assets. While this might seem like an obvious fact, it is unfortunately the case that the rights of many people are overlooked, dismissed, or undermined. This is especially true for people who find themselves at risk for whatever reason/s. This includes some older people, people with disabilities, people who live in residential care settings and people who are experiencing the trauma of bereavement or other substantial upsets to their lives.

There continues to be an assumption in society that certain groups of people cannot look after their own financial affairs and assets, even with support and assistance. This automatic assumption creates a situation in which some people are deprived of their rights.

The first part of the Guide will give you a better understanding of what rights people have, how these rights are protected by the law, and how these rights can and should be protected.

Whether you are already familiar or not with the information in these first sections, it is well worthwhile to read over and consider the material presented here.

2. You as a customer of financial institutions (Sections Three, Four and Five)

The second part of the Guide (Sections Three, Four and Five) provides an outline of what you should expect from your financial institutions, whether they are banks, credit unions, An Post, or others.

This part explains how financial institutions are regulated in Ireland, the standards they should achieve in dealing with their customers, the features of the various services that they provide and some of the issues and challenges that a customer might face in their interactions with a financial institution.

An outline is given of the various threats that a customer may face, especially in terms of financial abuse and exploitation, and discusses the steps you can take to reduce the risk to your finances. Special attention is given to the threats that can be faced by customers who are in vulnerable or at-risk circumstances, and to the level of support and service that such customers should expect from a financial institution.

Finally, this part describes how customers of financial institutions can make a complaint about how they are dealt with by their financial institutions or by a payments provider.

This part of the Guide will be useful in providing you with a clear picture of how banks and other financial institutions should conduct themselves in their dealings with their customers. It also signposts issues and challenges that are especially important for customers who are at-risk and who may need extra support to carry out their financial business.

“Financial independence exists on a spectrum, not as an on-or-off state.”

“Support should help a person decide, not decide for them.”

3. Specific topics and issues

The third part of the Guide (Section Six) deals with eleven matters that have been identified as requiring special attention and discussion. These matters have been frequently flagged as being likely to involve serious misunderstandings, challenges and difficulties for people, especially those who find themselves in vulnerable situations or circumstances. Some of the issues discussed and elaborated on are likely to be unfamiliar and new to many people, particularly matters connected with the assisted decision-making legislation.

If you have an interest, for whatever reason, in a particular topic or issue, you can find good information and guidance in this section of the Guide.

Several of the issues that are covered in the Guide can overlap with each other in real life, so it may be useful to have a look at several or all of the topics that are dealt with.

This Guide has been compiled not only with a view to assisting people who are experiencing a particular problem, it also serves the purpose of encouraging and informing people to look ahead and to plan for their financial future.

This section contains much information that can help you prepare for the management of your financial and property affairs into the future.

4. Real life-based scenarios

The fourth part of the Guide (Section Seven) presents eleven scenarios that describe fictitious persona and situations that are based on real-life case studies. They describe the challenges that different people could face in managing their finances, dealing with financial institutions or payments providers, and maintaining control over their money, benefits and assets to the greatest extent possible.

Each of the personas/scenarios, describes the particular circumstances of the individual, the challenges and choices facing them, and the steps that they could take in order to best meet their needs and wishes.

You may find it interesting to read all of the scenarios, or – if you can identify one or more scenarios that come close to describing your own area of interest and concern – then you can go directly to that scenario.

Having read the appropriate scenario, you might find it useful to revisit some of the issues discussed previously in this Guide.

5. Information and resources

The various sections of this Guide have described and discussed many aspects of how you can stay in control of your money, benefits and assets, as well as outlining your rights in protecting yourself and your possessions.

This final part of the Guide (Section Eight) provides a listing of the information and resources that are made available by a wide range of organisations, and which offer further elaboration or different perspectives on the topics that have been dealt with in the Guide.

Section Eight of the Guide is presented in two parts; the first gives a listing of organisations, firms, and institutions – voluntary, government and commercial – along with an outline of the information, support and resources that they offer; the second part is arranged by topic and points you to where information, support and resources can be found that are relevant to a particular issue or topic.

Information goes out of date; business practices change; new products and services are made available; technology develops; and consumers must keep themselves informed.

Section Eight of the Guide should be useful, in allowing you to dig deeper into any topic that is of interest to you as well as allowing you to check on the current accuracy of the information that is available.

Decision-making capacity is presumed for all adults unless a functional assessment shows otherwise.



Section Two

Introduction to the Guide

"Disability, illness or frailty should never automatically mean losing control of your own money."

Purpose of Guide

The Guide aims to provide a single source of information on what people should do to enable them to safely manage and stay in control to the greatest extent possible of their money, benefits and assets. The Guide also outlines what people with different financial support needs should expect from financial services and from services provided by the State where there is an element of personal income or assets involved.

The Guide is based on the strong belief that disability, illness, frailty or reduced decision-making capacity should not be regarded automatically as impediments to people retaining control of their own financial and property affairs.

The Guide is important and necessary because of the current social acceptance of a range of practices that effectively remove control of their financial affairs from people which are inappropriate. These include the fact that third-party support for individuals is frequently based on what can be termed 'risky workarounds' such as:

- Sharing banking PIN numbers
- Inappropriate joint banking arrangements
- Arrangements which handover control of money to another person without legal basis, or without oversight or accountability.

At the core of the Guide are the principles underpinning the Assisted Decision-making (Capacity) Act 2015. These are:

- ✓ Everyone is to be presumed to have decision-making capacity unless the contrary has been demonstrated by a formal capacity assessment conducted by people legally entitled to do so
- ✓ All practical steps to be taken to support a person to make decisions autonomously, including the provision of support at an appropriate level
- ✓ The fact that others may not agree with a person's decision or may regard it as unwise does not mean that the person lacks capacity to make their own decision
- ✓ A support intervention where required to be the least restrictive possible for the individual
- ✓ All external interventions to be based on a person's will and preferences as far as these can be ascertained.

The Guide also takes into consideration a number of underlying principles proposed by the Law Reform Commission for the introduction of adult safeguarding legislation in Ireland which are very 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, even if they need support in doing so.

“People may make decisions others see as unwise – and still retain capacity.”

The Guide takes full cognisance of the principle that an individual's money and assets are theirs to be used by them for their benefit and as they choose in accordance with basic principles of ownership and justice. At the core of the Guide is a person's individual right to manage their finances and assets to the greatest extent possible.

The Guide also informs people about how to avoid being coerced by others into doing something with their money, benefits or assets that they do not wish to do.

The Guide seeks to draw attention to various situations where a person needs to act proactively to ensure that they do not leave themselves exposed to being exploited by others. It also provides information on what a person should reasonably expect from financial services if they require support from others to manage their finances.

The Guide uses the concept of 'personas' (a fictional, yet realistic, description of a typical life situation where a person may face challenges in managing and controlling their finances and assets), to illustrate the options available based on the application of the principle of a person's right to manage and control their finances and assets to the greatest extent possible and their right to be fully supported in doing so. Very importantly, each 'persona' focuses on what people need to do in their current circumstances and how they should plan for future eventualities.

It is acknowledged that terms such as 'vulnerable' and 'at risk' present difficulties for various reasons, not least because risk may have as much to do with people's living circumstances and environment as with their ability/disability, decision-making capacity, or coping skills. Also, there is a wide spectrum of risk, and some people may be more vulnerable because of their high level of risk-taking, or because they feel that they have no choice other than to rely on risky or informal arrangements.

Arriving at a definitive Guide for persons at risk is challenging because of the need to cater for the needs of people in very different circumstances and with different levels of capacity to manage their finances. These include mainly:

- ✓ Frail older people living at home
- ✓ Nursing home residents
- ✓ People with reduced decision-making capacity because of dementia or an intellectual disability
- ✓ People who communicate differently because of, for example, a sensory disability or an acquired brain injury
- ✓ People with disabilities in residential care facilities or living in the community (either in their own homes or with relatives).

The Guide aims to promote openness, accountability and consistency in enabling adults at risk to manage their finances to the greatest extent possible and to have access to financial services on an equal basis with others.

It sets out clearly and comprehensively how people should deal with financial matters and where they can seek help and support where this is required.

Why the Guide is important

This Guide is timely and important for various reasons.

The National Financial Literacy Strategy Action Plan (published by the Department of Finance in 2025) includes provision for the preparation by Safeguarding Ireland of a user-friendly guide on the options for a person to stay in control of their money, benefits, and assets. This Guide aims to do this.

The Central Bank Consumer Protection Code came into effect on 24 March 2026. This Code recognises that consumers in vulnerable circumstances may require additional protection and support when engaging with financial services and states that financial services should consider their actions and decisions in the context of their obligation to meet the needs of all customers, including those deemed to be at risk. The Code refers to the particular importance of financial services ensuring that the needs of all customers are catered for in the move to digital delivery, especially those who require additional assistance and support to manage and stay in control of their finances in an ever-increasing digital age. Such assistance should include specific communications supports.

The Central Bank Consumer Protection Code sets out what people should be able to expect when they engage with financial services and this Guide sets out what expectations people should have in their daily encounters with financial services. The provisions of the Central Bank's Consumer Code are now contained in regulation with key underlying legislative and human rights-based principles which apply to all financial services in scope. This will be particularly important for people whose decision-making capacity may be in question.

The Guide is also important to help both adults at risk and people who support them in various ways to prevent the type of financial abuse and exploitation prevalent in society and to deal purposefully with it where it does occur. Since financial abuse can have serious impacts on people both financially and emotionally, it is particularly important to draw attention to this matter because there may be a lack of clear understanding among some members of the public about what constitutes financial abuse and a lack of knowledge of what to do when a person becomes aware of or suspects financial abuse.

The Guide considers the fact that people can be at risk of financial abuse because of various (sometimes inter-related) factors:

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



“Trust alone is not a safeguard against financial abuse.”

- Frailty 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 person's disability payment is regarded 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
- Subtle coercive control over a person's finances or assets by a someone who has 'befriended' them.

The Guide also takes into account the fact that the risk factors for financial abuse are well known and it, therefore, sets out various preventative measures that people can take, for example, creating a Power of Attorney, planning ahead, availing of the decision-making supports legally available and engaging with an independent advocate.

Who the Guide is for

The Guide provides information about financial and assets management generally. It focuses specifically on adults who may be at risk of financial abuse for one reason or another. It is expected that the Guide will also be useful for:

- Organisations
- Professionals
- Family members
- Decision supporters
- Independent advocates.

It should be of use in any context where a person wants to make informed choices about their money, benefits and assets, and wishes to ensure that they have adequate and equitable access to financial services that allow them to control their financial affairs to the greatest degree possible.

The information in the Guide is targeted specifically at people who may be at risk and who may require additional supports from financial services or from their payments providers to manage their money in accordance with their own will and preferences and to do so autonomously to the greatest extent possible.

“Financial control can be lost gradually over time and not just as a result of a once-off event.”

The Guide is also relevant to the Department of Social Protection in respect of ensuring that agents for social welfare payments act properly in terms of who owns the social welfare payment (the recipient) and that they hand over all monies to the rightful person in a transparent and accountable manner.

Equally, there are learnings for other State bodies that are responsible for providing payments to adults who may be at risk.

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

The starting point for the Guide is that disability, illness, and 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 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 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 still not afforded due recognition of their human and legal rights, 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.

The UN Convention on the Rights of Persons with Disabilities (which Ireland ratified in 2007) states 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 (Section 5 Article 12).

The importance of assisted decision-making legislation

The matter of the management of their personal finances and assets by adults at risk is intrinsically linked to decision-making capacity. There is a common law assumption, now given statutory effect in the ADMCA legislation 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 greatly assists in safeguarding the finances of those individuals whose capacity to manage their own finances is in question. People who come under the remit of the assisted decision-making legislation are protected by the courts.

The assisted decision-making legislation requires that financial services do the following:

- 1) Make all reasonable efforts to support a person's financial decision-making by facilitating them to understand what is involved and provide them with whatever support is necessary to enable them to maximise their participation in decisions about their finances
- 2) Engage with customers based on a presumption of decision-making capacity unless an individual has been properly and appropriately assessed as not having capacity and
- 3) Advise customers that they can avail of the provisions of the assisted decision-making legislation to get whatever support they require to manage their finances.

The core of the assisted decision-making legislation is supported decision-making and ascertaining and giving effect to a person's will and preferences in all matters affecting them. A person 'shall not be considered as unable to make a decision in respect of the matter concerned unless all practicable steps have been taken, without success, to help him or her to do so' (Guiding principle 8(2)). 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.

“Good safeguarding balances protection with respect for autonomy.”

Supporting a person's decision-making includes providing relevant information and ensuring that all available options 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 engaging an independent advocate.

The next section of the Guide will outline what a person should expect from financial institutions.

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



Section Three

What you should expect from your financial services

“Capacity is decision-specific, not a permanent label.”

Financial institutions – banks, credit unions, An Post – deliver a wide range of services, products and benefits to us as consumers. Many of these services are critical to our day-to-day lives and in securing our financial futures. They allow us to buy and sell, pay our bills, plan our finances, receive benefits and income, and be confident that our money and financial assets are held and managed safely and securely.

We have 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 largely being replaced by electronic transfers; the use of bricks-and-mortar bank branches is being replaced largely by online banking apps and services.

As consumers we expect that our financial institutions should be trustworthy, well-managed and well-regulated, and that they should provide us with a good standard of service. We expect that they will handle our financial affairs with care and diligence, and that they will deal with us – their customers – with respect and professionalism. We should also expect that they will protect our money should we become less able to do so ourselves because of reduced decision-making capacity or other factors such as frailty associated with the ageing process, and/or having to rely on others to carry out our financial transactions.

Regulation of financial institutions

In Ireland, the Central Bank regulates financial service providers and works closely with other regulators such as the Competition and Consumer Protection Commission. Some financial services and firms are overseen by other authorities such as the Competition and Consumer Protection Commission. The Financial Services and Pensions Ombudsman also has a role in ensuring that our rights and protections as consumers are protected and upheld.

In addition to overseeing and supervising the operation of financial institutions, the Central Bank and other authorities set out standards of business behaviour that financial institutions must abide by when dealing with their existing, potential and former customers. These codes of practice exist in order to ensure that consumers are treated fairly and properly. The Consumer Protection Code 2025, in effect since March 2026, incorporates the extensive protections contained in the earlier 2012 code along with many new and enhanced protections. It includes a particular emphasis on digitalisation, informing effectively, mortgages and switching, unregulated activities, financial abuse and consumers in vulnerable circumstances.

The Code sets out to ensure that firms act to secure their customers' interests. As a cornerstone of Central Bank of Ireland's consumer protection framework, 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.

“The will and preferences of the person must guide all financial decisions.”

It is clear, however, 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, ultimately, 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 consumers who may require assistance are supported by financial services firms and other businesses.

Securing customers' interests does not necessarily mean that individual customers will always be protected from poor outcomes. It 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.

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 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 and
- Ensure their communication and engagement with customers empowers them to make the decisions they want to and to act autonomously.

Protection from abuse

The Code recognises that some consumers can be at higher 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 services are required to control and manage their operation 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.

What you can expect in practice

Opening a bank, credit union, or An Post account

You can expect to be asked to provide proof of identity – normally a Passport or Driving Licence (photographic identity), as well as proof of your address – usually a utility bill of some kind. If you are opening an account online and/or digitally, then you will be asked to upload the proof of identity to the firm's website.

If you do not hold either a Driving Licence or Passport, then you will need to arrange directly with the financial service involved for the provision of some other form of acceptable identity. Most financial services are likely to want to work with the identification documents that you do have. This may result in it taking a little longer to open the account than if you have one of the two main forms of ID.

Getting an alternative ID accepted may be more difficult to arrange if you are setting up a digital account with a firm that does not have branch offices. (Read more about e-banking in Section Six).

Financial firms with branch offices such as the main banks, credit unions and An Post will usually ask you to make an appointment to visit one of their branches to open your account.

Types of accounts

Before opening an account, you should check the details of what is included in the account by way of services, facilities and charges. Many accounts will have fees for various types of transactions and possibly an annual account management fee.

Some accounts will have no charges or fees. However, these accounts may be somewhat limited about what is on offer, such as the number and size of transactions.

Accounts, in general, are either current accounts or deposit accounts.

Deposit accounts are sometimes called savings accounts. Deposit accounts will normally pay interest on the money you have lodged in the account. However, various types of deposit accounts can have conditions attached to them that require you to give notice of your intention to withdraw money.

Current accounts are usually used by customers for their day-to-day banking, such as receiving payments, paying bills and withdrawing cash. Some current accounts will allow you to have an overdraft facility. Others will not.

Keeping your account in good order will make it more likely that your financial institution will look favourably on any application you make for a loan or credit facility.

Joint accounts are accounts where more than one person is the account holder. They are most often used by couples who consider some or all of their finances to belong to them both. While joint accounts can be very useful in such situations, you should give serious attention to the disadvantages and complications that can arise with joint accounts in some situations. (This topic is dealt with in detail in Section Six of the Guide).

You should check out the conditions attached to any account that you are thinking of opening and satisfy yourself that the type of account you are opening really suits your circumstances and needs.

“Support is most effective when it adapts as a person's circumstances change.”

Debit and Credit Cards

Your chosen financial institution will – for almost all current accounts – issue you with a Debit Card and an accompanying PIN. This card will allow you to make cash withdrawals at ATMs and make payments for goods and services, both in store and online. Digital-only banks may provide you with a virtual Debit Card which only exists on your phone and not as a physical, plastic card.

Your financial institution will require that you safeguard your debit card and that you keep your PIN number secret. If you allow someone else to have access to your account by allowing them access to your debit card and PIN, then the financial institution will view any transaction that the person carries out as having been authorised by you. They may then refuse to refund you if the transaction was fraudulent.

Debit cards can only be used for payments when there is money in your account. If you set up direct debits or standing orders on your account (for paying regular bills, for example), those payments will be rejected if you have no money in your account.

Credit cards, on the other hand, will allow you to pay for goods and services – and withdraw cash – even when your account has no funds in it. The financial firm that issues you with a credit card will set a limit on how much you can draw down in debt. It should be noted that not all credit cards are directly issued by the financial institution in which you have your account. Credit cards for customers with An Post accounts are, for example, issued by Avant Money – a separate firm. Credit cards will have terms and conditions attached about matters such as when you must repay your outstanding credit and what level of interest you will be charged.

Having a credit card also means that personal and credit information about you may be passed on by your credit card firm to the Central Credit Register. This information will be held on the register and may be used by other lenders when they are making decisions about credit applications that you might make. Poor management – by you – of your credit card affairs could, in other words, have a negative effect on your ability to get credit in the future.

You also need to be aware that if you do not pay off the amount due on your credit card by a specified date, interest will accrue. The amount of interest could be significant.

Basic Bank Account

If you do not have a current account, you can open a type of account called a basic bank account (sometimes called a Basic Payment Account). A basic bank account is a current account that is free of charge for everyday banking for at least the first year.

You can open a basic bank account with one of the main Irish banks if you are resident in the EU and you do not already have another payment or current account in Ireland.

Not all current account services are available with a basic account. You cannot get an overdraft or cheque book. Your debit card may not come with the contactless payment feature. There are other limits on the use of these accounts.

You can only hold one basic bank account.

Range and location of services

When opening an account, it is advisable to, give some thought to whether and how frequently you will want to avail of an over-the-counter service such as withdrawing or lodging cash, or of needing to discuss your business with a member of staff. If access to a physical office and to a

face-to-face service is important to you, then the location of the nearest credit union, bank or other financial institution's branch office will be important.

As well as operating its own money business, An Post now acts as an agent for several of the main banks. It is worth noting, however, that there are conditions and limits that apply to the services provided by An Post on behalf of the banks. In addition to these limitations, post offices will not necessarily provide other facilities on behalf of the banks, such as access to account information, availability of specialist advisory staff, or presence of staff trained to deal with the needs of customers in vulnerable circumstances. They may also be less likely to have spaces where business can be discussed in private.

It should be noted that Central Bank regulations require banks and other financial institutions that 'outsource' some or all of their business activities to manage those outsourced activities effectively to identify, monitor and manage any outsourcing risk.

It is likely that some services and facilities will only be available to you as a bank customer either by attending a bank's branch office or through the bank's online system.

Account statements

Banks, credit unions and other financial institutions will provide you with statements outlining details of your account or accounts. These can be available online or can be provided in hard copy. The frequency with which statements are automatically issued can vary depending on the financial institution and on the type of account. An account statement is a document that summarises the activity on your account over a specific period. It shows all your deposits, withdrawals, interest accrued, opening balance, closing balance and account information. Your account statement is essential for maintaining financial control, confidence and security. Your statement allows you to check to make sure transactions are correctly documented in your account. Account statements allow you to monitor for fraud and keep track of spending and saving. The statement should show you where your account is gathering interest and where you are being charged fees.

Many people choose to receive their account statements electronically rather than by mail to conserve paper, keep bank statements secure, and stay better organised. Once you open a new account you may need to decide how to get a bank statement – either by mail or electronically. Most financial institutions allow you to opt in to paperless delivery. When you log into your account online, you will probably see a menu item for "statements." There you will be able to review your current and previous account statements and typically have the option to download them to your computer or mobile device.

While there are obvious advantages to receiving a paper-based statement, online access to your account on a 24/7 basis does allow you to check on your transactions 'there and then', rather than waiting until the end of a month or a few months. Your account statement is the best way to keep track of your funds in your accounts. You will want to review your statements at least every month to monitor your spending and current balance.

Reviewing your account statement regularly is also the best way to catch potentially fraudulent activity on your account. If you are questioning what a charge is in your account statement, or if something does not look correct, contact your financial institution as soon as possible. The customer service number is usually located somewhere on the statement. One of the benefits of using online banking is that it provides easy access to information about all financial transactions in real time.

“People are most at risk when they feel they have no alternative.”

Managing financial transactions

Transactions on your account will, in almost all cases, involve the use of security devices such as PIN numbers and/or other identification mechanisms. Phone-based applications can involve forms of identification that include your PIN, fingerprint scanning and facial scan recognition.

Banks and other financial institutions also operate further security processes on your transactions. These may involve them contacting you in order that you can confirm and authorise a transaction. They may try to contact you by text, email, or notification through a mobile app. If they cannot reach you using these methods, they may try to contact you by phone. If that does not work, they may contact you by letter. If you do not or cannot confirm and authorise such a transaction, then the financial institution may refuse to process the transaction.

Be aware of the fact that your financial institution will never ask you for your PIN, card details or personal information over the phone. If you receive a suspicious call from someone claiming to be your bank, and asking for that type of information, then it is probably a scam. You should contact your bank directly using the official number from their website or from a bank statement. The official phone number is also to be found on the back of your bank card.

Financial institutions operate sophisticated account monitoring methods that are designed to identify transactions that appear suspicious and out of character with your normal account activity. Examples might include very substantial transfers of cash out of your account, large ATM withdrawals, or strange purchases. In such cases, your financial institution may freeze your account and/or block your debit card pending further investigation. Alternatively, your institutions may ask you to provide additional ID or the answering of security questions before allowing a suspect transaction.

If you become aware of fraudulent or unknown transactions on your account, you should inform your financial institution immediately.

You can expect your financial institution to refund your account in cases where funds were withdrawn fraudulently. However, banks, credit unions and An Post will insist, in most cases, that you prove that you did not authorise the transaction in question. Disclosing your security information and/or giving someone else access to your card is considered a breach of the terms and conditions that are attached to your account. This means that you remain responsible in such cases for any losses incurred.

Sometimes you may want to dispute a card transaction if the transaction was not authorised by you or put through more than once or if a supplier did not deliver the goods or services you paid for, or if the goods that were delivered to you were faulty or not as described. You should contact the supplier first and ask for a refund. If the supplier will not refund your money and you paid using a credit or debit card, your card provider – usually your bank – may agree to reverse the transaction. This is called a chargeback.

In order to start a chargeback, you should contact your bank or credit card provider immediately. Give them details of the disputed transaction and request that they follow it up.

Depending on the debit or credit card scheme – i.e. Visa or MasterCard – there are different terms and conditions in relation to chargebacks. Most schemes offer full chargeback rights but there can be specific timeframes for requesting a chargeback, such as 120 or 180 days after the transaction takes place or the agreed date of delivery. These timeframes vary depending on the card scheme, i.e. Visa or MasterCard.

If there is a transaction on your bank account or credit card statement that you do not recognise, contact your bank or credit card company straight away as it could be a fraudulent transaction.

Consumers in vulnerable circumstances

Persons at risk are more likely to suffer financial detriment or harm. It is important, that financial services providers take into consideration the needs of consumers in vulnerable circumstances.

Financial services are required to offer all reasonable accommodation and assistance to consumers in vulnerable circumstances. Their staff should be trained and equipped to understand the needs of and to assist these consumers. The firms must 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 being a victim.

People can be at risk for different reasons – for example:

- Bereavement
- Job loss
- Ill health
- Reduced decision-making capacity
- 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 definition is –

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.



“Financial decisions should always reflect the person’s own priorities.”

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, including fraud, 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 persons 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, or
 - 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 a useful and valuable way of ensuring that communications between a customer and their financial institution is effective and continuous, and that the risks attached to poor communications is avoided.

While your Trusted Contact Person has no right to make decisions on your behalf, it is nevertheless important that – if you wish to appoint a Trusted Contact Person – you should take care in choosing someone who is genuinely trustworthy, accessible, competent and who will act only in accordance with your will and preferences.

A financial institution should also recognise that people other than a Trusted Contact Person can have a part to play in supporting a customer in vulnerable circumstances.

A customer of a financial institution may also have other arrangements in place to assist them in their dealings with financial services. For example, a customer may have in place a decision-making assistance arrangement under the Assisted Decision-making (Capacity) Act, 2015.

If you feel that you are a person at risk for any reason, either short-term or

long-term, then you should let your financial institution know if you require some additional accommodation to conduct your business with them. Such accommodation could include:

- Appointing a Trusted Contact Person
- Facilitating you to conduct business in a more private space
- Receiving communications in a more suitable format, or
- Having someone to assist you to understand paperwork.

Letting your financial institution know that you have particular needs can also alert them to the fact that you could face a higher risk of financial abuse. This will let them know that transactions need to be monitored with care.

Many financial services have specialist staff units in place for meeting the needs of customers in vulnerable circumstances. These units may be called by different names – such as extra-help units, additional support units, vulnerable customer units.

If you think that you are a person who is at risk for any reason, you (or someone on your behalf) should enquire from your financial institution what provisions they have in place for people such as yourself.

Financial institutions should reasonably be expected to be fully aware at all times of the fact that your account belongs to you and to nobody else (unless it is a joint account).

They should therefore not allow other people – no matter how well-intentioned – to have access to the account without your permission. A financial institution should, respect your right to conduct financial transactions in a manner that you choose. For example, while a bank or credit union should take steps to ensure that you are not being pressured, coerced, or fooled into certain transactions, they must also recognise that you have the right to control your own finances and to make your own decisions.

Third party access to accounts

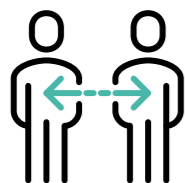
Third Party Authority (or a third-party mandate) is a formal arrangement where someone you trust helps to manage your money without having to open a joint account. This arrangement may be useful for you if you are unable to leave your home and/or if you find it difficult to bank online. Not all financial institutions offer this facility.

You should, be aware that there are risks involved in giving another person access to your account/s. Also, if your relationship with the person changes, you can cancel the authority, and they will no longer be able to access your money.

Most financial abuse involves someone the person knows and trusts.



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



Not all financial institutions offer Third Party Authority to personal customers. If you are interested in setting up a Third Party Authority, check with your financial institution. The authority will be revoked (cancelled) if you lack decision-making capacity.

Power of Attorney

You can also set up a Power of Attorney. A Power of Attorney (also known as a POA) is a legal arrangement that permits another person to act for you in matters such as financial matters. This person is called an Attorney. They should be someone you know you can trust to act on your behalf and to follow your instructions.

A general Power of Attorney lets you select someone to act for you while you have the capacity to manage your own affairs. You can let them act in general or for a specific purpose. This can be useful if, for example, you are travelling for long periods of time.

If you decide to set up a general Power of Attorney, make sure there is someone else you trust who can tell your bank that the general Power of Attorney is no longer valid, for example, if you no longer have capacity to make decisions.

You should also consider creating an Enduring Power of Attorney under which you appoint somebody to manage your affairs should there come a time when you are no longer able to do so yourself. (See Section Six of the Guide for more information).

Decision-making supports

If the level of access permitted under the above arrangements is not sufficient, a Decision Support Arrangement provided for under the assisted decision-making legislation commenced in 2023 should be considered. (See Section Six of the Guide for more information on decision-making supports).

Digital and online banking

Most financial institutions now offer customers online access to their accounts. The move to online banking is now well established and is becoming the norm. Online banking will need you to have access to a suitable device such as a smartphone, laptop or iPad, and will require you to have the skills to do your business online rather than on paper or face-to-face in an office of the financial institution. If you are considering online banking, it is very important that you feel comfortable and confident in your ability to use the technology involved.

Digital-only banking is the term usually used to mean banking that can only be conducted online. Digital banks do not have branches that you can visit, instead generally customer support is available within the digital bank app where you can engage with agents, which can be both AI and live/human agents. Some digital banks may also offer in-app telephone calls. This can present both advantages and challenges for consumers. If you are considering opening a digital-only account, then you should first read Section Six of the Guide that provides information on online banking.

Finally

Financial institutions play a big part in helping us manage our day-to-day and longer-term financial affairs. We should expect that they will carry out this role in a way that acknowledges and respects our interests and needs and our right to control and manage our own finances as far as possible.

As consumers, we are entitled to a good standard of service, of security and of communications from all financial services.

In turn, we need to recognise that we carry a certain level of personal responsibility for protecting ourselves from fraud and financial abuse.

The nature and range of services being provided by financial institutions is changing rapidly. As consumers, we need to be aware of these changes, but we should also be able to expect a continued level of service that respects and secures our interests.

“Safeguarding works best when it begins early.”

/ Section Four

How to protect your money, benefits and assets

“Good systems reduce risk without removing choice.”

There are many potential threats to a person's finances and assets. In order to be able to protect our money and other assets, it is important that we learn to recognise the risks that could be involved.

Financial abuse can happen to anyone and at any age. However, some people are at a much higher level of risk. While a lot of attention is paid to the more modern types of abuse such as online scams and frauds, it is an unfortunate fact that many people are financially abused by people who are close to them and who, quite often, they trust.

What is financial abuse?

Financial abuse is a serious issue that happens when someone misuses money, financial resources, or property or assets without the owner's knowledge or consent. It can happen to anyone, but some people are at greater risk, including:

- Older people
- People with a disability
- People with a mental health difficulty
- People experiencing emotional challenges
- People who are living alone and are isolated
- People who have a limited and poor grasp of financial matters
- People who are highly reliant on other people for their care.

It can also happen to people who are in good health and of any age. Sometimes a person may not even realise they are being financially abused.

Financial abuse hurts people. As well as the actual financial loss it often has other serious impacts including causing anxiety, depression and a loss of self-confidence. It can harm the victim's ability to look after themselves by limiting their access to a safe home, adequate food, medical care and a decent quality of living. Financial abuse can destroy trust in others and can cause turmoil and conflict within families.

A person may sometimes feel that they have no choice but to accept arrangements or ways of managing their finances by others that they are not entirely happy with simply because they are fearful of being neglected or of becoming isolated from their family members and carers. Regrettably, this kind of financially abusive behaviour becomes gradually normalised and is no longer seen by the people involved as being wrong.

Some forms of financial abuse involve small amounts of money or what might be dismissed as petty cash, but – over time – the scale of the financial loss builds up to a more substantial sum. While financial abuse can sometimes involve a single once-off event, in many instances, it can continue over a prolonged period.

“Pressure from others can quietly undermine financial choice.”

Financial abuse can involve:

- Spending a person's money without permission
- Forging signatures on cheques and forms
- Coercing a person to sign important documents
- Straightforward theft of cash or property
- Breach of trust – improper use of funds
- Collecting and keeping a person's welfare or pension benefits
- Using the person's bank account or credit card without their permission
- Hiding a person's bank statements and correspondence from them
- Taking control of the person's banking and finances
- Manipulating or forcing a person to sign over property or financial assets
- Borrowing money and not paying it back
- Making someone provide accommodation or other benefits without being compensated
- Putting pressure on a person to change their will or other legal arrangements
- Coercing a person to guarantee a loan
- Pressuring a person to take out a loan or enter a financial arrangement that the person does not need or want, so that they – the abuser - can personally benefit
- Emotional blackmail.

Financial abuse may sometimes be dismissed by the perpetrator as being of little consequence or as not involving any significant criminal activity. It is critically important to acknowledge that any financial abuse or exploitation, irrespective of the perpetrator, is wrong and that it can have serious and damaging consequences for the person who is being abused.

Who may be a financial abuser?

A 'financial abuser' can be someone a victim of financial abuse hardly knows at all, or they can be a person they have known for many years. The abuser could be a family member, a friend, an acquaintance or a stranger who befriends them. They could also be professionals, for example, caregivers employed to help or provide support or advice to them. Financial abuse is sometimes combined with other forms of abuse and neglect.

Financial abuse by relatives

All the available evidence points to the fact that family members are the most common financial abusers. This, unfortunately, includes adult children, spouses, partners and other relatives. Some abusers may be unaware of the fact that their behaviour is wrong – for example, they may feel entitled to the money or assets they are taking because they are providing, or have in the past provided, care to the person.

An abuser's sense of entitlement may come from a belief that since they will or should inherit an asset eventually, they might as well get it sooner rather than later. This is sometimes referred to as 'inheritance impatience'. Sometimes family members who believe they will benefit from an inheritance in the future act to prevent the person from spending their own money, or block or limit their spending. This is sometimes referred to as 'inheritance hoarding'.

Some may feel that a person's financial asset is really a 'family' asset and not actually solely the property of the individual being abused. Others may believe that they deserve to be rewarded for providing care to the victim. It is fair to say that this type of abuser often fails to recognise the fact that they have no right to take or use this money.

In some cases, the financial abuser is simply poorly equipped to hold a position of trust. For example, they may not understand their obligations in a role such as holding a Power of Attorney (i.e., to act only for the benefit of the person they represent and not be swayed by personal interest or act for personal gain or benefit). It is also the case that some people may not understand that next-of-kin have no legal right to make any decision for a person, including decisions about their money and assets.

People who are at risk of financial abuse may sometimes be hesitant to put legal or formal mechanisms and arrangements in place when agreeing to family members carrying out financial transactions on their behalf as they do not want to be seen as being mistrustful or are fearful of damaging family relationships. It is sometimes difficult for people to discuss money matters with family members. The absence of a clear and transparent record of financial arrangements between family members can leave a person at risk in a weakened position.

The warning signs

Warning signs of financial abuse can include:

- Withdrawals from your accounts that are larger than usual
- Withdrawals that are more frequent than usual
- Withdrawals that are unusual or unfamiliar or that do not make sense
- You feel intimidated or controlled by another person

“Clear communication is a form of protection.”

- You find that you believe that you must do what another person says
- Someone who does not have authority over your money insists on accompanying you to the bank to make a withdrawal
- Someone insists on filling out money withdrawal forms or other documents on your behalf and just asks you to sign them
- Someone takes your bank card, password or PIN or other credentials to use for their own benefit
- Someone asks you for a large loan
- Someone suggests an unusual expenditure or investment or disposal of property
- Someone insists that you do not discuss a financial matter with another person
- Someone suggests you change your will to benefit them or another person connected with them
- You find that you no longer have complete control over your money decisions; someone else is controlling what you spend and how you spend it
- Someone with a connection to your finances (e.g., a shared bank account) refuses to discuss this with you
- Someone moves in to live with you but does not contribute to household expenses.

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



Protecting yourself against financial abuse

To reduce the risk of financial abuse, you should:

- Always protect your bank and financial cards, cheque books and other important documents
- Never hand over a PIN or password to anyone
- If someone asks for money, discuss it first with a trustworthy family member or friend
- Get your affairs in order. Talk to your bank about setting up direct debits and pre-authorized bill payments
- Have a budget, know what you need to spend money on and how much you should expect to pay
- Consider who should have third party authorisations over your accounts and ensure that they are trustworthy
- Keep track of your bank accounts, investments and other assets

- Put in place arrangements, like Enduring Power of Attorney, for how your money and property will be handled if something happens to you or you can no longer communicate your wishes effectively
- Always read contracts and other documents carefully and never sign anything under duress
- Seek legal advice when in doubt or contact the Gardaí if you think you are being abused
- If you have assets, consider speaking to a financial advisor or accountant. They will be able to advise you or direct you to other services that can help you
- Seek legal advice for any significant financial or property-related decisions
- Insist that all substantial finance-based transactions are documented
- Formalise family financial arrangements wherever possible
- Do not be shy about asking people to account for expenditures they make on your behalf
- Always look for and examine receipts; check each item on your bank statement
- Take your time. Insist on giving any financial suggestions adequate consideration
- Put a trustworthy team in place to help you keep control of your financial affairs
- Make sure that the people you trust are not only trustworthy, but that they are also capable of helping and advising you
- Remind yourself that your finances and assets are your property. No one else has the right to deprive you of control over them
- Start conversations now with family and friends – those that you trust - about finances and about preparing for the future, even if those conversations are going to be difficult.

Remember that your bank or credit union or payments provider has a responsibility to take all reasonable steps to protect your interests as their customer. If you have concerns about unusual activity on your accounts, then you should feel able to ask for a meeting with bank or credit union staff at your local branch.

If you do not feel ready to raise issues with family members or friends, then you should get in contact one of the organisations that provide support.

See Section Eight of the Guide about supports and help.

If you feel intimidated, coerced, pressured, or controlled by another person (for example you feel that you must do what they say), you should seek advice and support.

- Ask to speak to your bank or credit union staff alone about your concerns
- Get support from an independent advocacy organisation
- Involve someone you can really trust.

If the financial abuse involves relatively large sums of money and/or has been going on over a period of time, you should contact the Gardaí.

Planning ahead

Financial abuse can happen to a person even after they no longer have the capacity to make financial decisions for themselves. This can involve the misuse of a person's home and property, their savings, and any other assets they possess. The fact that the person lacks capacity - that they may be incapable of understanding or grasping how their possessions are being managed - should not result in their assets being used in a way that would be contrary to their previously stated wishes and preferences. People acting on behalf of the person who now lacks capacity should carry out their responsibilities with the preferences and needs of that person in mind and with a recognition of their wishes.

To avoid confusion and potential abuse, it is important that a person takes steps to ensure that their wishes regarding their financial assets are clearly signposted in advance. They will, most likely, want to ensure that provision is made for their own long-term care as well as for other matters such as the eventual distribution of their assets. Unfortunately, informal approaches to this task can often lead to disagreements, confusion and deviation from the person's real intentions.

There are several arrangements that a person can put in place to give clarity and certainty to their long-term wishes. These include the creation of an Enduring Power of Attorney, an Advance Healthcare Directive, and the making of a Will. Section Six of this Guide provides more detail.

In making arrangements and in planning ahead, it is very important that a person ensures that their finances and assets will be available in the future in order to provide for additional needs that they may have as they age.

Your changing circumstances

Your circumstances and your priorities can change over time.

You should review how you manage your money once a year; you might want to switch banks or get a new service. A change of circumstances might mean a loss of income, or that you have a new entitlement to financial support from the State.

“Independence is strengthened when people understand their options.”

Just because you trusted and depended on a particular person in the past does not mean that they are the right person to trust with every financial decision you make now and into the future. The circumstances of your trusted person may have changed, with the result that they are no longer available or the right person for that role.

Your capacity to make decisions may change over time and if you have assisted decision-making arrangements in place, they too may need to change.

How we control our money is changing. There are new risks and challenges, and new options also in the form of new digital products and services that are designed to make managing money easier, simpler, and more straightforward.

It is important to keep up to date, to keep learning and to keep reviewing how we are managing our financial affairs. Bodies such as MABS can be valuable in supporting you in keeping up to date. Consider taking up any financial literacy courses that are available.

The risk of scams and fraud

Even the most financially literate people can become victims of scams and fraud. Scammers are clever at 'grooming' people and victims often have difficulty believing they are involved in a scam until it is too late.

A scam happens when somebody gains your confidence to steal your money or information. Scammers may use sophisticated lies to trick you. Fraud can occur when somebody accesses your funds without your knowledge or authority. You might not even be aware of the fraud until you see it on your bank statement, or your bank gets in touch to check a transaction with you.

Increasingly, scammers and fraudsters are using modern technology to lure people into giving them access to their money or confidential information. This can involve text messages, phone calls, emails, internet sites and online social media forums.

Scammers and fraudsters play on people's emotions; they identify and prey on vulnerabilities; they try to manipulate, threaten, scare or confuse people. They may play on a person's desire to make money quickly and easily, or on a person's compassion and willingness to help someone in need.

Scammers and fraudsters may pretend to be representing your bank, other financial institution or a government agency or department. Quite often they

Family involvement does not automatically mean legal authority.



will try to put pressure on you to act quickly.

Scams and fraud are constantly changing. It is important that you keep yourself up to date. Everyone can be susceptible to scams, fraud and financial abuse, regardless of age. Knowing how to protect yourself and what actions to take, can help you to avoid financial scams.

How to reduce the risk of scams and fraud

If you receive a message, phone call or emails about a financial matter or one that claims to be from your bank or credit union, take your time and refuse to be rushed. If the call, email or text seems in any way unusual or strange, the best thing to do is stop, take a breath and think things through before you give away any information or comply with the caller's request. Genuine organisations will not put you under pressure to act instantly. Do not rush, slow down and take your time. Do not respond to any suspicious emails or calls. Contact your bank using a different channel / a number with which you are familiar, and which is unrelated to the email or call you have received.

If you have doubts, contact the organisation the message claims to be from, or get someone you trust to check it out for you. If you are suspicious about the call, hang up. Call back using a number that you know to be valid, such as from your bank statement.

- Never share passwords and personal information. Anyone who asks you for your password is probably scamming you.
- Be sceptical when reviewing email attachments, links and suspicious text messages. Do not open attachments or click on links in emails or text messages you were not expecting. If you are in any doubt, delete the message immediately.
- Be very suspicious of any correspondence you receive, especially from abroad, if you are being asked to forward money or are being told that you have won a prize.
- Use up-to-date antivirus software to protect your computer.
- Always keep your personal and account information safe and do not tell anybody your PINs or passwords.
- If you think your account or identity might have been compromised, inform your bank or other financial institution immediately.
- Stop and think before you share any personal or financial information about you, your friends or family. It is okay to reject or ignore requests for personal information.

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



- Check your bank account and statement regularly and keep an eye out for any unfamiliar transactions. Report anything suspicious as soon as possible.
- Pay attention to advice and warnings that your bank or credit union issue about scams and fraud and stay alert to messages in the media about scams and fraud.

“Loss of control is often gradual and hard to notice.”

The risk of poor financial decisions

Poor decisions can have a damaging effect on your finances. However, we all should be free to make decisions that other people might consider poor or unwise. People can, for example, decide to spend some of their money on gambling or to invest their funds in a risky business deal. Nevertheless, it is important that we should be aware of the nature and scale of the risks that we take and that we take steps to minimise the damage that might occur, especially if that damage could hurt other people.

Knowing what your income is and what your outgoings and expenses are going to be, and being able to estimate your likely future financial needs can be a useful safeguard against the making of poor financial decisions.

Investments

People are sometimes attracted to placing their money in investment funds, stocks and shares, or other such financial products, in the expectation that their investment will provide a good return or at least will do better than it would if left sitting in a bank account. There is also a growing trend of investment opportunities being advertised and promoted online and through other media. It can be difficult for the lay person to judge how good and suitable these financial products are, especially about the risk involved.

If you are thinking about making an investment, then there are some questions that you should consider.

Firstly, you should ask yourself whether you should take professional advice on the matter. The answer to this question should, in almost all cases be 'yes', especially if a considerable amount of money is involved. Relying on a friend or family member may not be good enough, unless you are sure that they are knowledgeable and skilled about such things.

“Safeguarding is about enabling choice, not restricting it.”

You should speak with your bank or credit union manager, a professional financial adviser, an accountant or Solicitor. As well as bringing professional knowledge about financial products to bear on the matter, they can also help you determine whether you could cope with the risk involved should things go wrong.

Secondly, you should check out whether the financial product and the institution that is providing and selling it is reputable and trustworthy. One dependable way of doing this is to check whether the Central Bank or other regulatory authority regulates them.

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

The Competition and Consumer Protection Commission also publishes information on how to choose an advisor and the types of services and investments they can provide. Doing your research first, including reading any material from your provider, can help you make a more informed decision.

As well as regulating financial institutions the Central Bank also regulates investment products.

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.

If you are thinking about investing in an unregulated investment product, you are encouraged to get professional advice to ensure that you fully understand the product and the risks involved.

If you deal with a firm that is regulated by the Central Bank, they are obliged to explain to you whether the product they are providing or recommending to you is regulated or not. You should ask them to explain this and outline what protections apply if things go wrong.

You should also check any documentation explaining the product. If the product is regulated, this will be clearly stated on the documentation.

When a financial advisor provides you with investment advice, they should:

- Carry out a suitability assessment considering the nature and complexity of the product and whether it is suitable for you
- Ensure that the product meets your requirements and that you fully understand it
- Carry out an assessment of your individual circumstances (knowledge/experience, risk appetite, financial situation) when determining whether the product is suitable for you
- Provide you with detailed risk disclosures/warnings in the product brochure and investor information documents.

You are, of course, free to invest without taking advice. If you choose to invest without advice, you should familiarise yourself with the investment product, its features and its risks. You should also strongly consider any warnings issued by the firm and whether you can afford to lose the money you invest.

Cryptocurrencies

Cryptocurrencies – also known as digital currencies or virtual currencies – are a form of digital money. They allow payments to be made electronically and function in a similar way to standard currencies that use physical cash. However, unlike standard currencies that can be exchanged physically using notes and coins, cryptocurrencies are only exchanged electronically using lines of computer code. Examples of well-known cryptocurrencies are Bitcoin and Ethereum, but a range of others also exist.

Most 'paper currencies', such as the Euro, have legal tender status. This means the currency is the country's officially recognised currency and must be accepted as payment of a debt. Cryptocurrencies on the other hand, do not have legal tender status. This means there is no legal obligation for them to be accepted. Official currencies are centralised and guaranteed by a central bank that controls their supply.

The European Central Bank, for example, guarantees the Euro and controls its supply in the euro area. Cryptocurrencies meanwhile are unregulated and decentralised. This means that no central bank guarantees them or controls their supply.

Cryptocurrencies are increasingly being promoted, mainly on the internet. You should keep in mind that they are highly risky and speculative and may not be suitable for retail customers. It is important to be aware of the risks of misleading advertisements, particularly on social media, where influencers are being paid to advertise crypto assets.

Before you buy crypto assets, you need to consider if you can afford to lose all the money you invest. Do the promised fast or high returns seem too good to be true? If things go wrong, you do not have the protections you would have if you invested in a regulated product.

“People are experts in their own lives.”

Other areas of financial risk

Other areas of financial risk can involve:

- Acting as loan guarantor for a family member or friend, especially if a loan of a considerable amount is involved. Even where there are good intentions all around, it is possible that things could go wrong and that the person concerned might default on their loan. This could have serious implications for your finances, your property or your assets.
- Giving gifts of money as an ‘advance’ on an intended inheritance. If you are distributing your financial assets to family members by way of gifts, you need to be certain that the risk of you not being able to meet the costs of major expenses in the future is manageable. You need to take into consideration the real possibility that you will need substantial funds to pay for medical or care needs, for home upkeep or adaptation, or for other unavoidable expenditures. You should keep a formal record of any ‘advance’ gifts given to relatives.
- Loans as an ‘advance’ on the provisions in your will are especially problematic. At the very minimum, you should discuss any such plans with trustworthy professional advisers and not simply with the family member who will be the recipient of your money. Any arrangement should be clearly set out and documented. Since you may need this money for your own needs at some point in the future, it is important that there is a clear understanding that it will be repaid, should you need it.
- Borrowing money: If you need cash and you are considering borrowing – for example using an Equity Release Scheme (see Section Seven/Persona 9 of the Guide for further information on Equity Release Schemes) – you need to be aware of how interest on loans can mount up and the impact this will have on your ability to pay for your future needs. Borrowings against the value of your home will

also have a negative impact on your estate, i.e. on what will remain for distribution to the beneficiaries of your will. Never borrow money that you do not need.

- Ignoring your savings: Remember that money that simply sits in a bank account may earn little or no interest. It is unlikely that it will even keep pace with inflation. To a certain extent this is outside your control. However, you should be able – with a little research and advice – to place your spare cash in an account that offers the best return. Shop around and do not be afraid of switching.
- Be aware that banks and other financial institutions are likely to classify an account that has had no transactions, or where the account owner has not responded to communications from the financial institution, as a ‘dormant account’. Funds in dormant accounts are then transferred to the State for distribution to charitable and deserving causes. Many millions of euros are transferred in this manner every year. Furthermore, considerable funds in State Savings are also liable to be placed in accounts that yield no interest if the owner does not take action on being informed that the funds have reached their maturity date.
- Allowing others to use your home: This can involve allowing others, for example, adult children, grandchildren, friends or other guests to live in your home with you. It can also involve allowing others to use your home when you have been admitted to long-term care in a hospital or nursing home. In each case you should have a clear understanding with the people concerned about how the arrangement will work in practice:
 - How will they contribute to the running costs of the house?
 - Will they contribute towards Local Property Tax?
 - Will they pay you rent?
 - Will their presence create additional costs, such as higher energy bills?
 - Are they moving in to look after you? Will they leave when asked?
 - Can they invite other guests to stay?
 - Can they expect to remain in the house after your death?

It is advisable, for clarity all around, that the arrangement should be put in writing.

- Cash – reduce your dependency on cash. Where at all possible set up direct debits, standing orders or such like for your routine and regular bills. Do not keep large amounts of cash in your home. Cash is harder to keep track of, and it is easier for people to steal. If you cannot collect your pension or benefits yourself, only appoint a person you trust to act on your behalf. Better still, have your benefits lodged to your bank, credit union or An Post account.
- Receipts – get into the habit of always getting receipts from people who carry out shopping for you. It gives you control, and it demonstrates to others that you are in control.

Be informed, stay informed

Understanding and organising your finances is essential for the task of protecting yourself against financial abuse, scams, fraud and other risks. If you do not have easy access to your financial information, then it may be very difficult to be certain about whether or not you are in control, or whether someone else is taking advantage of you.

Take the time to make a list of your financial assets, including bank, credit union or An Post accounts, savings accounts, pension and insurance products, house and property deeds, investments, borrowings and money owed to you by others. Get help from a trustworthy person, if needed.

You should also gather up any relevant information about income that you receive regularly, including pensions or other benefits, whether that is weekly, monthly or yearly.

It is wise to assemble this type of information in a safe and accessible location. Likewise, it would be important to let other trustworthy people know where you store these documents, or how they can access them online if necessary.

Take steps to ensure that any financial institution that you deal with has accurate contact details for you, including postal address, email address, and telephone numbers. This can also ensure that your accounts do not become classed as dormant. This is particularly important if you are out of your home for a period, change address or move into a nursing home.

Develop a practice of regularly checking your bank or other account statements, either in paper form or online. Again, it may be necessary to enlist trustworthy help. Check these financial statements regularly.

This will allow you to spot unusual activities on your accounts – strange transactions, suspicious withdrawals, ATM withdrawals you do not remember or recognise. Check transactions against receipts. Keep an eye open for large, unexplained transactions. Ask questions. Do not be embarrassed or afraid to do so.

Decision-making capacity can change over time and across situations.



“Financial abuse is often hidden behind everyday transactions.”

Keep track of your money, including your cash and loose change. You might find it useful to keep a spending diary so that you know exactly how much you have spent, where you spent it, on what, and how much you should have left over.

Give attention to correspondence and communications from your bank, credit union and others about your finances. If you have difficulty in keeping up with all the information that is sent to you, then you should consider informing the financial institutions that you need additional support to manage your account/s.

If you feel that dealing with your financial information and accounts is simply too much for you to cope with – perhaps you have always depended on a spouse or partner to look after money matters – you should consider appointing a person as a decision-making assistant which is provided for under the assisted decision-making legislation.

The appointment of a decision-making assistant need not involve handing over control; it could simply mean having someone who is willing and able to periodically discuss your finances with you, who is also able and equipped to help you to keep an eye on your accounts, and who will be available to support you in making financial decisions.

In addition to the provision for the appointment of a decision-making assistant provided for in the assisted decision-making legislation, there are two other supports available – a co-decision-maker (someone with whom a person jointly makes decisions) or a decision-making representative (someone who makes decisions on a person's behalf) and is appointed by the court.

Financial institutions should defer to any arrangements put in place under the assisted decision-making legislation.

You could also consider availing of the Trusted Contact Person arrangement introduced under the Central Bank Consumer Protection Code. Such a person would be able to receive communications on your behalf, but not to carry out any financial transactions.

Getting a support team to help you with managing your finances

For many people, even everyday things like paying bills can become difficult. Keeping a vigilant eye on your bank accounts can be demanding. However, this does not mean you should not still be in control of your finances.

You can be helped in this by having a group of trustworthy supporters (a support team) that you can look to for help. However, it is of course the case that many older persons have weak social networks and, therefore, may not be able to easily organise a support team. If that is the case, or if you would prefer to get an independent source of free support, then you could avail of the services of the Money Advice and Budgeting Service (MABS) or the Citizens Information Service.

If you can put a support team in place, their role will be to help you manage and control your finances, plan and provide for your future, and arrange your financial affairs in a way that prevents financial abuse by other persons.

The support team could also help you plan for a time when you might be unable to manage your finances – for example, if your physical health or mobility declines or your decision-making capacity becomes compromised.

This might include helping you consider and set up an Enduring Power of Attorney to assist you with financial and legal matters, if and when you lack capacity to make financial decisions. It could also help you to put a supported decision-making arrangement in place as provided for in the assisted decision-making legislation.

In setting up a support team there are several points to keep in mind:

- Make sure that the people in your support team are the right ones to help manage your financial affairs.
- Do not feel that that all the tasks can be carried out by one person – one person could be good at helping you make financial decisions; another might be especially good at monitoring your accounts.
- Do not automatically assume that family members have the right skills or capacity to help you. Sometimes a professional input is needed.
- Keep written records of family agreements you have in place. Do not be slow to make agreements formal.
- Strongly consider legal and professional financial advice. Talk to an independent financial advisor, your bank manager and/or your Solicitor about your future plans. Seek independent advice where possible.
- When getting legal or financial advice, do this independently or only with someone you trust. Do not rely solely on family or friends for advice. There is usually a charge for getting legal or financial advice, so ask what the fees are first.

“Support should never silence a person’s voice.”

- Immediately inform your bank of any concerns you have regarding people’s access to your accounts.
- Assess your personal and professional relationships at least every year.
- Share and document your wishes and preferences with trustworthy people while you are healthy and not under pressure.
- Choose people who you trust to have your best interests at heart.
- Choose people who will not be afraid to face up to difficult challenges, who will stand up for your rights.
- Some of your support team will need to be good at managing money – both theirs and yours. You need to be satisfied that they can separate the two.
- It should go without saying that people who have financial difficulties of their own, for whatever reason, are best not included in your financial support team.
- People who will be available when needed to carry out support roles.
- Spread the load between family, friends and professionals.
- Make sure that lines of communication are created and maintained.

Many older people depend largely on income from State pension schemes. It is important that a person should feel free and entitled to bring any concerns that they may have to the attention of the Department of Social Protection (DSP). Remember that the DSP is providing you with finances from the public purse and has a duty to ensure that benefits and entitlements reach the right people.

Your personal circumstances – and your financial skills and knowledge – will determine the extent to which you will need to build a support team. Some people can keep control of their money and assets with very little support; others need much more assistance.

If you find yourself in a position in which you do not have anyone on whom you can rely for support, then you should reach out to one of the various organisations that provide information, advice and support. (These are listed in Section Eight of this Guide)

Whatever your situation is, you should recognise that your possessions are yours to control and use; that other people do not have a right to take that control away from you; and that – with a little effort and with some trustworthy support – you can retain control of your money, benefits and assets.

Different decisions may require different levels of support.



Section Five

How and where to complain and seek redress

“Clear safeguards protect relationships as well as finances.”

When you deal with a financial institution you have rights and protections under Irish and EU law. Unfortunately, sometimes things go wrong, and you will need to consider making a complaint.

Earlier sections of this Guide will have given you some insight into what you are entitled to expect from a financial institution. As with any consumer complaint, you should first find out about your rights. Ask questions about whether your treatment by the financial institution was fair, legal, and in line with the regulations that govern the operation of a financial institution. If you need to check on your rights, then you can always look for guidance from one of the organisations that offer information and support that are listed in Section Eight of this Guide.

As well as being entitled to expect a good level of service from a bank, credit union or other financial services provider, you should also expect a good level of service from any State body – such as the Department of Social Protection (DSP) – which is responsible for providing money and benefits to a wide range of people.

This section of the Guide provides guidance regarding how you can go about making a complaint if you feel that you have not been properly dealt with by the DSP or by the National Shared Services Office (the agency responsible for paying public sector pensions).

Gather information and evidence of the problem

Before you start the complaints process, you should gather and make a note of all the facts that relate to the issue in hand. While some of this may include documentation, it will be equally important to make a note of times, dates, the people or department that was involved, and of what actually happened.

If necessary, take the time to consider the terms & conditions that the financial institution attached to the service or product concerned.

Decide what you want

Before you approach your financial institution, think about what it is you want them to do to fix the problem. This could be a simple apology, a refund, an account correction, an agreement to provide you with a service or financial product, an acceptance of your right or entitlement, or the provision of appropriate support when you need this to conduct your financial affairs.

How to start

If you want to complain, you should always approach the financial institution first, to give them the chance to put things right. Skipping out on this step could jeopardise your case later on, if, for example, you want to raise your complaint with the Financial Services and Pensions Ombudsman (FSPO). (See further on in this section for information about the role of the FSPO).

Complaining directly to your financial institution

Start with an informal approach

Talking face-to-face or over the phone can be a good first step in raising your problem with the financial institution. If you are not happy with the response you get from front-line staff, ask to speak to a supervisor or manager.

If you use web chat, as some online financial institutions prefer, take screenshots in case the firm does not keep a record or disputes what was said.

Always keep notes of what happened, including dates and times of conversations, the name of the person you spoke to (if possible), and what was agreed – including any promise about how quickly they would get back to you about your complaint. Keep previous correspondence (for example, email, web chat, and online contact form) safe as you may need this if you want to take your complaint further.

Be very clear when communicating with the financial institution that you are making a complaint; explain your complaint to the best of your ability; and suggest how the financial institution should put things right.

Make a formal complaint

If the issue is still not resolved, you should use the financial institution's formal procedure in order to move your complaint forward. All regulated financial institutions in Ireland are required to have a formal complaints procedure and to make information about the process available to their customers.

In making a formal complaint, you should submit documentary evidence if possible.

What you should know before you complain

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

The firm's complaints handling procedure tells you who you should talk to or write to; when you should expect a reply; and what to do if you are not satisfied with the answer you get.

“Good intentions do not always lead to good outcomes.”

You should be able to find a copy of the firm's complaints procedure online. If you cannot find it, contact the firm in person at their office, by phone or email and ask for it.

All the Irish banks, including the digital banks, and many of the credit unions and An Post provide information on their websites about how to make a formal complaint. Most financial institutions provide a Complaint Form that you can fill out and submit. Some banks will ask that you submit online. Complaints regarding An Post can be submitted through the An Post Money Customers Services site. Most websites, excluding some of the digital banks, provide the option of submitting a complaint by post.

The larger credit unions provide information about their complaints' procedures on their websites. Smaller credit unions may not. In the case of these smaller credit unions, you will need to visit your branch office to lodge a formal complaint. Credit unions normally have a process that involves your complaint being dealt with by their Complaints Officer. If you are not happy with their response, you can ask that your complaint be forwarded to the credit union's Complaints Sub-Committee and, ultimately, to its Board of Directors.

Keep a copy of the complaint letter or email as you will need this if you decide to take your complaint further.

How do I take my complaint further?

If the financial institution takes too long to resolve your complaint or you are not satisfied with the response, you have a choice of bringing the complaint directly to the Financial Services and Pensions Ombudsman (FSPO) or you can first seek advice and guidance from an appropriate support organisation. The Money Advice and Budgeting Service (MABS) and Citizens Information Services can provide information and advice. Some advocacy organisations are also willing and able to provide support.

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

There are detailed rules in the Consumer Protection Code about how often a company should contact you to keep you updated on your complaint. You must give the firm 40 working days to resolve your complaint. If the financial service does not resolve your complaint, they must give you a final response letter, setting out the steps they have taken.

If, after 40 working days, your complaint has not been resolved and you have not received a final response letter, you can then ask the FSPO to follow up on your behalf to get a final response letter.

“Control can be taken away without ever being formally removed.”

Final Response Letter

A final response should set out what your provider has done to investigate your complaint through its complaint handling process. The letter should advise you to contact the FSPO as your next step, if you remain unsatisfied.

Financial Services and Pensions Ombudsman (FSPO)

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 you have gone through the normal complaints process with the company and have the final response letter.

Who can complain to the FSPO?

You can complain to the FSPO if you:

- Are a customer of a financial service company
- Have been offered a service by the company
- Looked for a financial service from the company.

What companies can the FSPO investigate?

The FSPO can investigate complaints about regulated financial service firms including:

- Banks and building societies
- Credit unions
- Insurance companies (life and non-life)
- Investment management firms
- Insurance and investment intermediaries (brokers and agents)
- Stockbrokers
- Collective investment schemes
- Mortgage intermediaries (brokers)
- Moneylenders
- Bureaux de change
- Other retail credit firms
- Home reversion firms
- Debt management firms
- Credit servicing firms
- Credit intermediaries (for example, garages that offer finance on

new or used cars)

- Pawnbrokers
- Hire purchase companies.

The FSPO also deals with complaints about pension providers.

Time limits for making a complaint to the FSPO

A six year limit normally applies to all cases. This means the FSPO will not investigate a case arising from events that happened over 6 years ago.

However, for long term products, you can make a complaint to the FSPO within any of the following limits:

- Six years from the date of your problem happening
- Three years from the date on which you became aware (or when you should reasonably have become aware), that you had cause to complain
- Where the FSPO feels that there are reasonable grounds for a longer period and that it would be just and equitable in the circumstances to extend the time limit.

A long-term product is a financial product with a term of five years and one month or more, for example a mortgage.

Some conditions

You must make a complaint to your financial institution first, before the FSPO will consider your case.

If your complaint involves a joint account, then all the account owners must make a complaint. If one or more of the joint account holders lacks capacity or is deceased, then details of this fact should be included with a complaint to the FSPO.

The FSPO does not deal with complaints that are currently the subject of legal proceedings or have been in the past.

Some complaints can only be dealt with by other bodies. For example, complaints under the Equal Status Acts are dealt with by the Workplace Relations Commission (WRC). Data protection-related cases are dealt with by the Data Protection Commission.

A person can make a Subject Access Request to the data controller of a body if necessary to get access to their records as an aspect of making a complaint.

What happens to my complaint once I make my complaint to the FSPO?

The FSPO will deal with the complaint either informally (using mediation) or formally.

There is a standard complaint form you must use to make your complaint to the FSPO. Information on the steps involved is available in a guide published by the FSPO – check their website.

You should include all relevant documents and correspondence (copies are fine).

The FSPO will review the information submitted by both parties and adjudicate on the matter.

Awards and decisions of the FSPO

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

Is there any cost to take a complaint to the FSPO?

Services from the FSPO are free.

If you lose your case, you will not have to pay charges to the FSPO or to the financial services firm against which you took your claim.

You may use a Solicitor or any other professional to help you with your application to the FSPO. Costs associated with hiring a professional are your own responsibility.

Where can I get more information?

The FSPO itself, the CCPC and the Central Bank all have guides that can help you make your way through the complaints process.

Note 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 users, and can be widespread, persistent or connected to other issues.

Legal options

If you have not been able to resolve your complaint by complaining to a financial firm, ombudsman or regulator, you can take action through the courts in one of two ways. Before doing so it would be wise to take advice from MABS, Citizens Information or from a legal professional. The two options involving the courts are:

- **Small Claims Court** – is designed as an inexpensive and fast way to deal with claims of up to €2,000 in value. It is administered by local District Court offices. Details of the Small Claims Court procedure, and links to the forms used, are available on the Citizens Information website.
- **Talk to a Solicitor** – for claims of over €2,000 in value, it is recommended that you contact a Solicitor.

Department of Social Protection (DSP)

If you believe or suspect that your benefits and/or pension entitlement is being taken by another person without your permission, then you should immediately contact the DSP and inform them of your concerns.

If you are dissatisfied with how you have been dealt with by the DSP, then there are a number of steps that you can take.

As with financial institutions, your first step should be to raise your complaint or dissatisfaction with your local DSP branch office, Intreo Office or with the DSP Pensions Section. An Intreo office is a single point of contact for supports, operated by the Department of Social Protection. You can find contact details in Section Eight of this Guide.

If you think you have been wrongly refused a social welfare payment, or if you feel that you have not been granted the correct level of payment you can:

- Ask the DSP to review its decision
- Appeal the decision to the independent Social Welfare Appeals Office (SWAO).

There are time limits for making an appeal – see below.

If you were correctly refused a social welfare payment and your circumstances change, you should make a new application instead of asking for a review or making an appeal.

There is no fee for asking for a review or making an appeal.

Should you request a review or appeal?

It depends on your circumstances whether you should request a review by the DSP or appeal a decision to the SWAO. The type of social welfare payment and time limit may mean you are only able to request a review.

However, if you have the option to request a review and appeal, you may choose to do either one, or both.

“Respecting
autonomy includes
respecting risk.”

Requesting a review

A review is when you ask the section in the DSP that made the original decision to examine your application again.

For example, if you are refused Carer's Allowance, you ask the Carer's Allowance section in the DSP to review your application. If you are refused Disability Allowance, you should contact the Disability Allowance section in the DSP to review your application.

You should ask for a review in writing and include:

- The reason you want a review and why you disagree with the DSP decision
- Any evidence, if you can. For example, you could provide more medical evidence from a consultant or specialist to help show that you meet the criteria for Disability Allowance or Carer's Allowance.

You do not need to wait for the outcome of a review by the DSP to request an appeal. An appeal to the SWAO is a separate request.

What can you appeal?

You can appeal if you are unhappy about any decision on a payment that is covered by the Social Welfare Appeals Office.

For example, you can appeal:

- If you are refused a social welfare payment
- If you think the rate of payment was not assessed correctly.

You can appeal a decision on most social welfare payments to the Social Welfare Appeals Office (SWAO), but not all of them. A list is available on the DSP website, or you can enquire at your local office or from Citizens' Information.

In your appeal, you need to:

- Explain why you disagree with the decision
- Provide supporting documentation or proof
- Submit your appeal within the set time limit (see below) of the date on the decision letter.

Time limit to make an appeal

The time limit to make an appeal depends on the date on the letter with the decision from the DSP:

- If the date on the decision letter is on or after 28 April 2025, you have 60 days from the date on the decision letter to submit your appeal
- If the date on the decision letter is before 28 April 2025, you have 21 days from the date on the decision letter to submit your appeal.

You can submit your appeal to the SWAO online or by post.

“Safeguarding requires listening as much as acting.”

Representatives and advocates

If a representative or an advocate is helping you to make an appeal, for example, a Citizens Information Service or a Solicitor, they can submit the appeal form by email.

The SWAO does not accept appeal forms from individual applicants by email.

The Office of the Ombudsman

The Ombudsman's role is to examine complaints from members of the public who believe that they have been unfairly treated by certain public service providers, including the Department of Social Protection and the Social Welfare Appeals Office.

Note that the Office of the Ombudsman is separate and different from the Financial Services and Pensions Ombudsman, whose role was detailed above.

You can complain to the Ombudsman about statutory social welfare payments such as State Pensions, decisions of the Social Welfare Appeals Office, and many other matters including the quality of service that you received from a government department, including delays and failures to reply.

The Ombudsman can investigate a complaint relating to social welfare payments when the Department (DSP) has made a decision on your application and you have appealed that decision to the Social Welfare Appeals Office.

The Ombudsman cannot investigate actions of decisions that occurred more than 12 months before you complained, complaints that are the subject of legal proceedings through the courts, or issues relating to private or occupational pensions.

If your complaint is about quality of service from the Department, you should first have raised the complaint with the DSP itself before contacting the Ombudsman.

There is no charge for the services of the Ombudsman. Someone else can complain on your behalf, but only if you give them permission to do so.

Contact details for the Ombudsman are provided in Section Eight of this Guide.

You can make your complaint online using the questionnaire provided, or you can write to or phone the Office of the Ombudsman.

/ Section Six

Specific matters relating to control of finances and assets requiring attention

“Safeguarding is a shared responsibility.”

Introduction

This section of the Guide outlines twelve specific matters that are relevant in the context of people managing and controlling their money and assets to the greatest extent possible.

These are:

- A. Assisted decision-making – the law and decision-making supports
- B. Nursing Home Support Scheme (Fair Deal)
- C. Enduring Power of Attorney
- D. Coercive control/undue influence
- E. Joint accounts and need for vigilance
- F. Support for customers who are at financial risk
- G. Online banking
- H. Equity Release products
- I. Making a Will
- J. Next-of-kin
- K. Independent advocacy
- L. Options for a person who has decision-making capacity but requires practical assistance with carrying out financial transactions

A. Assisted decision-making legislation

What the assisted decision-making legislation is

The assisted decision-making legislation, which commenced in 2023, is a very important piece of legislation which provides necessary legal protection for people about whom there may be a question about their ability to make decisions for themselves. A question about the ability of an adult – a person over the age of 18 years - to make decisions can arise because they have some form of intellectual disability, or because they have a form of dementia.

The legislation provides for everybody to be presumed to have the capacity to make decisions about their own affairs unless the contrary is demonstrated by a formal capacity assessment carried out by a person competent to carry out such an assessment, including, but not limited to, doctors and medical consultants. The law ensures that each person is treated individually and that no cohort of people is automatically deemed to lack decision-making capacity.

The legislation requires that, when there are doubts about a person's decision-making capacity, the assessment should be done at the person's highest level of functioning. The legislation puts the onus/burden of proof of lack of decision-making capacity on the person who thinks a person may lack capacity. The legislation provides for everybody to be presumed to have the capacity to make decisions about their own affairs unless the contrary is demonstrated by a functional capacity assessment carried out by a person competent to carry out such an assessment.

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 a decision on the matter in question. 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/ assistive technology).

A person is not to be considered as unable to make a decision in respect of the matter concerned unless all practicable steps have been taken, without success, to help them to do so. 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 takes into consideration the person's individual circumstances, their means of communication and the specific decision to be made.

“People may accept poor arrangements because they see no alternative.”

There is a responsibility on all those involved in a person's life (relatives, friends and professionals) to ensure that the person is provided with all reasonable supports to help them to make choices and decisions about matters that affect them. Supporting decision-making includes providing relevant information and ensuring that all available options 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 professional expertise, *for example, a psychologist or a speech and language therapist, and engaging an independent advocate (see section on Independent Advocacy).*

The assisted decision-making legislation has a number of important Guiding Principles, in particular:

- All practical steps to be taken to support a person's own decision-making
- Intervention by others only when necessary and it is clear that a person is finding it difficult to understand a specific matter or matters
- An intervention where required to be the least restrictive possible and which respects a person's right to autonomy and self-determination
- The fact that others may not agree with a person's decision or may regard it as unwise does not mean that the person lacks capacity to make their own decision;
- Supports to be provided to enable a person to articulate to the greatest extent possible their will and preferences on all matters affecting them
- Consider the views of others who have a bona fide interest in the welfare of the person
- Recognise that decision-making capacity can fluctuate and that a person can regain, as well as lack, decision-making capacity
- Respect a person's right to privacy in conducting their affairs.

Early planning reduces the need for restrictive interventions later.



Options for supported decision-making

Where a person requires support with decision-making, the legislation provides for a number of decision support roles, taking into account a person's level of decision-making capacity at the time a decision has to be made.

These are:

- ✓ A decision-making assistant
- ✓ A co-decision-maker
- ✓ A decision-making representative
- ✓ Enduring Power of Attorney (EPA)
- ✓ Advance Healthcare Directive.

A decision-making assistant can be appointed to assist a person to make a decision on their own. A co-decision-maker can be appointed to make a decision jointly with the person and a decision-making representative has the authority to make a decision on behalf of a person in matters directed in the order made by the court. 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 in order to ensure that any restriction on a person's autonomy in respect of decisions about their personal finances, property or welfare is as limited as possible.

When an application for a capacity assessment is made to the Court (usually the Circuit Court), the Court can make three possible declarations as to a person's capacity:

1. That the person has the capacity to make decisions about the matter/s before the court (e.g., managing their finances) on their own or with the help of another person
2. That the person cannot make decisions unless a co-decision-maker is appointed, or
3. That, even if the assistance of a co-decision-maker were made available, the person still cannot make a decision. In the case of the latter, the Court may appoint a decision-making representative under what is called a decision-making representative order.

What is a decision-making representation order (DMRO)?

If the Court declares that a person lacks capacity to make certain decisions, e.g., relating to welfare and property, even with support, it can appoint a decision-making representative to make those decisions on behalf of the person, if this is the least intrusive of the person's rights. This means that the decision-making representative is the person responsible for making the decisions included in the Court Order. The Order will state what functions the decision-making representative will have and what decisions they can make.

In urgent matters, and where the court is satisfied that it is necessary to act immediately, it can make the decision on the person's behalf.

The Court will usually appoint someone who is known to and trusted by the individual concerned in the role of decision-making representative. If there is no-one known to the person who is willing or suitable to be appointed as their decision-making representative, then the Court can select someone from the panel of trained experts drawn up by the Decision Support Service, the agency with overall responsibility for implementing the legislation.

The decision-making representative can only make decisions that are written down in the decision-making representation order. During the decision-making process, the decision-making representative must consider the will and preference of the person on whose behalf they are making decisions (including preferences stated in the past while the person still had decision-making capacity).

What happens when questions arise about a person's decision-making capacity

When a person themselves or their relative or a legal or healthcare professional has concerns about a person's decision-making capacity, the first thing that needs to be done is to ascertain if the person has made an Enduring Power of Attorney or an Advance Healthcare Directive dealing with the specific decision/s to be made at that time. If not, then an application is made to the Court either to make the decision on behalf of the person or to appoint a decision-making representative.

One of the requirements of making an application to the Court is the necessity to file a Statement of Capacity of the person who is the subject of the application. This may require getting the assistance of a lawyer. If the person whose capacity is being assessed is the applicant in the proceedings, they are eligible for free legal aid and do not need to undergo a means test. Other parties involved in the proceedings, such as a family member applying to be a decision-making representative, may also be eligible for free legal aid subject to a means-test.

The ADMCA provides that the applications to the Court shall be heard in the presence of the Relevant Person and, if the person is unable to attend in person, this is accommodated by either video conferencing or by the report of an independent advocate or both.

The independent advocate consults with the person who is the subject of the application to ascertain their views on the matter, including, whether they feel that they need additional support, and what their views are on the person to be appointed as their decision-making representative. This report is then submitted to the Court and taken into consideration by the Court in deciding on the application.

“Safeguarding is most effective when it is built into everyday practice.”

Key points to bear in mind

- ✓ The assisted decision-making legislation provides individuals with important legal protections which state that each person must be presumed to have decision-making capacity unless the person has been formally and appropriately assessed as not having capacity.
- ✓ When an application is made to the Court, the Court will consider all relevant information, including the Independent Advocacy Report before making a decision itself on behalf of the person or making an Order to appoint a co-decision-maker or a decision-making representative.
- ✓ Where a Court makes an Order appointing a decision-making representative for a person, the Court will stipulate the specific areas in which the decision-making representative can make decisions for the person – decisions in areas that are not listed in the Order cannot be made by the decision-making representative.
- ✓ Once a decision-making representative has been appointed, no other person has the legal right to make any decisions about the matters which are listed in the decision-making representative Court Order.
- ✓ Each person who is the subject of an application to the court has the right to attend court for the hearing and to be supported in whatever way necessary to do so.
- ✓ Each decision-making representative Order will be reviewed periodically by the Court and the individual who is the subject of the Order can at any stage apply for a review.
- ✓ The Decision Support Service maintains the decision support arrangements register which confirms the existence and details of capacity-related decision support arrangements. This register can be searched¹ by authorised individuals and organisations with a legitimate interest, including members of the public, banks, lawyers, and healthcare professionals to confirm whether a decision support arrangement exists, the status of the arrangement and the content of the arrangement.

“Financial support should increase confidence, not dependence.”

[1. To access and search the register, individuals must create an account on the MyDSS portal, apply for access, provide personal details and evidence of being an approved person, and confirm that they will adhere to access guidelines. The DSS website contains a step-by-step guide on how to set up a MyDSS account -- https://decisionsupportservice.ie/sites/default/files/2023-04/Create_account_step_by_step.pdf](https://decisionsupportservice.ie/sites/default/files/2023-04/Create_account_step_by_step.pdf)

Practical matters arising from ADMCA arrangements

Important advantages of ADMCA arrangements

ADMCA arrangements provide advantages that overcome the challenges, difficulties and potential for confusion and abuse that are attached to many of the unsatisfactory arrangements that may have often been used to date. These arrangements also ensure that the rights of the person concerned are acknowledged and respected.

Clarity of ownership

Decision-making assistant and co-decision-making arrangements provide for absolute clarity about ownership which needs to be understood and applied in all situations.

- 1) The identification of the ownership of property is made clear (whether that comprises money, buildings, land or other assets) – it belongs to the person themselves and not to others. This clarity compares very favourably with misunderstandings that can arise in the case of joint accounts. It also complies and aligns with the provisions of the UNCPRD.
- 2) The name of person who owns the property should be on all accounts no matter what ADMCA arrangement is in place to ensure that this is central to any engagement around such property.
- 3) Any property, even if an Enduring Power of Attorney or decision-making representative arrangement is in place, should remain in the name of the person themselves or should be transferred into their name if some other arrangement has been in place – such as a joint account in a financial institution.

Pensions and Benefits

If any ADMCA arrangement is put in place, all relevant parties should be notified. Such notification should assist in the discontinuation of any other arrangements which may give rise to financial abuse.

The Department of Social Protection should be notified if a person is in receipt of any social welfare payment. If the person has an occupational pension, then it will be important that the occupational pension provider be notified. Similarly, if a person has a public service pension, the National Shared Services Office should be notified.

Financial pressure is often emotional as well as practical.



Other communications

There is an obligation to notify/report to the Decision Support Service (DSS) any decision-making support arrangements that have been put in place.

If a person has more than one ADMCA arrangement in place, all decision supporters should be made aware/notified of these.

Very importantly, any arrangements under the assisted decision-making legislation relating to managing a person's money, assets and benefits should take precedence over any other arrangements.

B. Nursing Home Support Scheme (Fair Deal): Implications for managing your finances

What is the Nursing Home Support Scheme?

The Nursing Homes Support Scheme – generally referred to as the 'Fair Deal' – is a government scheme that provides financial support for people in long-term nursing home care. People who use the scheme contribute towards the cost of their care, based on their income and the value of property and assets that they own. The State pays the rest. In essence, the Fair Deal shares the cost of nursing home care between the individual and the State. The Fair Deal is managed by the HSE. The details of how your contribution is calculated are explained later in this section.

You must be ordinarily resident in Ireland and need long-term nursing home care to apply for the Fair Deal. You need to be approved for Fair Deal before you can get state funding for nursing home care. In a limited number of instances, the HSE may pay for your care in a private nursing home while your application for Fair Deal is being processed. This is known as Transitional Care Funding.

The Fair Deal scheme covers long-term nursing home care only, including:

- ✓ Accommodation and food
- ✓ Nursing and personal care
- ✓ Laundry service
- ✓ Basic aids and appliances needed to support you with daily living.

How Fair Deal works

When you apply for Fair Deal, your care needs are assessed by the HSE to confirm that you require long-term nursing home care. This will assess if you can be supported to continue living at home or if long-term nursing home care is needed and advise on the matter. Healthcare professionals appointed by the HSE (such as a public health nurse) will carry out the assessment. The care needs assessment will look at:

- ✓ Your ability to do daily activities like bathing, shopping, dressing and moving around
- ✓ Your current use of any health and personal services such as a home-care assistant or nurse
- ✓ The family and community support available to you
- ✓ Your wishes and preferences.

Based on the Care Needs Assessment, the HSE decides if long-term nursing home care is the best option for you. This will determine whether you are eligible for Fair Deal support.

The HSE also assesses your financial situation to see how much you can afford to pay towards your nursing home care. The Financial Assessment looks at all your income and assets.

The Financial Assessment works out how much you must pay towards your nursing home care. The HSE will pay the remaining balance of the cost. For example, if the total weekly cost of your care is €1,000 and your weekly contribution is assessed as €300, the HSE will pay €700. This payment by the HSE is called State support.

Some people may not be financially eligible for Fair Deal because of their income and assets.

Income and assets

Income

Your income for the purpose of the Financial Assessment includes earnings, pension, social welfare benefits, income from dividends or interest, rental income from properties that are not your home, income from fees and commissions. It also includes transferred income which is income that you transferred to someone else over the five years leading up to your first Fair Deal application. This minimises the possibility of reducing your contribution to the cost of your care by diverting income to, for example, a family member.

“Financial safety
is strongest when
people know
their rights.”

“People should be involved in decisions to the greatest extent possible.”

Assets

Assets are divided into two categories, cash assets and non-cash assets.

Cash assets include savings and deposits, stocks, shares, securities and other financial investments, approved retirement funds (value of fund at date of application), money loaned by you to another person, cash assets transferred to another person in the last five years.

Non-cash assets include: your home (if you own or part-own it), any property or land you own, businesses, overseas land and property.

In the case of assets, the net value of the asset is assessed. The net value is the value minus any borrowings for the purchase or improvement of the asset.

Transferred assets

The financial assessment will look at assets that you have transferred in the five years before the Fair Deal application, for example, any land, money, or property you have given to another person. As with your income, this minimises the opportunity to reduce your contribution toward the cost of care by transferring your savings or your property, for example, to a family member.

Deductions

You can subtract the following outgoings from your financial assessment:

- ✓ Income tax, PAYE, Universal Social Charge and PRSI
- ✓ Levies you must pay by law such as property tax
- ✓ Interest on loans for the purchase, repair or improvement of your home (if you own it)
- ✓ Rental payments from renting your home (primary residence), while you are in nursing home care (details and application form below)
- ✓ Rental payments from your partner, your child, or your partner's child (aged under 21) who live in your property
- ✓ Health expenses such as GP visits, prescription charges, medicines and medical expenses after tax refund, (not including contributions paid under Fair Deal)
- ✓ Maintenance payments for a child, spouse or former spouse made under a separation agreement or a court order
- ✓ A dependent child in full-time education
- ✓ Any redress you received under a qualifying redress scheme.

How much you pay towards your care

After assessing your income and assets, the Financial Assessment will work out how much you pay towards your care.

If you are a single person, you will pay 80% of your income (less the deductions listed above) and 7.5% of the value of your assets. If you are part of a couple, then you will pay 40% of your joint income and 3.75% of the value of your joint assets.

A couple is either a married couple living together or an opposite or same-sex couple living together as life partners for at least three years. It does not include relatives who live together, or two adults living together but not as life partners.

The first €36,000 of your assets, or €72,000 for a couple, are not counted in the Financial Assessment. If you are part of a couple, you will contribute half of the amounts above, that is, 40% of your income and 3.75% of the value of your assets per year.

If a person rents out their home while in a nursing home, they can keep 100% of the rental income. Rental income from a person's principal private residence is fully exempt.

Some assets are only included in the financial assessment for the first 3 years you are in care. This is known as the '3-Year Cap'. It means that you pay a 7.5% contribution based on the value of certain assets for up to 3 years. These assets are your home, the proceeds of the sale of your home and your farm or business. After 3 years, you will not have to make any further payment based on these assets, even if you are still getting long-term nursing home care. The '3-year cap' applies whether you choose to get the Nursing Home Loan (see below) or not. All other assets will be taken into account for as long as you are in care. There are conditions attached to the inclusion of a family-owned farm or business under the 3-Year Cap. You will need to check these out if this applies to your situation.

When the Care Needs and Financial Assessments have been completed, the HSE will write to you to tell you:

- ✓ What you need to pay as your contribution to care
- ✓ Whether you qualify for State Support and the Nursing Home Loan (see below)
- ✓ What nursing homes are part of the scheme.

As noted above, some people may not be eligible for Fair Deal support. This can occur when the assessment of the amount to be paid towards their nursing home care is higher than the total cost of the care.

If a person needs to pay for nursing home care, whether eligible for the Fair Deal or not, or if they choose to pay privately for nursing home care while waiting for Fair Deal approval – then their payments can be offset against income tax liability.

You can request another financial review 12 months after your first assessment or your last review. However, the HSE may review a financial assessment at any stage.

Applying for the Nursing Home Loan

As shown earlier, if you have assets such as a house, land, or property, then their value will be taken into account when calculating your contribution toward your care. For some people this can create a real difficulty. Their actual income may not be adequate to meet the contribution cost, and they may not be able to realise cash by selling off their assets.

In such a case the contribution based on those assets may be deferred. This means that the person does not have to pay that proportion of their contribution during their lifetime. Instead, if approved, the HSE will pay the money to the nursing home on a person's behalf, and it will be collected after their death. In certain circumstances, the payment may be deferred for a longer period, for example, if a spouse or partner or your former carer is still living in your home.

This is a loan – referred to as the Nursing Home Loan – secured by the value of the assets concerned, most often a family home. The loan is an optional benefit of the scheme. It is effectively a loan advanced by the State which can be repaid at any time but will ultimately fall due for repayment upon a person's death. Its purpose is to ensure that a person does not have to sell assets such as their home during their lifetime.

It is very important to note that this loan has much in common with a mortgage. The HSE will have what is called a 'charging order' registered against the asset in question. The HSE will, amongst other matters, need to be fully confident that no other entity can claim precedence over them in having a call on the eventual value of the property. This issue is most relevant in the case of Equity Release, which is discussed elsewhere in this Guide.

Taking up the Nursing Home Loan – if you have assets including land or property – allows you to postpone paying a portion for your care until after your death, using your assets to secure the loan. The Nursing Home Loan will cover that portion of your contribution which is based on your property/land-based assets within the state, but you will still pay a weekly contribution towards your care, based upon your assessed income, pensions etc..

For example, if your total contribution toward the cost of your care was assessed as being €550 – of which €250 was based on your income and €300 was based on the value of your property and assets – then the Nursing Home Loan would cover the €300 amount, leaving you to pay only the amount of €250 weekly.

The HSE will start paying the State support and the nursing home loan, if appropriate, from either of the following (depending on which date is later):

- ✓ The date that the application is approved
- ✓ Date you are admitted to the nursing home.

Financial safeguards

As part of the Financial Assessment, the following safeguards are in place:

- ✓ You will not pay more than the actual cost of care
- ✓ You keep a personal allowance of 20% of your income or 20% of the maximum rate of the State Pension (Non-Contributory), whichever is more
- ✓ If you have a spouse or partner remaining at home, they will be left with 50% of the couple's income or the maximum rate of the State Pension (Non-Contributory), whichever is more.

You can, if you wish, make an appeal against the outcome of your Care Needs and Financial Assessments. There is also provision for reviews.

Decision-making supports

If you do not have the capacity to consent to a charge on your property another person can only do so on your behalf with legal authority to do so. Those with such authority are: a person appointed by the Circuit Court as a decision-making representative; a person appointed under an Enduring Power of Attorney or a person's Wardship Committee, where they are a Ward of Court. (For more information, see section on assisted decision-making legislation above).

“People
deserve time,
information,
and respect
when making
decisions.”

Important points to consider

- The scheme covers public, private, and voluntary nursing homes.
- Your monthly payment to the nursing home will be a fixed amount, regardless of how much the home charges.
- Fair Deal funding cannot be backdated and will only start from the date it is approved.
- While waiting for Fair Deal approval, you can choose to privately pay for your nursing home care, which can be offset against any income tax liability.
- Transfers of an applicant's cash assets in the five years prior to an application for support are taken into account in determining the required personal contribution.
- The first €36,000 of a person's assets (or €72,000 for a couple), including savings, are not taken into consideration during the financial assessment.
- Your home will be removed from the financial assessment after you have been in a nursing home for three years.
- Family-owned farms and businesses can be included in the '3-year cap' if specified conditions are met.
- The scheme does not cover respite care, convalescent care, day care, or extra fees for services like therapies and social activities that may be provided in nursing homes.
- If you have already been in a nursing home for three years when you apply for the scheme, then you do not pay the 7.5% on your home – this means that a maximum of 22.5% of the value of a person's home can go towards meeting that person's Fair Deal contribution.
- The Fair Deal provides people with the possibility of availing of long-term care without worrying about whether they can afford it. However, the Fair Deal inevitably results in the erosion of the value of a person's assets - be they cash or property. Some people may see this as 'chipping away' at their hoped-for inheritance. Some may try to encourage an ageing relative to transfer or gift their funds and assets over to their eventual heirs immediately – as opposed to after their death – so as to maximise their inheritance.
- People need to be aware of the implications, both positive and negative, arising from taking up the options available under the Fair Deal. Ultimately however, older people need to be conscious of the fact that their home and other assets are their personal property to be used for their benefit, and that people who may eventually be beneficiaries in their will, do not have any rights over how those assets should be used or allocated.

“Good support respects dignity as well as safety.”

- People should consider the possibility that they may not move directly into long-term care – which could be covered by the Fair Deal – but that they could find themselves moving from their home to short-term care and back to their home. They may also wish to provide themselves with care over and above that provided and funded by the state.
- In considering transferring legal ownership of their home or other assets to someone else, then the older person should be aware of the fact that financial assessment for the Fair Deal includes any assets they had transferred in the 5 years before the date of the first application.
- In order to approve the Nursing Home Loan in respect of applicants with Equity Release loans, the HSE must ensure that there will be sufficient equity remaining on the property at death or other relevant event to enable the recovery of any monies advanced under the Ancillary State Support loan. The HSE will need to assess whether an Equity Release loan taken out might jeopardise the HSE's ability to recover the loan made under the Ancillary State Support. While it is likely that the eventual sale of a house will result in enough cash to repay both HSE and the Equity Release loans, it will certainly mean that the income from the sale of a house will be very much reduced.
- It is important to note that if you sell your home, whilst you are in care, the net proceeds of the sale will qualify for the three year cap, but you must advise your local Nursing Home Support Office accordingly.

Legal advice

You may wish to talk to a Solicitor before making your Fair Deal application. A Solicitor can provide legal advice, discuss the options available and complete the forms on your behalf. A Solicitor can also manage your case and represent you in court. In some instances, legal advice may not be required. However, where there are multiple assets involved and, especially where all or some of these are shared assets, legal advice should be sought. This is particularly important where a person is applying for the Nursing Home Loan.

Various aspects of the Fair Deal are further considered in Section Seven of the Guide.

C. Power of Attorney and Enduring Power of Attorney

There is a difference between a general Power of Attorney (also known as a POA) and an Enduring Power of Attorney (also known as an EPA). A POA is a legal document where you grant another person the power to act on your behalf while you have the capacity to manage your own affairs. However, a POA becomes invalid if you lack decision-making capacity. An Enduring Power of Attorney, on the other hand, specifically allows your chosen Attorney to make decisions for you at a time when you lack decision-making capacity. The key difference between the two lies in the fact that an EPA only comes into effect when a person lacks decision-making capacity, whereas a general POA ceases to be valid. It is, therefore, very important that a person understands the difference between a general Power of Attorney and an Enduring Power of Attorney.

Under a Power of Attorney, you grant a person the power to act on your behalf in relation to certain matters. Usually, it is time limited and limited to making specific decisions on your behalf, for example, giving somebody the power to sign a contract on your behalf. This Power of Attorney will cease to have effect should you lack decision-making capacity.

An Enduring Power of Attorney, on the other hand, is a legal document that gives somebody (the Attorney) the power to make certain decisions for you and manage your affairs, usually financial and personal care affairs, when you no longer have the capacity to manage those affairs yourself. An EPA remains in place for as long as you lack capacity to make your own decisions.

General Power of Attorney

In general, an Attorney should be someone you know you can trust to act on your behalf and to follow your wishes.

If you decide to set up a General Power of Attorney, make sure there is someone else you trust who can tell your bank that the General Power of Attorney is no longer valid, for example, if you no longer have capacity to make decisions.

If you are considering setting up a Power of Attorney, you should weigh up the risks and benefits and make your decision based on what matters most to you, without pressure from anyone else.

Know and exercise your following legal rights:

- Your money and property are solely yours
- You maintain control until you decide to give control to someone else
- You should understand the nature of your decision and make it freely and without pressure or coercion.

“Clear boundaries help prevent harm.”

Who can be an Attorney?

An Attorney can be anyone you trust to make decisions on your behalf, like a family member or friend. An Attorney does not have to be a Solicitor. If there is nobody amongst your friends and relations who you would like to appoint, you could appoint your Solicitor to take on the role.

There are some people who because of their age (under 18 years old), criminal convictions, or other matters are deemed ineligible to be an Attorney.

Types of decisions that an Attorney can make

A Power of Attorney can give general authority to the Attorney to do anything that the Attorney might lawfully do, or it may merely give authority to do specific acts on your behalf. So, it is possible to appoint an Attorney with authority, for example, to only make financial decisions on your behalf, but not to make personal welfare decisions on your behalf. You can grant your Attorney the power to make decisions regarding your property and affairs, including the power to buy or sell property, pay your debts and taxes and carry out any other duties; apply for social welfare payments on your behalf.

You can, if you wish, appoint different Attorneys to look after different aspects of your life, such as appointing one person for financial matters and another for personal welfare matters.

Creating an Enduring Power of Attorney

Most people can manage their own financial affairs. However, there is a very strong argument for people creating an Enduring Power of Attorney (EPA) in order to prepare for the eventuality that there may be a point in time where they can no longer manage their own financial affairs.

An EPA is an appropriate way of preparing and planning for an eventuality that at some time in the future you may not be able to make some decisions for yourself. A person can lack the capacity to make decisions on their own at any age of their life and for a variety of reasons, ranging from an intellectual disability, an acquired brain injury, dementia or mental health difficulties.

An EPA must be created when you have the capacity to do so. Capacity means that you can grasp and understand things like what sort of powers you are giving your Attorney; when they can exercise the power; what effects this could have on you and the things that are important to you; and how to cancel the arrangement if in the future you so wish.

You need to be aware that, to be legally valid, an EPA must be registered with the Decision Support Service (the body responsible for overseeing the implementation of the assisted decision-making legislation) and does not come into effect until you lack the capacity to make decisions for yourself.

To appoint an Attorney, you must be at least 18 years old and have sufficient capacity to make the appointment.

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



What obligations do Attorneys have under an EPA?

When making decisions for you, your Attorney must act:

- In accordance with your will and preferences as far as these can be ascertained
- Make the same decision you would make if you were able to do so yourself
- Keep accurate records of dealings and transactions
- Avoid situations where there is a conflict of interest
- Keep your money and property separate from theirs.

Creating an Enduring Power of Attorney

If you have decided to create an EPA, it is essential that you take good advice. It will be important that you are aware of the consequences of what you are agreeing to, what rights you retain and what rights you are giving up. The Decision Support Service (DSS) provides a good templates and guidance documents on their website.

Although it is not necessary that you employ a Solicitor to draw up the EPA for you, it will be necessary that a Solicitor verifies that you do understand what is involved and that you are doing so without being under duress or undue influence. Similarly, your appointed Attorney will need to sign that they agree to taking on the role and that they understand their obligations.

The document creating the EPA must be in a particular format and must include the following:

- A statement from you that you understood the effect of creating the EPA
- A statement by a Doctor or healthcare professional verifying that in their opinion you have the capacity at the time that the document was executed to understand the effect of creating the EPA
- A statement from a Solicitor or Barrister that they are satisfied that you understood the effect of creating the EPA and that you were not acting under undue influence
- A statement by the chosen Attorney or Attorneys that they understand their obligations and agree to be an Attorney.

Two people must witness the making of the EPA.

Once completed, your EPA must be registered with the Decision Support Service (DSS) within a three month period.

The Decision Support Service is the state body responsible, amongst other matters, for registering EPAs and for monitoring the operation of EPAs.

Once the EPA has been registered, it can be revoked or varied by informing the Decision Support Service.

Informing people

People such as immediate family members should be informed of your EPA. Financial institutions such as your bank or credit union should also be informed when an EPA is activated. This will allow your appointed Attorney to access and manage your finances.

Activating an EPA

When and if your appointed Attorney has reason to believe that you lack capacity in relation to a decision on a matter included in an EPA, your Attorney must notify the Decision Support Service. The notification must be accompanied by statements from two people who are Doctors or healthcare professionals supporting that belief. You yourself and a number of other persons must also be informed of the notification to the Decision Support Service.

If your Attorney informs the Decision Support Service that you lack capacity, they must also submit – within a three month period of the coming into effect of the EPA – a list of your assets and liabilities, and a projected statement of your income and expenditure. They must submit a written report to the DSS every year, which sets out details of the costs, expenses or money paid to the Attorney. They must keep proper accounts and records and must set out in the report how they performed their functions as Attorney. The DSS can send a general visitor or a special visitor to talk to your Attorney if they get a complaint, or if they want to check that the Attorney is acting in accordance with your will and preferences.

Terminating an EPA

Your EPA ceases on your death. Your affairs then become a matter for the Executor of your Will if have one or if you don't, the administrator of your estate.

There are circumstances in which an Attorney can become disqualified. For example, where a spouse or civil partner is the Attorney, they become disqualified in the event of a divorce or judicial separation, unless you provide otherwise.

An Attorney will also be disqualified in other circumstances, including if the Attorney is convicted of an offence against you, your property or your child or their property, or if it is determined that the Attorney themselves lacks decision-making capacity.

Finally

An Enduring Power of Attorney is an extremely valuable tool in ensuring that your wishes and preferences are respected and acted on in the event of you

experiencing a loss of decision-making capacity. Its legal status provides strong safeguards for ensuring that your will and preferences are carried out.

Setting up an Enduring Power of Attorney requires a little effort, but the process is now well-defined and accessible.

D. Coercive control and undue influence

What coercive control is

Coercive control is primarily a form of abuse. It is a pattern of behaviour which is designed to exert control over another person. Coercive control is used to make a person dependent and to isolate them for the purpose of exploiting them, deprive them of their independence, exercise control over their behaviour and choices. Coercive control is often exercised over people in relation to how they dispose of their money and other assets.

Coercive control is most likely to occur between two adults who are in close contact with each other. It can have a serious impact and damage a person's physical and emotional well-being and can result in people changing their routine behaviours. In some instances, it can result in people being forced to break off meaningful contact with family and friends.

Under Irish law, coercive control as an offence is provided as applying only to types of abusive behaviour that happen in intimate partner relationships – such as between people who are married, in a civil partnership, or cohabiting. Coercive control can happen in such relationships, even after they have ended. However, in reality, coercive control takes place in many relationships, including between parents and their adult children.

What undue influence is

While undue influence is very similar to coercive control, it is most often used to describe taking advantage of people in the course of legal transfers of property and assets. Undue influence is a legal concept that refers to the act of exerting pressure or coercion on an individual to make decisions that are not in accordance with their will and preferences and/or are not to their benefit.

When undue influence occurs, it most often happens in secret and involves people who are in positions of trust.

In the context of wills and property, undue influence can involve putting pressure on a person to make a will in a certain way or to make changes to an existing will. It may also involve manipulating a person into distributing or transferring their assets in a way that benefits a particular person, often one family member or caregiver. This can be subtle and difficult to detect.

Undue influence can include pressure on a person to put in place any of the arrangements outlined and discussed earlier in connection with the assisted decision-making legislation. Anybody so doing commits an offence under the legislation.

“Staying in control is central to wellbeing.”

Undue influence – and coercive control – can have a serious negative impact on the person who is being pressurised into doing something that they do not want to do – making a will in a particular way or distributing assets prematurely. It can also have a negative impact on other people who would have a reasonable expectation that they would inherit a relative's money or assets. This can have a very negative impact on family relationships and dynamics.

Who is at risk of coercive control and undue influence?

We are all at risk of coercive control at points in our lives, particularly at difficult times. There may be a heightened risk for people living with a long-term intellectual or physical disability, frail older people, people with mental health difficulties and people whose decision-making capacity has become compromised. People who are usually well able to stand up for themselves and control their affairs can sometimes find themselves at risk because of a sudden illness, bereavement, accident, breakdown of a relationship, move of residence or loss of decision-making capacity.

Coercive control can also occur in the absence of any of these factors and can be a deliberate manipulation of another person to create dependence and control.

Relatives, friends and carers are important supports to a person who finds themselves in a difficult situation for whatever reason/s. However, in such situations, abuse often occurs with people being subtly coerced and unduly influenced by relatives and caregivers to do things that they do not wish to do. This is particularly the case where money and property are involved. On the other hand, it is important to bear in mind that social support and healthy relationships with family members are key protective factors for people at risk of coercive control.

Signs of coercive control and undue influence

Coercive control and the application of undue influence can often be subtle and difficult to detect from the outside where appearances may suggest

Safeguarding concerns often arise where boundaries are poorly defined.



People are more vulnerable during periods of stress or change.



that the relationship in the household is one of mutual trust. The victim may be deliberately isolated from others and find they have limited or no access to other family members, friends or social supports. It is also the case that a person themselves may not recognise that they are being coercively controlled and, even when they do, they may not wish to take any action on the matter. This may be because of fear of reprisal or fear that they will lose their relationship with a family member who in some instances will have been providing care and support.

As behaviour worsens each incident of abuse becomes a new normal. Being under coercive control often reduces a person's ability to think independently or have time and space to seek support. People who use coercive control can often be very skilled in concealing it and might, indeed, convince themselves and the person being controlled that what they are doing is a normal part of family relationships or caregiving.

Warning signs for the presence of coercive control

A person who is being subjected to coercive control or undue influence is likely to experience some of the following:

- Confined to being at home and not being supported to get out and about as much as they would like
- Feeling progressively isolated and cut-off from other family members and friends
- Having their whereabouts constantly monitored or queried
- Having their contact with family or friends prevented or controlled;
- Frequent and excessive visiting or contact via phone, email, or social media
- Having access to their phone restricted or cut off
- Losing personal control of their financial affairs
- The abuser making important decisions on a person's behalf that they have no legal right to do
- Undermining of independence and autonomous decision-making
- Having their correspondence and mail monitored or withheld from them
- Not being allowed speak to staff at their bank or credit union without the abuser being present
- Experiencing pressure to sign over control of bank accounts or to open joint accounts
- Feeling obliged to take out loans or make other financial decisions

- Being threatened with violence, neglect or the withdrawal of care
- Feeling pressured into giving money or property to someone, or to change their will or Power of Attorney
- Being forced by another person to appoint them as a decision supporter under one of the arrangements provided for in the assisted decision-making legislation
- Being instructed, asked or encouraged by the abuser not to share information about financial decisions with others, especially other family members
- Making them doubt themselves, their memory, or experiences
- Being under constant surveillance or scrutiny and having their movements and location monitored
- Being forced to take on roles and responsibilities that they do not want, for example, regular free child minding, domestic duties, providing free accommodation, sharing their home
- Being pressurised by a new partner who wants to move into a person's home immediately.

People who are being subjected to coercive control often feel:

- Scared to ask for what they want or need
- Reluctant and afraid to look for help
- Isolated and alone
- Confused or embarrassed about what is happening
- Not in control of their life and finances
- Anxious and depressed.

“Support works best when it is transparent and accountable.”

Coercive control and undue influence used to carry out financial abuse

Coercive control and undue influence regarding a person's money, property

and assets can happen in multiple ways. These can include:

- Pressure to change the contents of a person's will, usually in favour of the abuser or someone connected to the abuser
- Pressure to transfer ownership of property to the abuser or someone connected to the abuser
- Pressure to put banking accounts or other financial assets into joint ownership
- Pressure to hand over PINs, passwords or credentials under the guise of helping a person who has been made to believe they cannot manage
- Pressure to give a loan to the abuser or someone connected to the abuser
- Pressure to give the abuser an 'advance' on what they expect to get in a Will
- Emotional pressure to settle a debt or pay for an 'important' purchase or expenditure on behalf of the abuser
- Pressure to provide cost-free or low-cost accommodation to the abuser and/or someone connected to them
- Pressure to act as guarantor on a mortgage or other borrowings by an abuser
- Pressure to take out a loan to give money to the abuser for various purposes, for example, home improvement, buying a car, paying a gambling or drug debt
- Pressure not to spend money or to make other decisions about their property or assets to 'protect' a future inheritance.

While some of these examples can involve substantial amounts of money or assets of considerable value, financial abuse based on coercive control and undue influence can often begin with smaller sums of money and possessions of lesser value.

The impact of some coercive actions can be immediate while others can take time to take effect. Coercive debt, for example, is a debt incurred by an abuser in the name of their victim, through threat, force or fraud. It can include situations as mentioned above where, for example, older parents who acted as guarantors on an adult child's borrowings are left to pay off the debt when the adult child defaults; or situations where the older family member falls into debt themselves as a result of, for example, giving a loan to a relative that was not repaid or someone else taking control of their money without permission.

In all instances, coercive control involves taking a person's right to make their own decisions freely away from them. All individuals, irrespective of their household relationships, must be free from fear, force or pressure in making

financial decisions, especially those that involve important assets.

What coercive control can look like to outside observers

If you can observe the financial and other patterns in the behaviour and life of a person who may be at risk of these types of financial abuse, there are some tell-tale signs:

- The person at-risk makes financial decisions that are surprisingly out of character
- They make financial decisions that particularly favour one beneficiary
- They make decisions that conflict with their previously expressed wishes
- A person who benefits from changes to a will (the beneficiary) was not named previously in this will or any previous versions
- As a result of the changes, the beneficiary now stands to receive a much larger inheritance
- Financial decisions are made without other concerned parties being informed or consulted
- A person making decisions about their finances that are out of character and appear not to consider their own current or future needs
- A person being isolated from friends and family members who may be able to provide support and guidance
- In extreme cases, evidence of violence, threats, or intimidation
- A person suddenly having trouble in meeting their debts, even though they should have adequate income to pay their bills in the normal course of events
- A person's home being used by people who are not known by you to have any connection with the victim.

Some of these indicators may well have innocent explanations. However, the presence of one or more of them – especially in the context of a person becoming isolated and cut off from family and friends – suggests that there is something wrong.

How to protect yourself from coercive control and undue influence

- Refuse to make important decisions about your finances and assets without taking time to consider what is involved.
- Involve more than one person in important decisions.
- Be very slow to make decisions that will benefit one person without speaking to other people you trust.
- Insist that any financial transfers to others are not secret – make sure that others know about them.
- Be very cautious if someone else asks or insists that you keep a financial transaction with them a secret.
- Take legal and professional financial advice when making important decisions about your finances and assets. Look to bodies like MABS for advice and support.
- Insist on having any decisions and arrangements involving your money and assets written down.
- Make sure that – in any legal transactions – you are advised and represented by a Solicitor who is not also representing the other person or persons involved.
- Make sure your will is valid and up to date. Use a Solicitor to advise and guide you.
- Keep your contacts open to as wide a range of family and friends as possible.
- Try to stay well-informed about your finances, accounts, and assets.
- Make managing your money a priority – take time to learn about new trends, products and services. Find out about any free money management courses offered by banks or other organisations in your community.
- Be aware that giving money or assets away to other people, even as a loan, could influence your ability to meet your own financial needs in the future.
- Expect and demand that staff in financial institutions treat you as the rightful owner of your funds and assets.
- If you feel that you are being abused financially, seek help from a trustworthy friend/relative or a professional, for example the HSE Safeguarding Team in your area or an independent advocacy organisation.

You have the right to make your own financial decisions and choices. These could well involve making gifts or giving financial support to other people, especially family members. However, these decisions should be made by you without pressure, coercion or undue influence.

Report coercive control

If you or any person is in immediate danger, contact An Garda Síochána at 999 / 112.

If a person is being mistreated but there is not an immediate danger, report it to your local Garda station, or contact the Garda confidential line at 1800 666 111.

E. Online banking (e-banking)

Online banking is now widely promoted by financial services. It is offered and available to customers of the main Irish banks, credit unions and building societies, as well as by An Post. For many people online banking has become the normal way of managing their finances, especially if they find it difficult to get to their bank or credit union branch office during working hours or if their branch office is hard to get to.

Advantages

Online banking provides efficient and easy access to bank accounts on a 24/7 basis to enable a person to pay bills, transfer money and check balances.

Another obvious benefit of online banking is that you can access information about accounts quickly and easily. You do not have to attend at your local branch office or wait for correspondence through the post.

Online banking therefore has many advantages including:

- ✓ 24/7 anywhere access and availability – you can manage your finances on your computer, tablet, or smartphone, providing flexibility and convenience.
- ✓ Reduced need for branch visits. Many everyday banking tasks can be completed online, saving time and effort.
- ✓ Financial management and control – you can track your transactions and balances instantly, providing better oversight of your finances.
- ✓ Easy bill payments – you can schedule and manage bill payments online, ensuring timely payments and avoiding late fees.
- ✓ Fund transfers – you can transfer money between accounts, pay others, and manage your finances with ease.
- ✓ Enhanced security – reputable online banking platforms utilise encryption and other security measures to protect your financial information. They may also send you notifications about account activity, helping you detect and prevent fraud.
- ✓ Easy account opening – many banks allow you to open new accounts online. You will be asked to provide identification and evidence of address.

However, not everyone is able to avail of online banking. They may not have a computer, a smartphone, or an Internet connection. Other people may not have the skills and confidence needed to use modern technology. Some people may not trust online banking and may be fearful of money being taken out of their accounts unknown to them.

Clearly, if you feel that online banking is not for you – for whatever reason - you should be able to do your banking and financial transactions in a manner that is best suited to your needs, e.g. collect your pensions or social welfare payments at a post office, pay for goods and services in cash and lodge money physically in the bank or credit union of your choice.

The move to e-banking changes fundamentally the way business is done and how financial services are delivered. The drive to make e-banking the norm for all citizens may have the unintended consequence of reducing access to banking for some.

Digital banks and digital banking

In addition to the online banking that has been on offer for some time in Ireland, there are also new banking and financial service providers that are only accessible online – i.e. they have no branch offices into which you could call. These new financial services firms include Revolut and N26.

Like the longer established banks and credit unions, they also offer current accounts, debit cards and a range of other facilities. E-banking can be particularly attractive to people who simply want a form of banking that meets their everyday needs. Clearly, e-banking is more likely to be attractive to people who are comfortable and accustomed to using their smartphone, computer or tablet for everyday tasks.

The main challenge connected particularly with online-only banking is the absence of the option of dealing with staff face-to-face, or, for some providers, even by telephone.

Disadvantages of online banking

The technology can sometimes fail

If you do not have internet access or the bank's website is out of action, you could be left without access to your account. This can happen when you are traveling, have a power outage, or simply because of unexpected technology disruptions.

Getting in-person customer support can be difficult

There is nothing like speaking to someone face-to-face to get help with banking, especially if the issue is complicated. With online banking, support is often provided online – through live chat or email. Many of the new e-banks do not offer phone support. They do not have branch offices, and they may not be willing to deal with you through conventional mail.

If you are likely to need in-person support with your banking, then these banking services will not work out well for you.

Security may be a concern

Internet fraud is an ever-present issue and could put some people off using online banking. However, it is worth bearing in mind that banks have sophisticated security measures in place. There are also lots of things you can do to protect yourself, including setting strong passwords and never sharing them with anyone. However, using online banking – as with many other types of banking - will involve using and remembering passwords and PINs.

No provision to deposit cash

The main, longer-established banks will have provision for lodging cash at some ATMs or in their branch offices. However, the new e-banks do not have that facility.

To summarise

Ultimately, it is completely up to you whether you feel comfortable using online banking. And after reading this guide, you should have a better idea of its pros and cons. More banks are moving towards an online banking model, so it could be worth giving it a try. For many people, the benefits outweigh the drawbacks.

Remember that there can be fees and charges attaching to banking accounts. Check out what these charges and conditions are before opening an online account.

F. Joint Accounts

Joint accounts held in banks or credit unions are quite common, with most being held by married or co-habiting couples. In these cases, there is usually an assumption that both spouses or partners have an equal interest and control over the money that is held in the account. In most instances either of the partners is authorised to carry out financial transactions and there is no need for both people involved to authorise withdrawals or other transactions. Both partners will, most probably, have their own debit card that they can use to pay for goods or to withdraw cash as needed. Likewise, they may both have access to the joint account through online banking by telephone or over the internet.

Banks can allow customers to set up joint accounts where both account holders must 'sign-off' on transactions or where only one of the account holders is authorised to 'sign-off', although this is becoming less usual, with some exceptions.

Issues that can arise with Joint Accounts

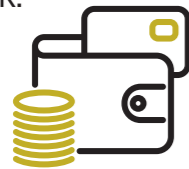
It is sometimes the practice to open a joint account simply because someone – usually an older person – is having difficulty managing their finances or is finding it difficult to visit their bank or credit union office. In these cases, another person – often a relative who is in a caring role – becomes a second account holder on a joint account. The money in the joint account belongs to the first person, but both people have authority to access the funds that are lodged in the account. This arrangement is usually seen as a convenient way to help the older person carry out their financial transactions, withdraw cash, and pay for shopping and other expenses. Older people are, in other words, encouraged to add the name of a family member or carer to their bank account 'for the convenience' of the older person. However, there are some areas of concern regarding the wisdom of this arrangement. Regrettably, a joint account set up with the intention of convenience could and sometimes does result in financial abuse.

Banks and other financial institutions do not, generally, allow for the conversion of a normal account to a joint account. The norm is for the financial institution to require the customer to open a new joint account through which the customer's financial transactions can be conducted.

What is the problem?

A significant problem can arise – which is very difficult to address – if the 'arrangement' involved in the setting up of a joint account is not approached with absolute clarity and certainty as to what the intentions of the main account owner are. Putting money from savings or from income belonging to one person only into a joint account that can be controlled by another person can have serious legal and taxation consequences, as well as creating an opportunity and temptation for financial wrong-doing.

Shared access to finances, without clear limits, increases risk.



If you are thinking about moving your finances into a new joint account, you need to be clear as to which of the following options you intend to put in place:

1. You are opening the account in joint names simply for your convenience.
2. You intend to share or make a gift of the money that is in the account with the other person, now or in the future.

The first option is most probably what you intend. If that is the case, then you are setting up what is called an 'agency' agreement. The second account holder – the 'agent' – only has authority over the funds in the account to the extent agreed by you – the original account holder. If the account is for your convenience only, then any withdrawal from the account should be purely for your care, needs and expenses. The 'agent' has no right to withdraw money for their own use and benefit.

If a time should come when you no longer have the capacity to make decisions for yourself – perhaps through illness – then the agency arrangement automatically comes to an end. The operation of the joint account then comes under the terms of any enduring Power of Attorney that you have set up or comes under an assisted decision-making arrangement.

On your death, the funds in the joint account pass on to your estate and not to the surviving joint account holder. The funds therefore become distributed in accordance with your will.

The second option is substantially different to the first. It involves an agreement that the funds contained in the joint account – which were originally only yours – now, or at some point in the future, become shared with the other signatory. This means, effectively, that you are making a gift of some or all your finances to that person. An arrangement where the second signatory comes into full ownership of all the money in a joint account on the death of the first signatory is sometimes referred to as a 'survivorship' account. If that is indeed your intention, then it is highly advisable that this be made clear to all concerned and ideally should be documented.

There may be taxation implications in this second option, and you should both take taxation advice. Likewise, there could be implications for the provisions of your will, so legal advice should be sought.

In the case of the first and most usual option, the only way of making sure that your intentions are fully respected and that the money in the account continues to be your property alone and is to be used for your benefit only, is to make sure that all of the parties involved are made aware in writing that the additional person whose name is being added to the account is being appointed as 'agent' for you – the original account holder only. These parties include the financial institution, you yourself, the person whose name is to be added to the account and all other relevant parties -for example, a care provider or Solicitor or other family members.

In the case of the financial institution, a note to the effect that the additional person acts only as an agent for the account holder should be put on the account. In banking terms this additional person is called a 'third party signatory' and is being given 'Third Party Authority' on the account.

A Third Party Authority allows you to select a third party (usually a trustworthy relative or close friend) to do your day-to-day banking. The third party is regarded in law as your agent. The account still belongs to you, not to the agent, and the agent is bound to use the money in the account at your direction and for your exclusive benefit.

It should be noted that not all financial institutions will offer the 'third party signatory' facility. In many cases the bank will only allow it where an assisted decision-making arrangement has been put in place; that is to say, where the account holder has been assessed as needing support or lacking decision-making capacity. You should discuss the matter with your bank or credit union and ask for their assistance in setting up a suitable arrangement.

It is recognised by financial institutions that customers can be put under pressure by others to set up joint accounts for reasons that are not well-intentioned. Your bank or credit union may ask that you go through various procedures when you request the setting up of an agency arrangement. Remember that this is for your protection.

It is important to note that there is now a strong case for moving away from the use of joint accounts. Operating a bank or credit union account under a co-decision-making agreement provided for in the assisted-making legislation is a much safer way of managing one's finances. It provides support when and where needed and provides greater protection against financial abuse.

Creating a Third Party Authority

One way of avoiding the need for joint accounts is for the account holder to set up a Third Party Authority with their bank. This 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. The third party is bound to use the money in the account at the account holder's direction and for their exclusive benefit. The three main banks in Ireland offer this facility.

Protection against financial abuse

Financial abuse can begin in very small ways. You should therefore not be slow or embarrassed to ask anyone who is acting as your agent to describe, explain and account for how they have accessed and used your money. Equally, it would be sensible to regularly review your bank or credit union statements.

G. Support for bank customers who are at financial risk

A proportion of consumers will be at risk and need additional supports with managing their finances. People can be at risk for different reasons – life events (for example, bereavement, job loss, ill health or ageing) or because of reduced decision-making capacity arising from an intellectual disability, dementia, an acquired brain injury or mental health difficulties. Individuals can move in and out of being at risk as conditions and circumstances change and fluctuate.

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

Since there is a vast spectrum of vulnerability and various factors that can contribute to risk relating to both context and individual circumstances, finding a term to describe the cohort of people who may be at risk financially is difficult.

To better understand the range and complexity of the financial support needs of people who are at financial risk, there is a need to 'unpack' terms such as 'vulnerable circumstances' and 'at risk' in order to comprehend the diversity of the population being referred to. If the terms are to be meaningful, there needs to be a disaggregation of the group of people being referred to. For example:

- Frail and dependent people who to a greater or lesser extent are less actively engaged in society
- People with reduced decision-making capacity, (including some with an intellectual disability and those with dementia)
- People who are highly dependent on others to carry out daily living tasks (including carrying out financial transactions)
- Those living full-time in residential care services
- People experiencing mental health or addiction difficulties; and, very importantly
- People who are digitally excluded.

There is a need to state explicitly that people may be at risk due to a combination of personal characteristics, socio-economic factors and living situation, including frailty associated with the ageing process, reduced decision-making capacity, mental health challenges or a physical or sensory disability.

The mechanism of 'personas' presented in Section Seven of this Guide will, it is hoped, help in addressing this matter.

Safeguarding concerns are often identified by listening to small signals.



Financial capacity

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. 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 do so 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 which has been documented in research.

Financial capacity has been found to be one of the more 'advanced' or complex activities of day-to-day living. 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.

In its Consumer Protection Code, the Central Bank uses the term 'consumer in vulnerable circumstances' and provides the following definition:

... 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 ...

The Central Bank has also published a document called *Guidance on Protecting Consumers in Vulnerable Circumstances*.² This describes the Central Bank's expectations of firms in meeting their obligations under the Code. The document focuses on supporting firms in adopting the right mind-set and culture to effectively support consumers in vulnerable circumstances.

We are seeking to embed an understanding of vulnerability within the culture of a firm, and to ensure that the needs of consumers in vulnerable circumstances, and a commitment to addressing these needs, is an integral part of a firm's customer focus. This will allow firms to be prepared and able to assist when they engage with consumers in vulnerable circumstances. (Section 11.3 of the Central Bank Guidance Document).

The main underlying principle of the approach to consumers in vulnerable circumstances is an overall acceptance of the view that risk is not just an inherent characteristic of an individual.

2. 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_1

It recognises that individuals may move in and out of states of vulnerability and may be at risk in respect of some categories of transactions but not others. It highlights the importance of effective policies and procedures and staff training and supports to enable firms, and their staff, to identify and deal effectively with consumers in vulnerable circumstances. It recognises that there is broad support for initiatives to protect consumers in vulnerable circumstances including having a clear definition of vulnerability, increased training provided for staff and the importance of online and in-person supports.

The Code requires financial services to offer all reasonable accommodation and assistance to consumers in vulnerable circumstances. Their staff should be trained and equipped to understand the needs of and to assist these consumers. The firms must 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 being a victim.

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, including fraud, 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 specific 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 Central Bank 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:
 - a. The customer's current contact information
 - b. The customer's health status, or
 - c. The identity of any appointed legal guardian, executor or trustee of the customer
- (c) The firm experiences difficulties in communicating with the consumer.

The Trusted Contact Person mechanism is a useful and valuable way of

Having one trusted contact should not replace wider safeguards.



ensuring that communications between a customer and their financial institution is effective and continuous, and that the risks attached to poor communications are avoided. Nevertheless, it is important to recognise that its use is not without risk. The support arrangements provided for in the assisted Decision-making legislation are more robust and have a stronger legal basis.

While the role of a Trusted Contact Person is potentially a very important one, financial services should recognise that people other than a Trusted Contact Person can have a part to play in supporting a customer in vulnerable circumstances. Such persons include key workers and support staff in services for people with disabilities, trusted family members and independent advocates.

A customer of a financial institution may also have other arrangements in place to assist them in their dealings with financial services. For example, a customer may have in place a decision-making assistance arrangement under the Assisted Decision-making (Capacity) Act, 2015.

If you feel that you are a person at risk for any reason, either short-term or long-term, then you should let your financial institution know if you require some additional accommodation to conduct your business with them. Such accommodation could include:

- Appointing a Trusted Contact Person
- Facilitating you to conduct business in a more private space
- Receiving communications in a more suitable format
- Having someone to assist you to understand paperwork.

Letting your financial institution know that you have particular needs can also alert them to the fact that your account may be more at risk of fraud. This will let them know that transactions need to be monitored with care.

Many financial services have special staff units in place for meeting the needs of customers in vulnerable circumstances. These units may be called by different names – such as extra-help units, vulnerable customer units, or such like.

H. Making a Will

Talking about death makes many of us uncomfortable, so it is sometimes easy to avoid planning for it. The reality, however, is that even a small amount of planning can ensure that our final wishes are respected. Having a Will to refer to will make it easier for our friends and family to deal with our financial affairs after our death. Some people believe that they do not need to make a Will because they have little or nothing to leave behind them when they die. However, it is highly likely that – even if that is the case – making a Will can help avoid confusion, delays, disagreements and unintended consequences.

At the simplest level, making a Will ensures that, when you die, your property and other possessions go to the people that you choose. It ensures that your property, money and other assets, known as your estate, will be shared among the people you choose, in a way that you decide, including family, friends or even a charity close to your heart. Your Will should also contain information on who you want to administer your estate. This means you can be safe in the knowledge that your wishes will be followed.

Your Will outlines what you want to happen to your possessions, including any money or property that you own, after you die. If your Will is valid, any debts that you owe will be paid from your estate, and the remaining assets will be distributed to the people named in your Will. An executor (or executors) named in your Will is usually responsible for carrying out your wishes.

The person making the Will is called the testator.

A valid Will

A Will can only be considered valid if:

- It is made in writing – this means that it must be handwritten or typed and cannot be a verbal declaration or an oral agreement
- The person making the Will (the testator) is over 18 years old or has been married
- The testator has capacity to make a Will
- The testator signs or marks the Will, at the end of the document, and acknowledges it in the presence of two witnesses
- The testator's two witnesses also sign the Will in the presence of the testator
- Neither of the testator's witnesses – or their spouses or civil partners – can receive anything in the Will.

Dying intestate

If you die without making a valid Will, you will have died intestate. This means that an administrator will pay any of your outstanding debts from your estate and then distribute those assets that remain among your living relatives according to a formula set out in the law. The process is usually more complicated and expensive than it would be with a valid Will.

It is worth noting that the way the law sets out 'who-gets-what' may not represent what you would have liked to see happening. For example, if you had always intended that an adult child of yours who had stayed at home to care for you should inherit your home, this might not happen if you die intestate.

In Ireland, the order in which your estate is distributed in the event of there being no Will are as follows -

If you are survived by:

- A spouse or civil partner but no children (or grandchildren): your spouse or civil partner gets the entire estate.
- A spouse or civil partner and children: your spouse/civil partner gets two-thirds of your estate, and the remaining one-third is divided equally among your children. If one of your children has died, that share goes to his/her children.
- Children, but no spouse or civil partner: your estate is divided equally among your children (or their children).
- Parents, but no spouse, civil partner or children: your estate is divided equally between your parents or given entirely to one parent if only one is living.
- Siblings only: your estate is shared equally among them, with the children of a deceased brother or sister taking the latter's share.
- Nieces and nephews only: your estate is divided equally among those surviving.
- Other relatives only: your estate is divided equally between the nearest equal relations.
- No relatives: your estate goes to the State.

You do not have to make a Will and if you die without making a Will, your estate will be distributed according to the law on succession as outlined above.

However, if you want to have a say over who inherits all or part of your estate, you should make a Will.

When should you make a Will?

Every adult over 18 years of age should have an up-to-date Will; not just older people. If you have not done so already, the best time to make a Will is now. It is important that your Will is up-to-date and reflects your current wishes. A Will made 20 years ago may not reflect your life today. For example, you might have had children since or your children may now be adults, or you may now be divorced or have a new life partner, or you might have new assets or a new business to consider.

It is important to note that your Will has no legal effect until after your death – so what you put into your Will originally can be changed at any time before death.

How do you make a Will?

You can write a Will yourself, or have a Solicitor write it for you. There are also various online sites that provide will-making services. Some charities offer a will-making support, usually connected with your including a bequest to the charity in your Will.

You should be aware that 'do-it-yourself' Wills can increase, in some instances, the likelihood of a Will later being challenged in court.

A Solicitor can advise you about your Will and can make sure that your Will is legally valid. You may also need legal advice about the implications for people who may inherit money or property from your Will.

To make a valid Will, you must have, in the eyes of the law, the capacity to do so. This means that you must understand and be able to decide what you are doing at the time you are doing it. If you have a health condition, for example, a history of mental health difficulties, or if you are in the early stages of dementia, that could affect your ability to understand and make decisions about what you should put in your Will, you should ask your doctor or consultant to certify that you have the capacity to make a Will.

What your Will should contain

You do not have to have your Will in any set format. However, it is important that the Will has the following:

- Your name and address
- A statement that says you revoke or disown all earlier Wills or codicils
- The appointment of one or more executors – people who will carry out your stated wishes, along with their names and addresses.
- Your Will should be dated and signed by you and your witnesses. This statement is called an attestation clause.
- You must sign your Will in the presence of two witnesses. They must sign the will to attest (witness) that you have signed the Will.

Clear documentation
reduces disputes and
misunderstandings.



If you are unable to sign your Will because you cannot write, you can make a mark that should be witnessed like a signature.

If you are physically disabled and are unable to sign or mark your Will, you can direct an agent or representative to sign your Will for you. Your agent must sign the Will in your presence and on your direction and your two witnesses must be present.

Property and assets abroad are best dealt with by making a Will in that country as different legal and taxation rules will apply in each country. So, for example, if you have property in Spain your Irish Will would deal with everything in Ireland only and your Spanish Will would deal with everything in Spain only.

What to consider when making a Will

There is a lot to consider when making a Will. A professional can help to make sure you have considered all angles and that a valid format is used for your Will. You will need to consider the following questions:

- What are your family circumstances? Do you want everything evenly distributed, or are there people you wish to have a bigger 'slice of the pie'?
- Have you already gifted money or substantial property to one family member?
- Do you consider that one person has contributed more to your well-being or care than another?
- Do you need to make provisions for a family member who has special needs?
- What is the value of your estate?
- The amount you will be dividing between beneficiaries will be after payment of your expenses (i.e., any outstanding debts, your funeral, Solicitor's fees)
- Are there any charities you would like to include?
- Do you want to name any specific items, like jewellery or art?
- Your witnesses cannot be beneficiaries named in the Will (They do not need to read the Will, just to be there for your signature. They could be work colleagues, friends, or neighbours).
- The executors, who will carry out the instructions of your Will, should be organised, efficient, and live in the same country.
- Your family or others do not have any right to see your Will or be informed of its contents before your death.
- Your witnesses will know and your executor will usually know that you have made a Will. You may wish to let others know also. But you do not have to let anyone know the actual contents of your Will.

What assets and belongings should be included in a Will

Your Will should include all your important belongings and assets. These will include any funds that you hold in a bank, credit union, or other accounts; insurance policies; pension funds; investments in property, shares or investments; property including houses, land, and commercial properties; any business or share in a business; valuables such as jewellery, antiques, furniture; vehicles such as motor cars; equipment; farmland, buildings, stock and equipment.

A Will may include articles that do not have great value financially, but which are of sentimental and personal value. This could include clothes, jewellery, book collections, photo collections, documents, and other items to which you have an emotional attachment.

It would be advisable to draw up a list of the items you want to include in your Will, as well as where they can be found. It is important that after your death your Executors will have details of all your assets and know where to find bank books, shares/savings certificates, deeds, life insurance policies and all relevant financial information.

What is a Residuary Clause?

A residuary clause is a section in your Will that sets out what to do with any property not specifically dealt with in the Will. For example, your residuary clause could say that anything not identified in your Will should be left to a specified person or persons.

You may leave a part of your estate to someone, but that gift (sometimes called a bequest) could later be found to be invalid. When this happens, that part of your estate becomes part of the residue of your estate, along with other things that are not specifically referred to in the Will.

Provisions for your spouse, partner and children

Your spouse or civil partner has a legal right share to your estate. This means that they are entitled to benefit from your estate, even if you do not provide for them in your Will. Your children do not have any entitlement but can make a claim on your estate. Partners (that you were not married to or in a civil partnership with) may also be able to claim a share of your estate.

Property held jointly (rather than in separate shares) passes on to the survivor where there is clear evidence that this is intended. Property held in this way is not governed by the rules of the Succession Act and does not have to be included in a Will.

If the family home is not owned jointly, then your spouse has a right to require that the family home and household contents should be included in their share.

If you have a joint bank account with your spouse, civil partner or child, usually the surviving account holder will be fully entitled to the money in the account when you die. The money in such a joint account is not part of your estate.

If you open a joint bank account with a relative or friend so that they can help you manage your money and do not intend that person to own the money in the account after you die, you should make this clear when you are opening the account. The money in that joint account is an asset in your estate.

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act, 2010 changed the Succession Act, 1965 and gave registered civil partners similar rights to those of a legal spouse on death, subject to the financial needs of any children being met.

The inheritance rights given to civil partnerships under the legislation have not been given to cohabitants. Therefore, couples who are not married, no matter how long they have been living together, have no automatic right to their cohabiting partner's estate in the event of death.

On a separate matter, cohabitants may have entitlement to certain benefits connected with their deceased partner. This arises from the provisions of the Social Welfare (Bereaved Partner's Pension and Miscellaneous Provisions) Act 2025. This legislation extends eligibility for the Bereaved Partner's Contributory Pension (formerly the Widow's, Widower's and Surviving Civil Partner's Contributory Pension) to qualified cohabitants in Ireland. Eligibility extends for the payment to qualified cohabitants who have been in an intimate and committed relationship for a period of two years where there are a child or children of the relationship or five years if otherwise.

Changing or revoking your Will

If you want to change your Will, you and your witnesses must sign or initial your Will in the margin of the page beside the changes. You can also change your Will in the form of a memorandum or written note that is signed by you and your witnesses that refers clearly to the changes.

To change your Will, you can also make a separate document, called a codicil, which is like an update added to the end of your Will. This document, again signed by you and your witnesses, should set out clearly and accurately the changes you want to make to your Will. These changes are then legally binding.

If you plan to make a lot of changes to your Will, it might be easier to simply revoke or cancel your current Will by making a new one. This can only be challenged if your decision-making capacity when you revoked your Will is called into question.

Your Will is revoked automatically in certain situations, as follows:

- If you marry or enter a civil partnership after you have made the Will, unless your Will was made with the marriage or civil partnership clearly in mind
- If you make another Will
- If you draw up a written document that is executed in accordance with the requirements for a Will
- If you burn, tear or destroy your Will or if you have someone else destroy it in your presence and with your consent.

Can you give your possessions away before you die?

You can give your property away before you die, but you should consider that there may be tax implications. More importantly, giving your possessions away before you die could leave you without the finances needed to pay for your own housing, care or medical needs.

Undue Influence

Acting under undue influence means that you are acting under pressure from another person or persons. Your Will can be challenged on the basis that you were acting under duress when you made it and that the will does not reflect what you wanted. (See section on Coercive Control/Undue Influence.)

If you feel that another person is putting pressure on you to make a Will that favours them in a way that you do not want, then you should immediately seek support and advice from a trusted friend or a Solicitor.

Who will have access to your Will after you die?

Probate is the process of getting authorisation to carry out what is set out in your Will. Once probate on the Will has been granted, your Will then becomes a public document, and anyone can get a copy of both the Will and the grant of probate from the Probate Office or relevant District Probate Registry.

The grant of probate sets out the name and address of the executor or administrator of the estate and the name of the Solicitor acting on their behalf (if any). It also sets out the gross value and the net value of the estate. Detailed information about the estate is not normally available to the public.

I. Next-of-Kin

The term next-of-kin is used widely in many different settings and contexts. Most frequently we are likely to come across it in a medical or healthcare setting. Unfortunately, there is a widespread but incorrect belief that an adult's closest family member or next-of-kin is entitled to make decisions on their behalf if the adult lacks decision-making capacity. This is the mistaken belief that a relation, such as the spouse or partner, an adult child of a parent or the parent of an adult child who lacks capacity has legal authority to access information about them and their affairs, take decisions on their behalf in relation to their property, finances and personal welfare, and give or withhold consent for their medical treatment.

This is not true outside of a formal legal arrangement.

In medical circumstances the term next-of-kin simply means someone who you would like contacted in an emergency. The status of next-of-kin provides no legal standing whatsoever despite any widespread belief to the contrary. The term is usually used to refer to a person's closest living relative, often a spouse, parent, or child, who is designated to be contacted in case of an emergency. However, it is important to understand that the term grants no automatic decision-making power, and it does not grant legal authority to make healthcare or financial decisions on behalf of the individual.

Even in the limited circumstances in which the term next-of-kin can have some importance, there is no requirement for the nominated person to be a blood relative or spouse, although it is normally the case. Someone who has no close family (or who has little or no contact with their surviving family members) may decide to list someone outside their family as their next-of-kin, for instance a friend or a neighbour.

Where does the misunderstanding come from?

In Ireland, the term next-of-kin does have a meaning with regard to inheritance law. If a person dies intestate, that is without leaving a Will, then the rules of the Succession Act 1965 apply. The Act explains the rules of intestacy; this was amended by Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. In plain terms, if a person dies without having made a Will – intestate – then certain relatives become eligible for a share in that person's estate. The Act sets out the order of priority for inheritance.

Who would have legal authority and decision-making powers?

It is possible for a person to grant defined decision-making authority to another person by, for example, creating a Power of Attorney, or – for situations in which the person lacks decision-making capacity – by creating an Enduring Power of Attorney, or another arrangement under the assisted decision-making legislation.

However, it is important to re-emphasise the fact that close family members are not automatically authorised to make decisions for their loved one who lacks decision-making capacity. Instead, the assisted decision-making legislation provides that a person can appoint a person they trust to support them to make decisions for them at a time in the future when they lack capacity and may indeed appoint a family member to fulfil this important role. This will only become necessary if the person cannot decide independently, and if it is the person's will and preference that the family member should be involved.

The assisted decision-making legislation allows us to move away from the grey area and ways of thinking about next-of-kin, which are based only on custom and practice. It allows us to adopt a secure right-based model with better protections for all concerned.

Why name a next-of-kin?

Many services, particularly those involving healthcare, ask for details of your next-of-kin. You can name whoever you feel is most appropriate. However, naming that person does not grant them any legal rights or responsibilities. Rather, organisations simply ask for details as to who you wish to be kept informed about your care and any decisions that the organisation needs to make on your behalf. In so doing, the organisation providing a service is obliged to respect your right to privacy. Many commentators are of the view that the term 'next-of-kin' should really be scrapped and replaced with a term such as 'contact person'.

In the case of financial institutions, the nearest equivalent is that of nominating a Trusted Contact Person – who need not be a next-of-kin.

Naming someone as your next-of-kin or contact person can, of course, have its uses and benefits, especially in the health and medical field. It ensures that there is a person who can act as a 'contact person'. It is up to you to decide whether and to what extent this 'contact person' should be allowed access to information about your care or treatment. In many circumstances, care providers will wish to learn – from people who know you – about what your wishes, choices and preferences are so as to take these into account when they are making any decisions about your care. This could include important details about you which may otherwise not be known to your care giver. For example, people who know you well may have knowledge of specific dietary requirements or preferences which they can pass on for you.

The care provider is not, however, obliged to act on the next-of-kin's opinion or request.

The advantages are, however, limited and it is not enough to presume that your spouse or children will be able to take over your affairs if needed without you having taken steps to put proper legal authority in place for this purpose.

Looking ahead

All your affairs, financial and medical, must be kept confidential during your lifetime and may only be released to certain persons, in certain circumstances, after your death. If a Solicitor holds your Will, for example, they cannot just release this to your children simply because they are your next-of-kin.

The law is designed to help everyone retain their independence for as long as possible. All the time a person has sufficient decision-making capacity, their decisions are their choice and theirs alone. Even if that person makes what appears to another person to be an unwise decision, no one else may step in and take that choice away from them.

You can plan for your future at any time if you have sufficient decision-making capacity. It is, therefore, advisable to plan well in advance rather than leaving it until your health deteriorates.

It is clearly important that your family members – your next-of-kin – understand the reality of the limited powers they have with regard to control of your financial assets while you are still alive and after your death; and that you yourself understand and take steps to put formal arrangements in place, if you want to, that will cater for your longer-term wishes.

J. Equity Release Schemes

What are they?

Equity Release Schemes are a form of lifetime loan. The term 'equity' in this context means the difference between the value of your home and the amount that you owe on it. For most people this means the difference between the current value of their house and the amount that is still outstanding on their mortgage. For people who have no debts secured against the value of their home, their 'equity' will then be the current value of their home.

Equity Release Schemes are primarily aimed at people who own their own homes and have paid off their mortgage. Sometimes, the target group for Equity Release Schemes can be described as people who are 'asset rich and cash poor' – that is, they have equity in their home but are finding it difficult to make ends meet after retirement. Equity Release Schemes allow such people to release cash from their home by borrowing against it. The home must be a main residence and not an investment property or holiday home. Most Equity Release Schemes are only available to you if you are above a certain age, for example, 60 years of age.

The main attraction of Equity Release Schemes is that you do not need to make any repayments during your lifetime. A further advantage is that you do not need to leave your home or sell it to raise cash.

As mentioned above, the main difference between Equity Release Schemes and ordinary loans is that there are no repayments during the lifetime of the borrower. Instead, the loan must be repaid, with considerable interest, when the homeowner dies or when the property is sold (which could be while the borrower is still alive). Availing of an Equity Release Scheme, therefore reduces the value of your estate. It could jeopardise your entitlement to getting funding in relation to long term care (Fair Deal) and it will reduce the value of your home at the time of your death.

Interest builds up

Because loans offered via Equity Release Schemes incur no repayments over the life of the loan and interest is compounded, these loans can be very expensive compared to traditional loans. The interest will keep growing as the years go by and the amount due can prove to be a multiple of what was originally borrowed, depending on how long you live. For example, a loan of €100,000 will result in a repayment due of almost €250,000 after 15 years, over €300,000 after 20 years and almost €450,000 after 25 years. While it is likely that the loan can be repaid from the eventual sale of your home – if it keeps or increases its value – there may be only a small amount of money left after paying it off.

Equity Release Schemes may provide a satisfactory means of accessing cash for some older people. However, they are not suitable for everyone.

Anyone thinking of availing of such schemes is strongly advised to consider them very carefully and to access independent financial and legal advice before deciding.

So, on the positive side, Equity Release Schemes can make cash available at a time when it may be needed; you will, most probably, benefit from any increase in the value of your home; you can continue to live in your own home. On the negative side, interest builds up quickly; the longer you live in your home, the more your debt grows; a large amount of money will have to be repaid when your home is eventually sold, so less money will be left over for your long-term care or to pass on to someone after your death.

A final and most important point is that taking out an Equity Release Scheme loan will have implications if – later – you wish to avail of the Fair Deal Scheme.

Why take one out?

Sometimes people feel the need to consider Equity Release because they have not fully planned financially for the cost of their later years; or because contributions made towards a pension have not realised the value they had hoped for; or there is some unanticipated cost that is a drain on their finances. For others, there may be reasons for accessing equity in later years as a way of realising a better quality of life, getting a new car or a holiday. Some people view it as a way of transferring part of their funds to other family members immediately rather than later in their will.

Above all else, never borrow money that you do not need. If you need cash and if borrowing is an option, then only borrow what you need.

It is your decision

If you decide to avail of Equity Release it must be your (and any co-owners') decision and yours alone, and you should not feel pressured by anyone else to borrow against the equity in your home. This is particularly the case if you are considering releasing equity to give money to a child/relative. While it remains up to you and only you to make that decision, it is a very costly way of transferring funds to a child.

Similarly, if, having weighed up the pros and cons and fully understood the costs and the consequences, and taken independent legal/financial advice, you still believe that Equity Release is a suitable product for you at this point in your life, you should not be put under pressure by anybody else not to take out the loan and to access the funds to use as you wish.

As availing of Equity Release will lower the value of your estate, you may wish to discuss your decision with other members of your family also so that they are aware of your decision. However, again, that decision is up to you.

Exploring all options first

For many people, their house is their single most valuable asset but, more than that, it is their home and the place where most people wish to reside for as long as possible. However, there can be challenges in maintaining a home in later years, particularly if your income(s) have substantially reduced post-retirement. There are options other than Equity Release. Obvious possibilities include:

- Getting advice on how to better manage your household expenses
- Looking into grants that aim to help older people adapt their home
- Checking out energy upgrade grants
- Seeing about taking out a small loan from your bank or credit union
- Looking to family for financial support
- Even thinking about renting a room
- Considering the ultimate – selling up and moving to a smaller home.

Finally

Equity Release can appear attractive and an easy option. However, like many other financial products, it has its pros and cons. It is very important that you take good advice on a matter as serious and important as making a commitment of this scale.

Do read the Scenario presented later in Section Seven of the Guide Persona 9, Anna's Story. It provides more insights into the matter of Equity Release and deals in more depth with its implications for Fair Deal eligibility and uptake.

K. Independent Advocacy

Sometimes it is difficult to have our voice heard and our wishes respected, especially when dealing with issues such as those discussed in this Guide. Sometimes the only people who are available to us are too deeply involved to be able to support us in a manner that puts our interests first; they could have a conflict of interest. A conflict of interest means that they might stand to benefit or lose out from a certain decision that you might take; any advice they give is therefore open to being influenced by that fact. Institutions, agencies, firms and individuals often have their own priorities and interests. It can be hard for them to provide us with support that is independent. As well as that, communicating with firms and professionals can be quite a challenge. They may not be listening properly to our voice, or we may not be able to understand what they are saying, for a whole range of reasons.

This is where independent advocacy can help a person in many valuable ways.

What independent advocacy is

Independent advocacy is a professional support service provided by an organisation that is free from conflict of interest and is independent of family and service providers. Independent advocates are recruited, vetted, trained, supported, and supervised by an advocacy organisation usually funded by the State.

Based on an understanding of a person's will and preferences, an independent advocate can support that person to make decisions. They will, if appropriate, go on to negotiate or make a case for them. An independent advocate may work with and for a person, where they have difficulty expressing their will and preferences regarding a specific issue. That can include managing and retaining control over their personal finances and assets.

Given that older people and other adults at risk may experience barriers in having their voice heard by professionals, by service providers and sometimes also by family members, it is crucially important that they can have access to an independent advocacy service to support them and enable them to speak for themselves, or, where appropriate, to speak on their behalf. An independent advocate can be particularly valuable in building a bridge between service providers/professionals and the individual person and in helping to reduce the power imbalance that is often a feature of such encounters.

Who might benefit from independent advocacy services?

- ✓ A person who needs support with daily living activities because of frailty associated with the ageing process
- ✓ A person with reduced decision-making capacity because of an intellectual disability or dementia
- ✓ A person who communicates differently because of a physical or sensory disability or because they have had a stroke or an acquired brain injury
- ✓ A person who comes under the provisions of the Assisted decision-making (Capacity) Act 2015 – for further information on assisted decision-making, see the earlier Assisted decision-making section of the Guide)
- ✓ A person experiencing mental health challenges
- ✓ A person in a residential care setting, including people in nursing homes
- ✓ Hospital patients, especially those who are being discharged following treatment
- ✓ Survivors of institutional abuse.

How can an independent advocate help?

- ✓ Helping in their dealings with banks, credit unions, An Post and other financial services
- ✓ Helping to ensure that a person gives full consent to any arrangements that are being made by relatives or banks
- ✓ Helping people to get the necessary information on and to understand any financial products that they are considering purchasing
- ✓ Supporting a person to have their 'voice' heard and to participate in the making of decisions which affect them
- ✓ Helping a person to vindicate their rights and to seek redress where necessary
- ✓ Ensuring that the individual remains at the centre of all decisions affecting them directly or indirectly
- ✓ Complementing other professional services such as social work and social/friendship and family networks
- ✓ Accompanying a person to meetings where their affairs are being discussed
- ✓ Ensuring that due process is followed in respect of an individual's dealings with financial services

- ✓ Ensuring that the presumption of capacity for all individuals provided for in the assisted decision-making legislation is adhered to by all financial services
- ✓ Supporting a person to access legal representation e.g. by making an application to the Legal Aid Board on their behalf or supporting them to contact a Solicitor of their choice
- ✓ Helping to ensure that a person's wishes and decisions are communicated to and respected by others, including by relatives and financial services
- ✓ Informing people of their rights, in particular their rights to control their own affairs, including their finances and assets
- ✓ Helping people whose decision-making capacity may be in question to understand the various decision-making supports that are legally available and support them to get the appropriate support – the one that is least restrictive for them but yet provides sufficient support to enable them to manage their affairs.

Key points

The role of an independent advocate is particularly important where there is an absence of trustworthy natural social support networks – relatives, friends and support groups.

An independent advocate's role is different to that of a Solicitor in that a Solicitor takes instructions from their client and acts for them accordingly, whereas an independent advocate is required to spend time in ascertaining a person's wishes and act with them rather than for them.

Independent advocacy services operate on the basis of strict confidentiality and any information provided by an individual will not be passed on to any third party (including relatives, professionals and service provider staff) without the person's expressed consent.

Meeting with and speaking to an independent advocate can be very helpful and supportive especially where there are issues with managing and controlling finances and a fear of losing control or being coerced by other people (relatives or carers) to do something that you do not want to do or are unsure about, for example, transferring money or property. An independent advocate can also help you to get the assistance you require from your bank and to understand communications.

An independent advocate can help a person in making an application under 'Fair Deal' and in sourcing the various documentation relating to finances required.

If you think that you would benefit from the support of an independent advocate, you should contact an independent advocacy service.

See Section Eight of the Guide for further information about independent advocacy organisations.

L. Options for a person who has Decision-making capacity but who needs assistance with carrying out financial transactions

Much of the information given so far in the Guide deals with circumstances in which the person concerned may be at risk because of a lack of decision-making capacity or who is likely to be in that situation soon. For such cases, the provisions of the assisted decision-making legislation are very important and valuable in that they provide a range of legally defined options that support people, that offer safeguards, that provide oversight mechanisms, and that reduce risk of abuse.

The Guide has also drawn attention to the fact that everyone, even people with full decision-making capacity, can be subject to financial abuse and that care is needed when making decisions about how to manage and handle one's finances and assets. It also points out that we all need to act proactively to ensure that we do not leave ourselves exposed to being exploited or financially abused by others. Each person's finances and assets are their own to be used in accordance with their own will and preferences.

Disability, illness, frailty or reduced mobility can all be barriers to the practical business of carrying out financial transactions. This can be the case even where a person has capacity to make decisions for themselves. A person can be fully capable of making financial decisions for themselves while still being dependent physically on the support of others in order to, for example, collect their social welfare entitlements or carry out their shopping. In other words, they need practical help and support with everyday financial transactions, but not with making decisions about their finances.

This section of the Guide highlights various options that can be considered, while directing attention to the risks involved in day-to-day management of finances and to how a person can reduce their exposure to those risks. Many of these options are dealt with in further detail elsewhere in the Guide.

General words of caution in thinking about options

If you feel that you need to involve another person in how your money is handled, perhaps because you find it hard to get out and about, then there are some general pieces of advice that you should consider. These apply regardless of the arrangements that you put in place.

- ✓ Remember that your finances and assets are your property. No one else has the right to deprive you of them
- ✓ Make sure that the people you choose to support you are both trustworthy and capable
- ✓ Do not hesitate to insist that people account for any expenditure that they make on your behalf
- ✓ Get into the habit of always getting receipts from anyone who, for example, does shopping for you
- ✓ Formalise family financial arrangements. Document these where at all possible
- ✓ Seek advice when needed
- ✓ Be extremely careful in granting access to others to your passwords, PIN numbers and such like
- ✓ Check your bank statements regularly. Report any suspicious transactions
- ✓ Getting support from another person should never involve handing over control to them
- ✓ Spread the load. Involve more than one trustworthy person
- ✓ Keep a record of any loans or 'advance gifts' you make to family members or others
- ✓ Reduce your dependency on cash
- ✓ Take time to think before making important financial decisions or decisions about your property and assets
- ✓ Be aware that being 'next-of-kin' does not give that person any rights to make decisions on your behalf or to access your financial information without your permission
- ✓ There is a compelling case for people to arrange for their pension/benefit to be directly transferred into their bank, credit union or An Post account.

A range of options

Informal arrangements

For many people who have difficulty in getting out and about, and in carrying out routine tasks such as collecting their pension or doing shopping, an informal arrangement with a trustworthy family member, friend or carer is often the option of choice. This does, however, involve handing over some degree of control and access to another person. There is therefore a need to exercise caution and care.

Collecting a person's state pension on their behalf will require that the person involved be appointed officially using the Department of Social Protection (DSP) *Authority to Appoint an Agent* application form. This person – the agent – should be made aware that their role is simply to collect the pension money, not control it. It is important that the arrangement be regularly reviewed. It is necessary also to emphasise that any abuse of the trust involved should be reported promptly to the DSP.

Carrying out other routine tasks such as shopping should be arranged in keeping with the points made earlier in this section.

Any arrangement that permits access by a 'trustworthy person' to another's financial accounts should be carefully managed and monitored. The financial institution involved should be informed of the arrangement. Note that some financial institutions will not permit access by another person in the absence of a formal and documented arrangement.

Online banking

For many people online banking has become the normal way of managing their finances, especially if they find it difficult to get to their bank or credit union branch office during working hours or if their branch office is some distance away. When linked with online shopping and with the use of standing orders and direct debit arrangements, online banking can offer an easy and cash-free way of conducting everyday financial transactions.

Online banking also provides a person with an easy and 'anytime' access to information about their accounts.

However, not everyone is able to avail of online banking. A person may not have a computer, a smartphone, or an Internet connection. They may not have the skills and confidence needed to use modern technology. Some people may not trust online banking and may be fearful of money been taken out of their accounts unknown to them.

However, many people have discovered that they can learn the skills involved or that they can – with some support from a trustworthy person – manage to do business online.

Third party account access arrangements

Some financial institutions may offer arrangements that allow for a third party to access an account on behalf of or alongside the customer. Not all financial institutions offer this facility. Those that do usually restrict the arrangement to specific circumstances, such as when a person is in residential care or where a person lacks decision-making capacity.

There are always risks involved in giving another person access to your accounts.

Power of Attorney

A Power of Attorney is a legal arrangement that permits another person to act for you in matters such as financial matters. This person is called an *Attorney*. They should be someone you know you can trust to act on your behalf and to follow your wishes.

A Power of Attorney is a legal agreement. It can be worded in a manner that clearly describes what it permits and what it excludes. It is advisable to seek advice if you are considering choosing this option.

Trusted Contact Person

Under the Central Bank of Ireland's Consumer Protection Code, banks and other financial institutions are required to facilitate customers who wish to nominate a person they consider trustworthy through whom the financial institution can communicate should difficulties arise. This role is intended only for contact purposes and does not confer any rights on the Trusted Contact Person to make decisions on behalf of the customer.

Third Party Authority

A Third Party Authority allows a person to select a third party (usually a trustworthy relative or close friend) to do their day-to-day banking. Some mainstream banks and some credit unions provide this facility. The arrangement can be cancelled at any time.

Joint accounts

Joint accounts have traditionally been the option of choice for many older people, especially when they find it difficult to physically attend at their bank, credit union or post office. They set up a joint account with another nominated account holder (generally referred to as an *agent*). The agent is usually a family member or carer. Both persons have access to the account, even though the money in the account is fully the property of only one person.

In order to minimise the possibility of financial abuse there must be a clear understanding that the money in the account belongs to one person alone, and that the second signatory – the agent – only has access to the account with the permission and at the direction of the owner of the funds and for purposes that are purely for the care, needs and expenses of the owner. The agent has no right to withdraw money for their own use and benefit.

It is important to note that there is now a strong case for moving away from the use of joint accounts.

Further information

The topics considered here are discussed in further detail in other sections of the Guide. You should read the information and guidance offered and then implement the plan that best suits your needs and that offers you the best protection and security.

You should also be aware that information, advice and advocacy is available from Citizens Information Services and MABS offices around the country and that an independent advocacy service specifically targeted at older persons is available from Sage Advocacy and for people with disabilities from the National Advocacy Service for people with Disabilities (NAS). Contact details for all these organisations are provided in Section Eight.

/ Section Seven

Eleven indicative personas/scenarios

Introduction

This section of the Guide presents eleven indicative personas/scenarios which reflect real-life situations that have been reported as actually occurring or identified as likely to occur.

The eleven personas/scenarios included are fictitious but broadly reflect different personas and the challenges each one faces in managing their finances, dealing with financial services and maintaining control of their money, benefits and assets to the greatest extent possible. The personas reflect a range of living circumstances, some of which involve interactions with family members.

The illustrative 'personas'/scenarios have been compiled in a manner which identifies each of the steps in a person's financial management journey. Some of the 'personas' refer to instances where a person may be at risk financially because of their circumstances and/or because of issues with their decision-making capacity.

Each 'persona' has been written as a largely stand-alone item on the assumption that people reading the Guide are likely to choose to go directly to the 'persona' that best describes their own interest, situation or query. This has meant that there is some overlap and repetition.

The eleven 'personas'

1. A young person with an intellectual disability choosing how to manage their disability allowance
2. A person in residential care
3. An adult who has been admitted to hospital/nursing home) and needs urgent short-term assistance with money management
4. An adult with an acquired brain injury
5. An adult who is planning ahead
6. A person who has a bank account but who may no longer have the capacity to operate it
7. A person with an intellectual disability who wishes to open a bank account for the first time
8. A person who has a bank account but is unable to operate it for a period
9. An older person considering Equity Release on their home
10. An older person who has full decision-making capacity, but who must depend on others to conduct many day-to-day tasks
11. An older person living alone who has funds in investments, but who has poor financial skills, knowledge and understanding



/ Persona 1:

A young person with an intellectual disability choosing how to manage their disability allowance

Seán's Story

Seán has a mild intellectual disability. He attends a day-service three days a week. He is in receipt of a disability allowance. Until now his financial affairs were managed and administered by his parents, with whom he is living. They have normally given him a small personal allowance, in cash, which he spends on snacks and other small purchases. They occasionally give him larger amounts if he is going to a music event or such-like with day-service friends. His parents have decided that it is time for him to have 'more hands-on' control of his own finances.

Seán does not use a computer and lives some distance from a bank branch or credit union office. Sean has a phone which he generally uses only for chatting to friends and family. He would have difficulty in using phone-based banking apps.

Advice for Seán

Seán will certainly need to open a bank account. It is good that his parents are in favour of him taking control of his own finances. There are a number of important and practical issues that need to be decided, arranged and managed. Some of these relate to deciding what kind of personal assistance and support Seán will need in managing his finances. Others relate to the arrangements that will need to be put in place by Seán's bank of choice in order that he can carry out the everyday tasks that are involved for us all in using and overseeing our bank accounts.

Taking the First Steps

Should Seán be opening a bank account in his own name and over which he will have sole control? Or should someone else have a hand in the matter? Given that Seán has a mild intellectual disability, it is likely that with some support he should be able to manage and operate his own bank account. There are three options that would meet Seán's needs:

- Simply open his own bank account
- Open his own bank account but with some trustworthy person acting as a decision-making assistant or in a more ad-hoc and informal way
- Entering into a more formal co-decision-making agreement, so that some other trustworthy person is legally recognised as being there for Seán when he is making certain decisions with which he might otherwise have difficulty.

Independent checks help maintain fairness and accountability.



Any of the three options could be the right one for Seán, depending on his ability to understand and make various decisions that relate to managing his own finances.

- ✓ The first option is the one that would be most in keeping with the principles of the assisted decision-making legislation (no intervention unless deemed necessary) in that it assumes that a person is fully able to manage all aspects of their financial affairs and has the right to do so – even to the extent of making decisions that other people might consider unwise.
- ✓ The second option provides Seán with the support of a trustworthy other person and is provided for in the assisted decision-making legislation. Financial institutions are unlikely to give the ‘trustworthy person’ any right to access Seán’s accounts or financial records unless Sean asks that the information is shared with his decision-making assistant appointed under the assisted decision-making legislation. This arrangement would be suitable for supporting Seán in carrying out once off transactions but might not be suitable for a very active account. It may not be suitable if Sean wished to set up some type of joint account as it would leave the door open for possible financial abuse.
- ✓ The third option is the most formal approach. It would recognise that Seán is perfectly capable of making some decisions but in other matters needs the assistance of another person to make decisions jointly with him. A co-decision-making agreement (CDMA) would have legal status; it would clearly describe those situations in which Seán would be given support; and it would provide Seán’s co-decision-maker with a legal basis on which to engage jointly with Seán and his bank or credit union. If Sean needs support in making decisions, then the CDMA option would seem to be the best one for him.

Seán can choose a co-decision-maker by making a co-decision-making agreement. The agreement must be in writing and must be signed by him and his co-decision-maker. The agreement needs to be witnessed by two other people. It must contain details of the decisions that Seán and his co-decision-maker will make together. The decisions included in the agreement must be made jointly with the co-decision-maker. This means that Seán should think carefully about the types of decisions he wants to include in the agreement. It may be useful for Seán to discuss this with someone he trusts – be that a friend, a family member, a support worker, or an independent advocate.

Setting up a CDMA involves some paperwork. However, the Decision Support Service (DSS) provides a good range of supports, guidance and templates. The DSS also has oversight over the process and operation of CDMA’s, so that provides Seán with another layer of protection.

Dealing with a Bank or Credit Union

The main banks and credit unions will have procedures and arrangements in place for opening and operating a bank account for people who may need extra support. Seán (with his co-decision-maker) should inform the bank or credit union of any special arrangements that they will need and of the fact that a CDMA is in place.

Most financial institutions will also have a mechanism in place that gives recognition to the fact that some of their customers, like Seán, will need extra protection against financial abuse. This will include mechanisms for recognising and responding to any unusual or exceptional transactions that occur on an account, for example an unusually large withdrawal or a big transfer to another account holder. Seán should enquire about his financial institution’s additional support or vulnerable customer unit and how it can help him.

Seán will need to inform the bank or credit union of the fact that he will not be using telephone or online banking for most if not all his transactions. He will need to agree a workable means of receiving notifications and communications to and from his chosen financial institution.

It is highly unlikely that Seán’s needs can be met by one of the online-only banks. While these banks offer an attractive, modern and effective service, their interactions with customers are built on and operate on a non-branch office model. In most instances this means that all interactions with them must be via the internet, with no options for face-to-face or telephone interactions.

Current Accounts and Joint Accounts

Seán will, obviously, need to open a current account. He may also need to consider opening a deposit account, perhaps for the purpose of saving toward a major purchase or expenditure. There appears to be no reason why Seán’s account should be anything other than in his own name alone, but his co-decision-making agreement will provide that any decisions on the account will be made jointly by him and his co-decision maker.

Earlier in this Guide, the disadvantages involved in using a joint account arrangement have been well outlined. Nevertheless, despite the risks involved, some people may choose the joint account option. If that should be the case, then it will be important that any such joint account be clearly established as an *agency* account. This would ensure that the other person involved would not have any right to the funds in the account and could only interact with the account for Seán’s benefit and on his behalf. It must be emphasised that the option of opening an account in Sean’s name alone – with a co-decision-making agreement in place – is the safest option available for Seán.

Contributing to the household

Seán lives in his parents' house, so it is reasonable to expect that he should contribute toward household expenses. It would be sensible for Seán and his parents to have a chat about how much he should and could contribute, and how that would best be arranged. While it may be challenging for Seán to move from a situation in which his parents managed his finances to one in which he exercises greater control, agreeing and setting up an agreement and mechanism for his contribution toward household expenses should be a positive learning experience for him and one that confirms his new autonomy.

Seán, with support, will need to consider setting up direct debits and/or standing orders with the purpose of meeting routine and regular expenditures, for example paying regular fixed or varying amounts to another person's account or paying his phone bill. Both types of arrangement have their own advantages and features that Seán should consider. As well as being easy to manage, they are useful in reducing the risk of unauthorised withdrawals from an account.

Independent advocacy

There is a strong case for ensuring that Seán has access to the support of an independent advocate. Such a person can assist Seán in making his wishes known, in protecting his various rights – including his property rights, and in supporting him in monitoring the management of his accounts and spending.

Seán's day-care service should be able to put him in touch with an appropriate advocacy service. If not, his family or friends should make arrangements for contact to be made.

If you want to know more about where Seán can get additional information, go to Section Eight of this Guide.





Persona 2: A person in residential care

Michelle's Story

Michelle is 45 years of age and lives in residential care. She has both an intellectual disability and a physical disability. Her father has died recently and had not made a Will. Her mother had died some years ago. Michelle has a brother and a sister with whom she has had an 'up-and-down' relationship. She has largely depended on her parents to look after her affairs.

Michelle is now likely to inherit a small but substantial sum of money.

Advice for Michelle

Get legal advice

Apart from issues related to financial matters, Michelle will need to take legal advice and receive legal support to safeguard her entitlement to a share in any inheritance. As her father died without making a will it is most likely that an application will need to be made for a Grant of Administration on his estate – i.e. on any finances, property or other assets that he owned.

If Michelle's father owned property, then Michelle will be entitled to her share, either in income from its sale or its rental. If not sold, she should be registered as an owner or part owner. Michelle will also need to be advised as to any tax implications that could arise from her getting a share of her father's estate and a proportion of rental income.

The legal advice and representation needed by Michelle will depend largely on Michelle's capacity to make decisions now and about the legal and financial matters involved. Her lawyer may decide that a capacity assessment is required.

Michelle's money

Michelle's parents had been looking after her financial affairs. It is probably the case that they operated a 'joint' bank account in her name. Any disability or social welfare benefits that Michelle had been receiving, and any expenses and expenditures that Michelle had been incurring would have been transacted through that account. It should be stressed that any money in that account is rightfully Michelle's and should not be regarded as jointly owned with her parents. It should not, therefore, be seen or treated as part of her father's estate, which could result in it ending up being divided with her brother and sister. The bank in which the 'joint' account is held should be informed of her father's death and the account transferred into Michelle's name alone.

It is likely that a large proportion of Michelle's income from benefits was used to maintain her in residential care. It will be necessary to find out if there was an *agency arrangement* in place with the residential care facility for collecting Michelle's social welfare payments. If so, this will need to be reviewed to ensure that the new circumstances are taken into consideration.

If there are funds coming from Michelle's father's estate, Michelle will need to decide (and be advised regarding) whether such funds should be lodged to her existing bank account or whether she should open a new account in her own name, perhaps an account type better suited to carrying a large lump sum.

In dealing with a bank or credit union, it will be important that the financial institution be made aware of the fact that Michelle may be at greater risk, and that appropriate arrangements and accommodations are put in place that will safeguard her accounts, allow for effective communications and respect her rights.

Michelle's decision-making capacity

It is important that consideration be given to Michelle's capacity to make decisions about her finances, her legal rights and her interests. This is separate and distinct from her need to seek and benefit from the legal advice that anyone would need when dealing with the inevitably complex issues connected with property, financial and other inheritance-related matters.

If Michelle already has an Enduring Power of Attorney (EPA) in place, and if it specifies that matters such as those that are arising now for Michelle should be dealt with under the provisions of the EPA – which would only arise if Michelle now lacks the decision-making capacity to manage the decision that are now involved - then the person nominated in the EPA as *Attorney* will be authorised to carry some or all of the actions that are now needed on Michelle's behalf. The EPA may have given general authority to the Attorney to do anything that the Attorney might lawfully do, or it may merely have given the Attorney authority to do specific acts on Michelle's behalf.

If Michelle does not have an EPA in place, then it would be wise for her to consider putting one in place now. However, Michelle can only create an EPA at this stage if she has the decision-making capacity to do so.

It appears likely that Michelle will need the assistance, not only of a Solicitor, but also of a decision support person. There are several legally recognised arrangements available for people like Michelle who may need support to make certain decisions.

These arrangements are based on the different levels of support that a person requires to make a specific decision at a specific time.

They are:

Decision-making assistance agreement

Michelle can appoint someone she trusts to act as a decision-making assistant under a decision-making assistance agreement. This agreement lets her specify decisions she needs help with and gives someone the legal authority to help her to make those decisions for herself. These decisions can be about her personal welfare or her property and money matters.

Her decision-making assistant will help her to gather information and explain it to her. They can help her to understand and weigh up her options. They can also help to let other people know what her decision is.

Co-decision-making agreement

This agreement lets Michelle choose someone she knows and trusts such as a friend or family member as a co-decision-maker. This agreement lets her write down decisions she needs help with and give someone the legal authority to make those decisions jointly with her. They will help her to gather information and explain it to her in a way that she can understand. They can also support her to let other people know about the decision she and her co-decision maker have made together.

Decision-making representation order

If Michelle is unable to make certain decisions even with someone else's support, the court may appoint a decision-making representative to her. The decision-making representative is appointed by the court to make certain decisions on her behalf, taking her wishes into account. If possible, the court will appoint someone she knows and trusts as her decision-making representative. However, if there is no-one willing or able to act on her behalf, the court may appoint someone from the Decision Support Service's panel of trained experts.

The decision-making representative can only make decisions that are written down in the order and must always consider Michelle's wishes during the decision-making process. If the decision-making representative is from the panel of trained experts, they will be paid for their work.

The decisions included in a decision-making representation order are kept under review by the court.

Setting up any of these arrangements involves some paperwork. However, the Decision Support Service (DSS) provides a good range of supports, guidance and templates. The DSS also has oversight over the process and operation of these options, so that provides Michelle with another layer of protection.

It should go without saying that Michelle may well be perfectly capable of making her own decisions with assistance from someone else. The options presented above are only suitable if Michelle lacks capacity to some extent.

Regardless of which of these three options best suits Michelle's situation, it is considered important that the person appointed be free from any conflict of interest. It is therefore recommended that Michelle's siblings – who both also have an interest in their father's estate – should not be appointed to such positions.

It is regrettable that Michelle's father had not made a Will.

If he had, and if he had excluded her from any benefit, it is likely that Michelle could – with assistance – contest the provisions of the will under the Succession Act. If Michelle was included in a Will, then many of the options

outlined earlier would apply.

It is possible that a Will would have made provision for Michelle by way of a trust. If that were the case, then it would be important that the appointed trustee did not have a conflict of interest in the matter.

Equally importantly, Michelle should be supported and assisted to ensure that she obtains her entitled share of her father's estate, and that appropriate arrangements are put in place for the management of the Trust by the appointed trustees.

Independent advocacy

There is a strong case for ensuring that Michelle has access to the support of an independent advocate. Such a person can assist Michelle in making her wishes known and in protecting her various rights – including her property and inheritance rights, and in identifying any taxation obligation that she may have. Michelle's residential care staff should be able to put her in touch with an appropriate independent advocacy service.

If you want to know more about where Michelle can get additional information, go to Section Eight of this Guide.





Persona 3:

An adult who has been admitted to hospital (or a nursing home) and needs urgent short-term assistance with money management

Maeve's Story

Maeve is a widow in her late 80's. Until recently she has been living alone in her own house with some support from a paid carer and from her adult daughter. Her daughter collects her state pension for her each week and does most of her shopping for her. Her adult son has generally been the person from whom she accepted advice regarding financial and home management matters.

Maeve has been admitted to hospital with a serious physical health condition. Because of her care needs, it appears highly unlikely that she will be able to return home. It is possible that she may be discharged to long-term nursing home care. The wider family have discussed what should now happen with her house and how her finances should be handled. Maeve is capable of making decisions but is occasionally confused and disoriented. Maeve has already made a simple and straightforward Will leaving all her assets to her two children.

Advice for Maeve

Before making any significant decisions, Maeve – hopefully with support from her family – needs to make a comprehensive list of information relating to her financial and property affairs; in other words, she needs an inventory of financial and property matters. This will include a listing of any bank or credit union accounts and their balances; any pension and/or investment accounts that she has; any stocks or shares that she possesses; any mortgages or other significant debts such as Equity Release agreements that she has; whether any of her accounts are 'joint' accounts with her daughter or others; her income from state benefits such as state pension; any major outstanding liabilities or bills; whether anybody owes her any money – has she, for example, made any 'advance' financial transfers to any of her children that should be considered pre-payments of what they might inherit on her death.

Simplify and clarify

Maeve, with advice and support if needed, should consider consolidating and simplifying her financial arrangements where possible and practicable, thereby making them easier to monitor and manage. Unless there are good reasons for not doing so, it would be wise to let her family know in clear terms what her situation is financially and what her preferences and wishes are for the future management of her financial affairs.

Planning ahead

Maeve should be planning ahead for a time and circumstances in which she may not be able to make decisions about her own financial and personal affairs without the support and assistance of another person. Such arrangements should not involve any reduction in her own control over her finances until such time as it may prove necessary to do so.

Support that is not reviewed can become inappropriate over time.



Putting an Enduring Power of Attorney (EPA) in place will provide for how things should be dealt with after Maeve reaches a situation in which she can no longer manage financial decisions herself. An EPA should specify exactly which matters – financial or otherwise – that the person nominated in the EPA as her *Attorney* can carry out. The EPA may give general authority to the Attorney to do anything that the Attorney might lawfully do, or it may merely give the Attorney authority to do specific acts on Maeve's behalf. Maeve can only create an EPA at a time when she has the decision-making capacity to do so.

An EPA will also provide a mechanism that will facilitate the cooperation of banks and other financial institutions in providing access to her accounts by Maeve's nominated Attorney, when and if Maeve herself can no longer do so – assuming such a situation ever arises.

It should go without saying that Maeve may be capable of making her own decisions for some time to come and can continue to draw support from her family. Since Maeve has decision-making capacity, she could enter into an agreement with someone to help her to manage her finances and to ensure that her will and preferences are followed. Maeve could create a Third Party Authority with her bank which would allow her to select someone (perhaps her daughter) to do day-to-day banking on her behalf. She can cancel that authority at any stage. All the mainstream banks and some credit unions offer a third-party authorisation facility.

She could, however, consider appointing a decision-making assistant provided for in the assisted decision-making legislation. The assistant's role would be to provide support by gathering and explaining information, and facilitating communication, rather than making any decisions for Maeve.

Maeve could also consider creating a Power of Attorney which would give the Attorney (which could be a family member) the legal right to make decisions about her finances on her behalf. If Maeve chooses to create a Power of Attorney, it would be important that all Maeve's children are made aware of the fact and the intentions behind it to avoid misunderstanding and associated conflict.

Who to inform

Maeve's various financial institutions should be informed of whatever arrangements, as discussed above, are put in place. This should ensure access, directly or indirectly, by authorised persons to her financial accounts and their management when such is needed.

Short-term banking actions

Maeve needs to inform her bank or credit union of her situation. They, in turn, should facilitate access to her accounts by Maeve – in an accommodating manner – or by someone nominated by Maeve. While her bank or credit union will need to ensure that Maeve's accounts are protected from abuse, they will also be required to put procedures in place that will allow Maeve, or her nominees, to continue to manage the accounts in a manner that allows Maeve

to meet her commitments and financial obligations. Her bank or credit union should have procedures in place for customers who are in vulnerable situations or whose access to their finances is complicated by medical, mobility or capacity considerations.

Providing for long-term care

It is likely that Maeve will require long-term nursing home care. Consideration therefore needs to be given to how the costs of this care will be met. Long-term nursing home care can be expensive. If Maeve cannot meet these expenses from her income sources, then it is likely that she will need to consider the so-called Fair Deal scheme, properly called the Nursing Home Support Scheme. Under the scheme, Maeve can apply for financial support to help pay for the cost of care in a nursing home. However, it should be noted that, if Maeve's income and assets are above a certain threshold, she will not be eligible for any assistance under Fair Deal.

The Fair Deal scheme is managed by the Health Service Executive (HSE) and Maeve will pay a certain amount towards the cost of her care and the HSE pays the rest. Fair Deal covers approved private nursing homes, voluntary nursing homes and public nursing homes. Maeve's assets, such as savings and property, will be taken into account when assessing her financial situation and calculating the amount that she will need to pay personally toward the cost of care.

In simple terms, Maeve will be expected to pay 80% of her income plus 7.5% of the value of her property and financial assets (for three years) toward the cost of her nursing home care. At present, income from the rental of her own home will not be included in a calculation of her income.

If Maeve is not in a position financially to pay her portion of the nursing home costs, then she can apply for the Nursing Home Loan scheme, under which repayment of her portion is deferred until after either her death or the sale of her home. At that point the HSE will recoup the finances from the income achieved in the sale.

Maeve needs to be aware of the implications, both positive and negative, arising from her taking up the options available under the Fair Deal scheme. Ultimately however, Maeve needs to be conscious of the fact that her home and other assets are her personal property, to be used for her benefit in her lifetime, and that her adult children – who may eventually be beneficiaries in her Will – do not, at present, have any rights over how her finances and other assets should be used or allocated.

Managing immediate financial matters

There are several immediate financial matters that Maeve, or her nominees, need to arrange.

Maeve needs to confirm that money in any 'joint' accounts is clearly identified as being hers and hers alone and not 'joint' in the sense that the second person has rights to the money contained in those accounts.

Any regular outgoings connected, for example, with utility bills for Maeve's home, needs to be identified and managed.

Maeve needs to determine, and communicate to her family, how she wishes issues connected with her home to be managed. Can family members use the house? Can the house be used as a primary home by certain people? What contributions should such 'tenants' make towards the overheads of the home? Who should manage and oversee the use of the property? Decisions regarding these matters are Maeve's to make and not those of other parties.

Maeve, or people in situations such as Maeve's, are not required to give in to the demands or preferences of family members. Maeve has the right to determine how her assets should be utilised. She has a right to ensure that her own needs are met and to insist that her personal preferences are implemented and respected.

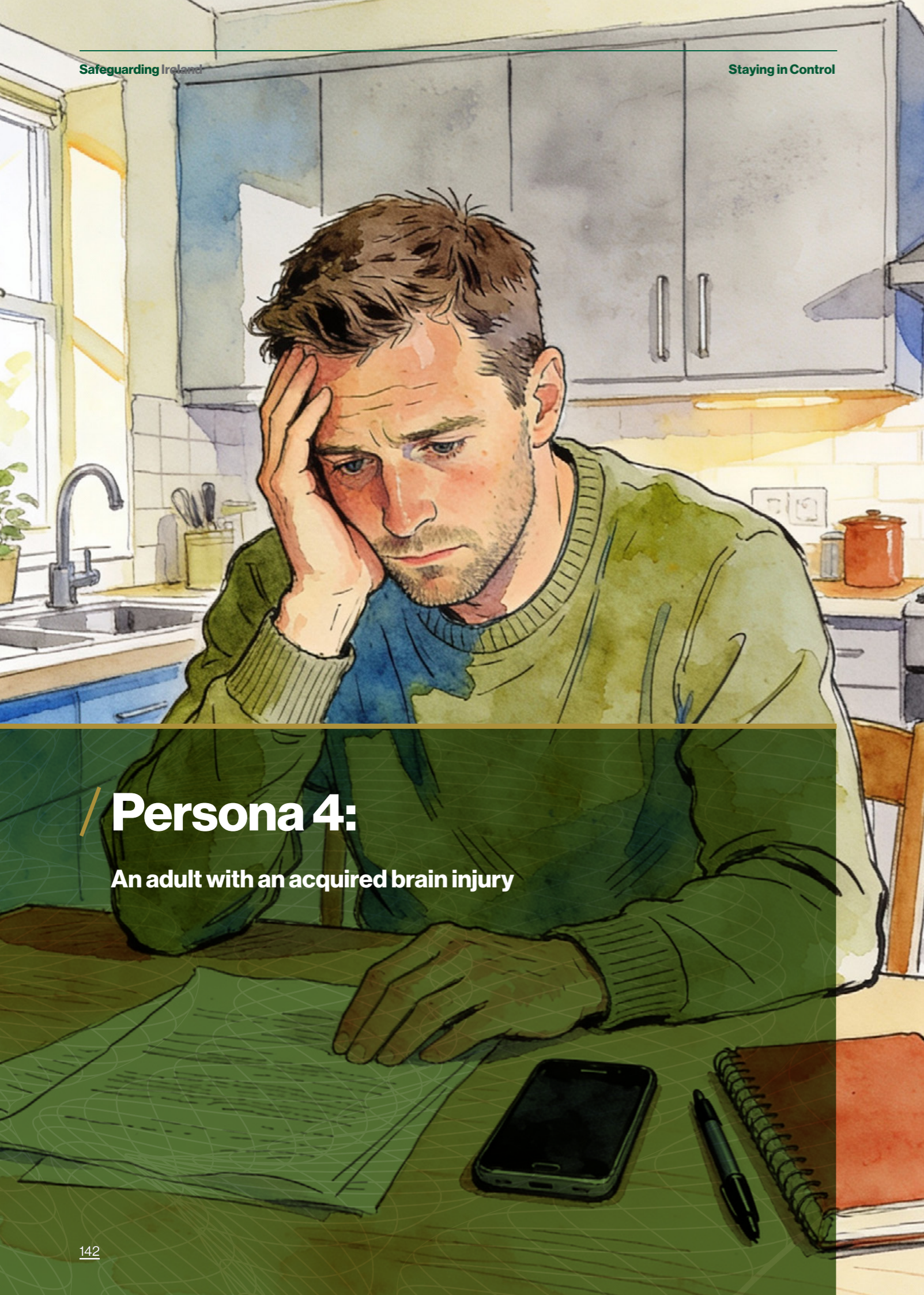
If Maeve encounters any difficulties in dealing with her bank or credit union then she should, first, complain to the institution, and – if she is not satisfied – lodge a complaint with the Financial Services and Pensions Ombudsman.

Getting help from an independent advocate

There is a strong case for ensuring that Maeve has access to the support of an independent advocate. Such a person can assist her in making her wishes known, in protecting her various rights – including her property rights, and in supporting her in communicating with the other parties who may be involved.

If you want to know more about where Maeve can get additional information, go to Section Eight of this Guide.





Persona 4:

An adult with an acquired brain injury

Brian's Story

Brian is 35 years of age, is single, and lives alone in a rented apartment. He had a good job, has savings, and has a number of bank accounts. He was recently involved in an accident, as a result of which he has an acquired brain injury. He has minor physical disabilities but can look after himself in most regards. He is about to be discharged from hospital.

There are concerns – amongst his wider family – that he does not have full capacity to make complex decisions or, at times, to understand the implications of important decisions. They feel that this is especially true when it comes to financial matters and more expensive purchases.

Advice for Brian

The guiding principle in considering Brian's situation must be one which presumes that he has decision-making capacity unless properly assessed otherwise, Brian has the right to manage his own financial affairs without having to share control or pass control over to anyone else. Brian could, of course, decide for himself that he would like to involve other people in his finances, but he is not obliged to do so.

Brian must consider both day to day decisions about money management and perhaps more complex decisions that relate to the changes to his income that arise because of his brain injury.

Support for Brian

Family members who are concerned about his decision-making capacity should consider the basis on which they are forming their opinion. If they conclude that there are sound reasons for doubting Brian's decision-making capacity, then they should examine how best they can support Brian in conducting his financial affairs. Support can be provided in ways ranging from informal approaches through to more formal and legally structured mechanisms. Brian should be given the supports that he requires to maximise his own decision-making capacity. As a starting point, therefore, there should be a process of discussion and exploration between Brian and family members.

Options for supporting Brian will include:

- Informal and ongoing support in the form of advice, guidance and information from a trustworthy person, family or otherwise, who might also agree with Brian about whether this should include reviewing spending, sight of bank statements, and/or an agreement about discussion in advance of unusual or large expenditures. This type of arrangement would not give Brian's support-person any right of veto or direct control over Brian's finances. The arrangement would be based on trust and would not have any formal or legal standing. Financial institutions are highly unlikely to recognise the arrangement or permit the support-person to have any access to account records or transactions.

People may need more support during transitions.



- A decision-making assistant agreement under the provisions of the assisted decision-making legislation. This option would be very similar to the informal arrangement listed above but would have the extra protection and strength of being in written form, be notified to the Decision Support Service (DSS) and have legal status. The agreement must be in writing and include details of the decisions that Brian's decision-making assistant will help him with. It must include a statement by Brian that he understands the agreement. His decision-making assistant must also confirm that they understand their duties and will carry them out.
- A co-decision-making agreement is very similar to a decision-making assistant agreement but with one major and important difference. A co-decision-making agreement gives the chosen co-decision-maker a say in making decisions. There are important legal implications when a person makes a co-decision-making agreement. If specific types of decisions are listed in the agreement, those decisions must be made jointly by the individual and their co-decision-maker. This means that Brian should think carefully about the types of decisions he wants to include in the agreement.
- A decision-making representation order (DMRO) is the third option under the assisted decision-making legislation. It allows for the appointed decision-making representative to make decisions on behalf of Brian. Brian must be invited to participate in any decisions being made and the decision-making representative must take account of Brian's will and preferences. Getting a DMRO involves going through a court process at Circuit Court level. A decision-making representative can only make decisions that the court has set out in a DMRO order. For example, the decision-making representative can only manage a relevant person's finances if that is included in the court order.

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 the any decision support arrangement put in place is the least restrictive possible in their circumstances.

People must be legally presumed to have decision-making capacity unless the contrary is shown by a due process of capacity assessment which must be time specific and issue specific. Decision-making supports must be at the appropriate level and a decision-making representative should only be appointed by the court where none of the other supports are adequate or where a person has not created an Enduring Power of Attorney. There should always be an adequate reason for assessing decision-making capacity.

The fact that someone has or is likely to make an unwise choice is not of itself an adequate reason to challenge a person's capacity to make the decision(s).

If it can be agreed that Brian has the capacity to make financial decisions for and by himself, but needs support for the making of other decisions, then either the decision-making assistant arrangement or the co-decision-making agreement option would seem to be the best ones.

Brian's bank accounts

Family members may think that arranging for Brian's bank accounts to be 'converted' into joint accounts with a sibling as a second account holder could surmount the challenges implicit in Brian's situation. This could be viewed as providing a safeguard against the accounts being abused through scams or misused in an 'unwise' way by Brian himself. However, there are issues that arise with such 'joint' accounts.

As an aside, banks will not 'convert' an account from being a sole owner account to a joint account. It will be necessary to close one account and then open a new account.

Firstly, Brian would need to have decision-making capacity to accomplish the change in his bank account and any transfers between them. This would seem to contradict the very rationale for diminishing his level of control over his accounts. Secondly, there is a risk that a 'joint' account could be exploited by the second account holder, either in the short-term or, in the event of Brian's death. It may prove difficult to prove, in the latter instance, that the monies in the account are not shared between Brian and the second person, thereby resulting in that person becoming entitled to hold the contents of the account instead of it being part of Brian's estate.

Issues relating to Gift Tax could also arise for the second person named on the account.

Dealing with a Bank or Credit Union

The main banks and credit unions will have procedures and arrangements in place for operating bank accounts for people who may need extra support. Brian (with his decision-making support person) should inform the bank or credit union of any special arrangements that they will need and of the fact that an agreement under the ADMCA Act is in place.

Most financial institutions will also have a mechanism in place that gives recognition to the fact that some of their customers, like Brian, will need extra protection against financial abuse. This will include mechanisms for recognising and responding to any unusual or exceptional transactions that occur on an account, for example an unusually large withdrawal or a big transfer to another account holder. Brian should enquire about his financial institution's supports for customers who need extra assistance and how it can help him.

Brian will need to ensure that there is a workable means of receiving notifications and communications to and from his chosen financial institutions.

Online-only banks may meet some of Brian's money management needs. However, while these banks offer an attractive, modern and effective service, their interactions with customers are built on and operate on a non-branch office model. In most instances this means that all interactions with them must be via the internet, with no face-to-face possibilities.

Reviewing Brian's accounts

It would be wise for Brian – with support if needed – to review and record his various banking arrangements, and if appropriate to consolidate and simplify his arrangements. He may consider lodging larger sums in an account that has, for example, a notice period being required for withdrawals.

Credit card debt can be a big expense for some people, particularly if they are impulsive shoppers. One of the ways Brian can better manage this expense is to set a lower limit on his credit card.

Brian's income may change because of his brain injury – he may no longer be able to work and will need to access relevant State entitlements. If Brian is awarded compensation because of his accident, he may need assistance both with the legal proceedings and in deciding how to manage the compensation for the future.

Help from an independent advocate

There is a strong case for ensuring that Brian has access to the support of an independent advocate. Such a person can assist Brian in making his wishes known, in protecting his various rights – including his property rights, and in supporting him in dealing with other people and agencies.

If you want to know more about where Brian can get additional information, go to Section Eight of this Guide.





Persona 5:

An adult who is planning ahead

Miriam's Story

Miriam is a widow living alone in her own home. She has adult children, some of whom are living nearby and others who are abroad. In addition to her state pension, Miriam has significant savings and investments, as well as having income from a private pension. She has always managed her own financial affairs, with occasional professional advice.

Miriam is concerned that she could, soon, experience health difficulties – physical, cognitive, or both – just as some of her siblings have experienced. She would like to arrange matters so that she will be cared for properly and that her finances and assets are safe and secure.

Advice for Miriam

Miriam is clearly a person who is more than capable of making her own decisions. She also recognises that this may not continue to be the case. A situation could arise in the future when her capacity for making important decisions might be significantly reduced. It is wise that she is taking steps now, while she is fully in control of her financial affairs, to ensure that her interests and wishes are upheld and respected into the future.

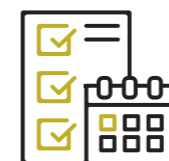
The issue of joint accounts

People who are having trouble in managing their finances - or who fear that this might be the case in the future - are sometimes encouraged to place their finances into joint accounts. This would involve giving another person – quite often a family member – the right to access their accounts as a joint signatory. Older people are often encouraged to add the name of a family member or carer to their bank account 'for the convenience' of the older person.

However, the use of joint accounts can create significant problems. When setting up the joint account there must be absolute clarity as to the intentions of the original account owner. Is it intended that both people have equal ownership of the money now or in the future, or is the second person simply there to act as an agent for the initial account owner? *An agent in* such an arrangement is obliged to only withdraw money from the account for the use and benefit of the initial account owner.

In a situation where the money involved belongs to one person only (Miriam in this case), putting an account into joint names with another person has serious legal (and potential taxation) consequences. Unless Miriam's intention (presumably not to share or transfer her money to another person) is properly and clearly documented, there is a risk that she could be deprived of a portion or even all her money. She might not be able to access her own money without the approval of the second person. There would also be a risk that, in the event of Miriam's death, the money in a joint account would then become the property of the second account nominee and not be part of Miriam's estate.

Early planning
reduces the need for
restrictive
interventions later.



Issues relating to Gift Tax could also arise for the second account holder

The only way of making sure that Miriam retains full control and ownership in such circumstances is to arrange that all the parties involved are informed – in writing – that the additional person whose name is being added to the account is only being appointed as *agent* for Miriam. The parties who should be informed include the bank, credit union or other financial institution, and all other relevant parties such as Miriam's Solicitor and other family members (with Miriam's consent). It should be noted that this type of arrangement – an agency arrangement – terminates automatically and has no legal validity if Miriam is formally assessed as lacking decision-making capacity.

People are reluctant to imagine that other members of their family could abuse the trust placed on them. There is a real risk that a 'joint' account could be exploited by the second account holder, either in the short-term or in the event of Miriam losing decision-making capacity at some point in the future.

For the reasons discussed above, it would be unwise for Miriam to put joint account arrangements in place. The risks are likely to outweigh any advantages they provide for Miriam in planning ahead.

Enduring Power of Attorney

Many people think (mistakenly) that, if – at some stage in the future - they do not have the ability to make a financial decision, then a family member or close friend will automatically be able to make the decision for them and manage their financial affairs. It is often incorrectly thought that nearest family or 'next-of-kin' automatically assume control of a parents or relatives finances when they lack capacity. However, this is not true.

Professionals may ask available family members to help with decisions when no legal arrangement is in place, but they do not have legal power or status.

The best step that Miriam can take to safeguard her important future decisions is to plan in advance. She should start by talking with her most trustworthy family member, or friend and/or with a professional advisor. She should choose who she would like to act on her behalf, and have her preferences recorded for them to follow in the event that she may lack capacity to make decisions in the future. This will bring peace of mind for her and clarity for family and professionals. Planning ahead safeguards against future misuse of her money or property or her social welfare payments.

Miriam can do this by putting in place an Enduring Power of Attorney (EPA).

Making an EPA for financial decisions enables Miriam to appoint a trustworthy person (or people) to make financial decisions for her, if and when she cannot make the decisions herself. These could be decisions about paying expenses or selling property.

Since an EPA is a legal document, it is best for Miriam to be fully informed of the implications of creating an EPA. The Decision Support Service (DSS) offers useful information and templates on its website.

In an EPA, Miriam can give authority for decisions including:

- Controlling and managing her property and finances
- Managing, buying, selling, renting or mortgaging any property
- Making sure bills are paid including paying taxes
- Entering contracts
- Housing, social welfare or other benefits.

Without an EPA, these important decisions may be prone to misunderstanding and confusion. Family members may have differing views, problems can arise, and unfortunately it happens that money is stolen and property used in ways never intended.

When Miriam sets up her EPA, she can be specific about what exactly she wants included and excluded under the terms of the EPA.

Miriam's EPA does not become operational immediately – it will not take effect until such time as she is deemed to lack capacity to make her own financial decisions. Physical incapacity due to a medical condition does not equate with a lack of decision-making capacity.

An EPA that was made on or after 26 April 2023 only takes effect when each of the following has occurred:

- ✓ The EPA has been registered with the Decision Support Service
- ✓ The donor lacks decision-making capacity
- ✓ The Decision Support Service has been notified of the person's lack of capacity and it accepts the fact.

The coming into effect of an EPA should also be notified to Miriam's financial institutions, and to any state body or former employer from whom she is receiving benefits and payments.

It is a serious matter to appoint a person to make decisions about your finances, property and personal welfare. So, firstly, it is important that Miriam understands that she will be giving control over her assets to her chosen person, for a time when she is no longer able to make those decisions herself. Making an EPA includes setting out what decisions she is giving her chosen person the authority to make and setting out guidance for them on the wishes and preferences that she has. The person that she appoints is called an 'Attorney'. This is a legal title and not necessarily a Solicitor or legal practitioner. Obviously, Miriam needs to think about who would be best for this role and responsibility.

The person she chooses should have a willingness to listen to, respect and act on her wishes and preferences, rather than their own; be trustworthy; possess the skill and time required to perform the role; have the ability to manage property and money well; have the ability to stay calm in a crisis; be able to deal on Miriam's behalf with others - for example, the ability to talk to her Solicitors, bank, care providers, and government agencies and departments; that the person understands and respects her preferences and wishes; and be willing to take on the role with all its responsibilities.

While, for Miriam, putting an EPA in place requires some effort and involves thought and discussion with people around her that she trusts, it is hugely important as a lack of clarity can create confusion, tension and a temptation among family and loved ones who may not know her wishes. An EPA is a very important safeguard to ensure that to the greatest possible extent she retains legal control of her finances, property and personal welfare into the future.

Advance Healthcare Directive

Miriam should also consider making an Advance Healthcare Directive. This is a specific document in which a person can record future healthcare refusals and requests - what she does not want under any circumstances and what she would like - on treatment approaches, surgery, medicines and resuscitation. An Advance Healthcare Directive is recognised in law. She can talk with her Doctor about making one.

Property, finances and nursing home care

Miriam is likely, at some point in the future, to need finance to meet medical and care expenses. She should, therefore, think long and hard before transferring any of her finances or property to anyone else. While she may see taxation advantages in making financial gifts to family members now as opposed to doing so through her will after her death, she could inadvertently leave herself without adequate resources to meet her future needs.

Miriam should take into consideration the possibility that she may not move directly into long-term care – which could be covered by the Fair Deal Scheme – but that she could find herself moving from her home to short-term care and back to her home. She may wish to provide herself with care over and above that provided and funded by the state. If Miriam is assessed as not being eligible for the Fair Deal, then any expenditure she makes toward her nursing home care can be offset against income tax.

If she is eligible the Fair Deal Scheme will involve Miriam contributing towards the cost of long-term nursing home care from her income sources and from her financial and property assets. These could include her own home and/or monies she has deposited in financial institutions. While the Fair Deal Scheme restricts the contribution that is based on the value of her own home to 7.5% per annum for three years, the contribution based on other assets – while also calculated at 7.5% per annum – is not limited to three years.

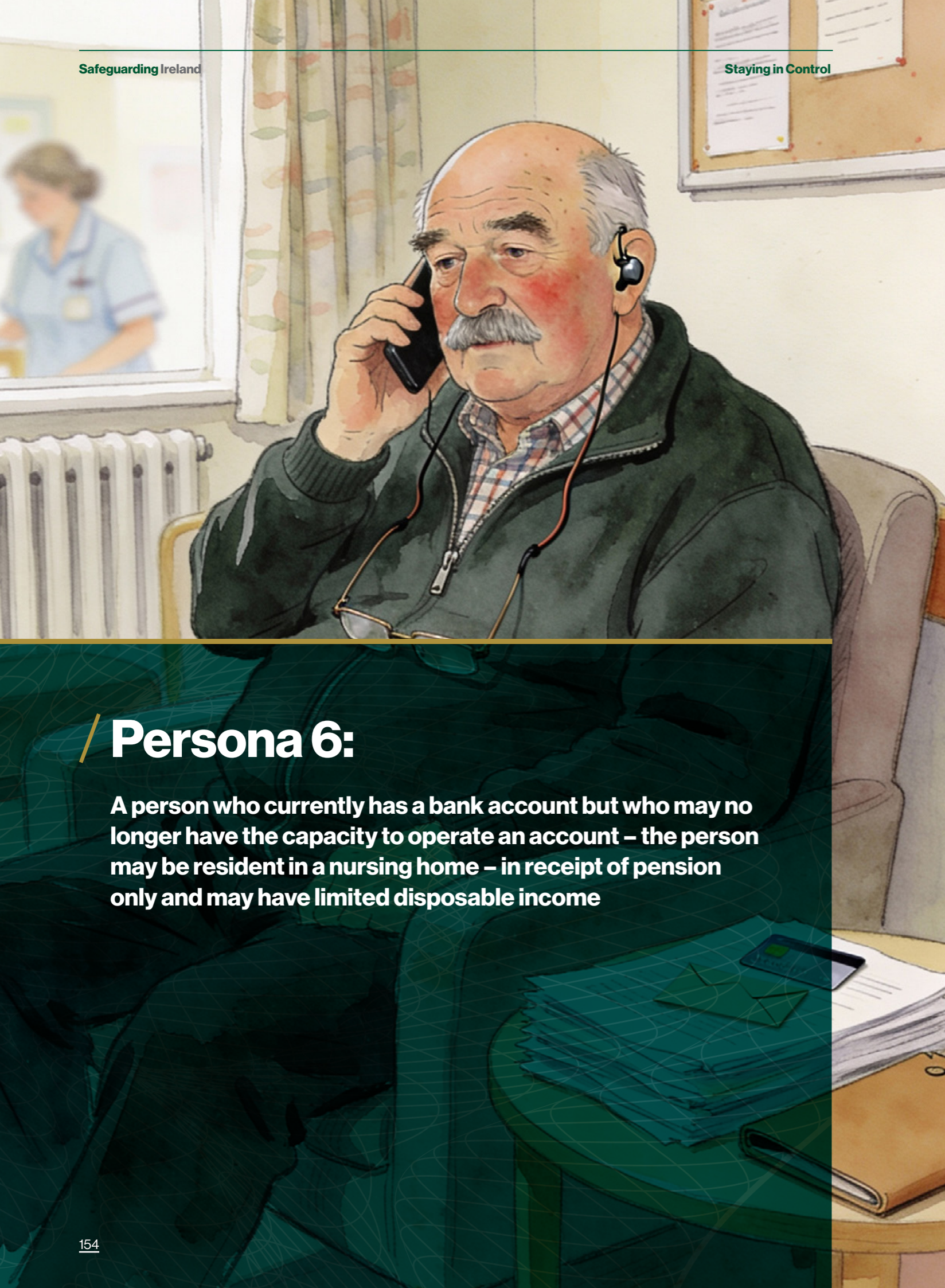
If Miriam were to consider transferring legal ownership of her home to someone else, then she should be aware that financial assessment for the Fair Deal Scheme includes any assets she had transferred in the five years before the date of her first application. If she had given any land, property or money to another person in the last five years, she would need to declare it. She will also need to tell the HSE if she transfers any property, money or land after she makes an application.

It is important that Miriam understands that she should use her assets for her own benefit during her lifetime.

Above all else, Miriam needs to ensure that her decisions are made with her own needs and interests in mind and that she is not pressured into making her decisions by other people who may or may not have her interests at heart.

If you want to know more about where Miriam can get additional information, go to Section Eight of this Guide.





Persona 6:

A person who currently has a bank account but who may no longer have the capacity to operate an account – the person may be resident in a nursing home – in receipt of pension only and may have limited disposable income

Brendan's Story

Brendan is 85 years of age and is in long-term care in a public nursing home. Until the very recent past he had capacity to make most simple decisions. He has dementia which has now advanced to the point where he no longer has capacity to make decisions regarding many matters, most particularly financial management. Brendan has a current account in a local bank and has limited savings in a credit union account.

Until now he has been the only person authorised to deal with these accounts. He has two adult children who have had very little involvement in his financial affairs to date.

Advice for Brendan

The following choices are available to Brendan as a HSE resident in relation to the management of his financial affairs.

Option 1: He might prefer that a member of his family or a friend manage his day-to-day financial affairs on his behalf.

Option 2: He might request the HSE to administer his day-to-day funds in a Patient Private Property Account (PPP Account). This account can be opened for him at his nursing home to hold his day-to-day funds on his behalf. He would have access to these funds as required. This money remains his property.

As Brendan now lacks capacity to make decisions regarding his finances (and possibly other aspects of his life), the best arrangement is that a HSE Patient Private Property (PPP) Account be set up on his behalf. This arrangement would be possible provided Brendan is resident in a HSE-run or HSE-funded nursing home.

The HSE can be nominated to act as Agent for the collection of Brendan's pension or other allowances and benefits. These will be lodged directly to his PPP Account. This account will be managed in accordance with the HSE's Patients' Private Property Guidelines.

If the HSE is nominated as Agent for the collection of Brendan's benefits and allowances, arrangements can be put in place for the deduction of nursing home or hospital charges each week. The balance of his allowance and benefits will be held in his PPP account and these funds will be available to him as required. He will have access to his funds for any ancillary expenses that he needs or wishes to make – i.e. costs for items or services that are not an integral part of his nursing home care.

The HSE has a duty to ensure that PPP funds are safeguarded for Brendan's direct benefit and his benefit alone. This is done in accordance with the HSE's Patients' Private Property Guidelines.

Having access to money is not the same as having control over it.



The PPP Guidelines set out the procedure to be followed by staff in the administration of PPP accounts. They set out the steps that must be taken to ensure that clients' interests are protected and provide clear guidance on the use of funds for the benefit of clients, particularly where a client may not have full capacity to manage, or to make decisions around the best use of, their funds.

Excess PPP funds are invested in a central investment fund. The funds are invested in Government Guaranteed Fixed Interest Deposit Accounts on behalf of clients. Interest earned is lodged to each account weekly and a charge is deducted (20% of the interest earned). These accounts are audited annually by the Comptroller and Auditor General.

Should Brendan die, any PPP funds held at that time will be passed to his Legal Personal Representative for them to administer his estate according to law.

HSE PPP accounts are managed in a manner that ensures that Brendan's funds cannot be used for any purpose other than Brendan's own benefit. There are strict rules regarding how such accounts are managed and monitored.

Private nursing homes

The HSE PPPA system for managing the finances of residents for whom this method is deemed suitable does not operate in private nursing homes. Therefore, should Brendan be a resident in a private nursing home, a decision-making representative Order or a co-decision-making arrangement is likely to be needed to in such a situation. (See section on assisted decision-making legislation above).

An agency arrangement will also be needed to provide the nursing home with authority to collect Brendan's allowances and benefits.

Regardless of where Brendan may reside, he has a right to have his money kept in his own name in a client account, separate from the residential care facility. He also has, as far as possible, a right to receive regular statements of his own client account in a manner that he can understand.

Other options and issues

As mentioned above, it is possible that Brendan's adult children could be appointed to make financial decisions on Brendan's behalf. This would involve an application by them to the Circuit court for a decision-making representative order (DMRO). It should be noted that 'next-of-kin' – in this case Brendan's children – do not have any automatic right to be nominated as Brendan's decision-making representative. The court may well decide otherwise.

It has been assumed here that Brendan does not have an Enduring Power of Attorney in place. If he does then his appointed Attorney would, most probably, be authorised to make arrangements for the ongoing management of Brendan's financial affairs.

It is important and necessary to emphasise that any form of joint account in a bank, credit union or other financial institution would not be appropriate or possible in this case, as Brendan does not have the decision-making capacity needed to open an account or change the ownership of his existing accounts.

If it is the case that Brendan owns property (a house for example), ownership of the house will remain his, although likely to be administered under the terms of a DMRO. In such an event, Brendan's decision-making representative will be duty-bound to ensure that Brendan's property be managed in a manner that benefits Brendan and that is in keeping with Brendan's wishes and preferences.

Any property ownership will also have implications for Brendan's eligibility and situation under the Fair Deal Scheme.

Help from an independent advocate

There is a strong case for ensuring that Brendan has access to the support of an independent advocate. Such a person can assist Brendan in making his wishes known, in protecting his various rights – including his property rights, and in supporting him in monitoring the management of his PPP account or similar arrangement.

Brendan's nursing home should be able to put Brendan in touch with an appropriate advocacy service. If not, his family or friends should arrange for contact to be made.

Communications

In the event that Brendan is assessed as lacking decision-making capacity, any new arrangements about Brendan's finances will need to be communicated to relevant parties, notably his bank, credit union, and any government departments who are making payments to him.

If you want to know more about where Brendan can get additional information, go to Section Eight of this Guide.





Persona 7:

A person with an intellectual disability who needs to open a bank account to receive social welfare and possibly other income

Bernie's Story

Bernie lives in her own apartment in a sheltered accommodation unit and is 22 years of age. Her intellectual disability means that, while she does have capacity in many respects and on most occasions, her ability to make wise decisions about her finances is questioned by members of her family and by some care/support staff.

Bernie needs – for the first time ever – to open a bank or credit union account. Bernie will almost certainly need support in opening an account. She will also need support to some extent in operating an account. This support could be short-term – until she becomes familiar with and confident in managing the account, or it could be lifelong.

Advice for Bernie

Bernie needs to open a bank or credit union account. While several people may have concerns about her ability to manage her own finances, this is not a valid reason for obstructing her from doing so. Unless some person or agency is willing and able to legally challenge the extent of Bernie's decision-making capacity regarding her finances, then she has the right to proceed.

It is possible also that a financial institution could require Bernie to provide proof of her decision-making capacity as a condition of her opening an account. Banks and other financial institutions sometimes see this as a way of showing compliance with the Assisted Decision-making Capacity Act. They must act on the presumption that Bernie has decision-making capacity while also being conscious of their obligations to mitigate against financial abuse.

It would be wise to make arrangements for making sure that Bernie's family and carers are made fully aware of Bernie's rights in this matter as well as of the various possibilities that exist for Bernie, how she can be supported, and if necessary, how she can be safeguarded. People will need to come to terms with the inevitable tension that can arise in situations like this between Bernie's right to make her own decisions and her need for protection and safeguarding. There is a role here for independent advice and advocacy.

Bernie's options

There are a number of important and practical issues that need to be decided, arranged and managed. Some of these relate to deciding what kind of personal assistance and support – if any – Bernie will need in managing her finances. Others relate to the arrangements that will need to be put in place by Bernie's bank of choice in order that she can carry out the everyday tasks that are involved in using and overseeing bank accounts.

Independent advice can interrupt harmful patterns early.



Taking the First Steps

Should Bernie be opening a bank account in her own name and over which she will have sole control? Or should someone else have a hand in the matter? While Bernie is a person with an intellectual disability, she is clearly capable of making decisions – to some extent at least – on her own. It is likely that with some support she should be able to manage and operate her own bank account. There are three options that would meet Bernie's needs –

Simply open her own bank account:

- Open her own bank account but with some trustworthy person helping her out in an ad-hoc and informal way, for example helping her set up direct debits and standing orders, or helping her review her spending and her bank statements
- Entering into a more formal decision-making agreements, so that some other person is legally recognised as being there for Bernie when he is making certain decisions with which she might otherwise have difficulty.

Any of the three options could be the right one for Bernie, depending on her ability to understand and make various decisions that relate to managing her own finances.

- ✓ The first option is the one that most people would automatically choose, in that it assumes that a person is fully able to manage all aspects of their financial affairs and has the right to do so – even to the extent of making decisions that other people might consider unwise.
- ✓ The second option provides Bernie with the support of a trustworthy other person, but does so in a way that is informal, based on trust, and does not involve any legalistic arrangements. Financial institutions are unlikely to give such a person any right to access Bernie's accounts or financial records. This arrangement would be suitable for supporting Bernie in carrying out once off transactions but might not be suitable for a very active account. In particular, the setting up of a joint account under an informal option such as this would leave the door open for possible financial abuse. However, having a trustworthy person involved need not give that person any rights or authority over Bernie's accounts.
- ✓ The third option is the most formal approach. It would recognise that Bernie is perfectly capable of making some decisions but needs assistance in making others. A decision-making agreement would have legal status; it would clearly describe those situations in which Bernie would be given support; and it would provide Bernie's decision-making support person with a legal basis on which to deal with Bernie's bank or credit union on her behalf.

Step-by-step explanations increase confidence.



If it can be agreed that Bernie has the capacity to make certain decisions for and by herself, but needs support for the making of other decisions, then there are two decision-making support possibilities – under the third option above – that can and should be considered.

These are:

- Decision-making assistance agreement

Bernie can appoint someone she trusts to act as a decision-making assistant under a decision-making assistance agreement. This agreement lets her specify decisions she needs help with and gives someone the legal authority to help her to make those decisions for herself. These decisions can be about her personal welfare or her property and money matters.

Her decision-making assistant will help her to gather information and explain it to her. They can help her to understand and weigh up her options. They can also help to let other people know what her decision is.

- Co-decision-making agreement (CDMA)

This agreement lets Bernie choose someone she knows and trusts such as a friend or family member as a co-decision-maker. This agreement lets her write down decisions she needs help with and give someone the legal authority to make those decisions jointly with her. They will help her to gather information and explain it to her in a way that she can understand. They can also support her to let other people know about the decision she and her co-decision maker have made together.

If Bernie chooses to make a co-decision-making agreement, it must be in writing and must be signed by her and her co-decision-maker. The agreement needs to be witnessed by two other people. It must contain details of the decisions that Bernie and her co-decision-maker will make together. The decisions included in the agreement must be made jointly with the co-decision-maker. This means that Bernie should think carefully about the types of decisions she wants to include in the agreement. It may be useful for Bernie to discuss this with someone she trusts – be that a friend, a family member, a support worker, or an advocate.

Setting up a CDMA involves some paperwork. The co-decision-making agreement must be registered with the Decision Support Service (DSS) and the DSS provides a good range of supports, guidance and templates. The DSS also has oversight over the process and operation of CDMA's, so that provides Bernie with another layer of protection.

If Bernie does choose one of these arrangements, it can be changed later if needed, for example if her capacity to make decisions about her money increases or if she wishes to appoint someone else.

Dealing with a Bank or Credit Union

The main banks and credit unions will have procedures and arrangements in place for opening and operating a bank account for people who may need extra support. Bernie (with her support person) should inform the bank or credit union of any special arrangements that they will need. They should also inform the bank if they have put a formal CDMA in place.

Banks normally insist that anyone opening a bank account produces identity documents such as a driving licence or passport. If Bernie does not have these forms of identity, then the bank should be able to help her through the process using other ways of confirming her identity.

Most financial institutions will also have a mechanism in place that gives recognition to the fact that some of their customers, like Bernie, will need extra protection against financial abuse. This will include mechanisms for recognising and responding to any unusual or exceptional transactions that occur on an account, for example an unusually large withdrawal or a big transfer to another account holder. Bernie should enquire about her financial institution's special arrangements and supports for people who need extra help in conducting their banking, and she should ask how such an arrangement can help her.

Banks and other financial institutions should have arrangements in place for people who require additional support and usually they will have specially trained staff and staff units for this purpose. Different banks will use different titles for these units and staff.

If Bernie is not comfortable with using internet or phone communications, then she will need to agree a workable means of receiving notifications and communications to and from her chosen financial institution. It should be possible, if necessary, to authorise the bank to communicate with Bernie through a Trusted Contact Person.

Online banking or banking through one of the online-only banks could, however, be an attractive option for Bernie, depending on her skills and preferences. Online-only banks offer an attractive, modern and effective service. However, it is worth noting that their interactions with customers are built on and operate on a non-branch office model. In most instances this means that all interactions with them must be via the internet, with no face-to-face possibilities.

Bernie could however decide to have more than one account; for example, she may wish to have her primary current account into which she receives her income in a bank or financial institution that has physical branches and have a separate account with a digital-only bank for making limited payments.

Current Accounts and Joint Accounts

Bernie will, obviously, need to open a current account. She may also need to consider opening a deposit account, perhaps for the purpose of saving toward a major purchase or expenditure. There appears to be no reason why Bernie's account should be anything other than in her own name alone.

Earlier in this Guide, the disadvantages involved in using a joint account arrangement have been well outlined. Nevertheless, despite the risks involved, some people may choose the joint account option. It must be emphasised that the option of opening an account in Bernie's name alone – with a co-decision-making agreement in place – is the safest option available for Bernie.

It is advisable that in cases where there are joint accounts already in existence they should be closed and funds transferred to a new account opened solely in the name of the rightful owner and then, if necessary, operated under one of the decision-making arrangements provided for in the assisted decision-making legislation.

Basic Bank Account

Banks offer a particular type of account called a Basic Bank Account. This is available to all customers over-18 who are legally resident in the European Union (EU). It is available to customers who do not already hold a payment account or current account in the Republic of Ireland. Only one basic payment account can be held per customer. With a Basic Bank Account, the customer will not have to pay maintenance or day-to-day transaction fees for 12 months from the time they open it. Some charges may apply. It has most of the features of a normal current account but restricts the amount of money that can be put through the account in a year. This is calculated based on the National Minimum Wage and was just over €27,000 per annum at the beginning of 2025. The Basic Bank Account does not provide a cheque book or access to an overdraft.

Managing expenditure

While it may be challenging for Bernie to move from a situation in which her parents or others managed her finances to one in which she exercises greater control, dealing with day-to-day transactions and budgeting – with good support – should be a positive learning experience for her and one that confirms her autonomy. Bernie should have a budget, which makes provision for essential costs, personal care and social inclusion and other items that are important for her both now and in the future.

Bernie, with support, will need to consider setting up direct debits and/or standing orders with the purpose of meeting routine and regular expenditures. These are used for paying regular fixed or varying amounts to another person's account. Both types of arrangement have their own advantages and features that Bernie should consider. As well as being easy to manage, they are useful in reducing the risk of unauthorised withdrawals from an account.

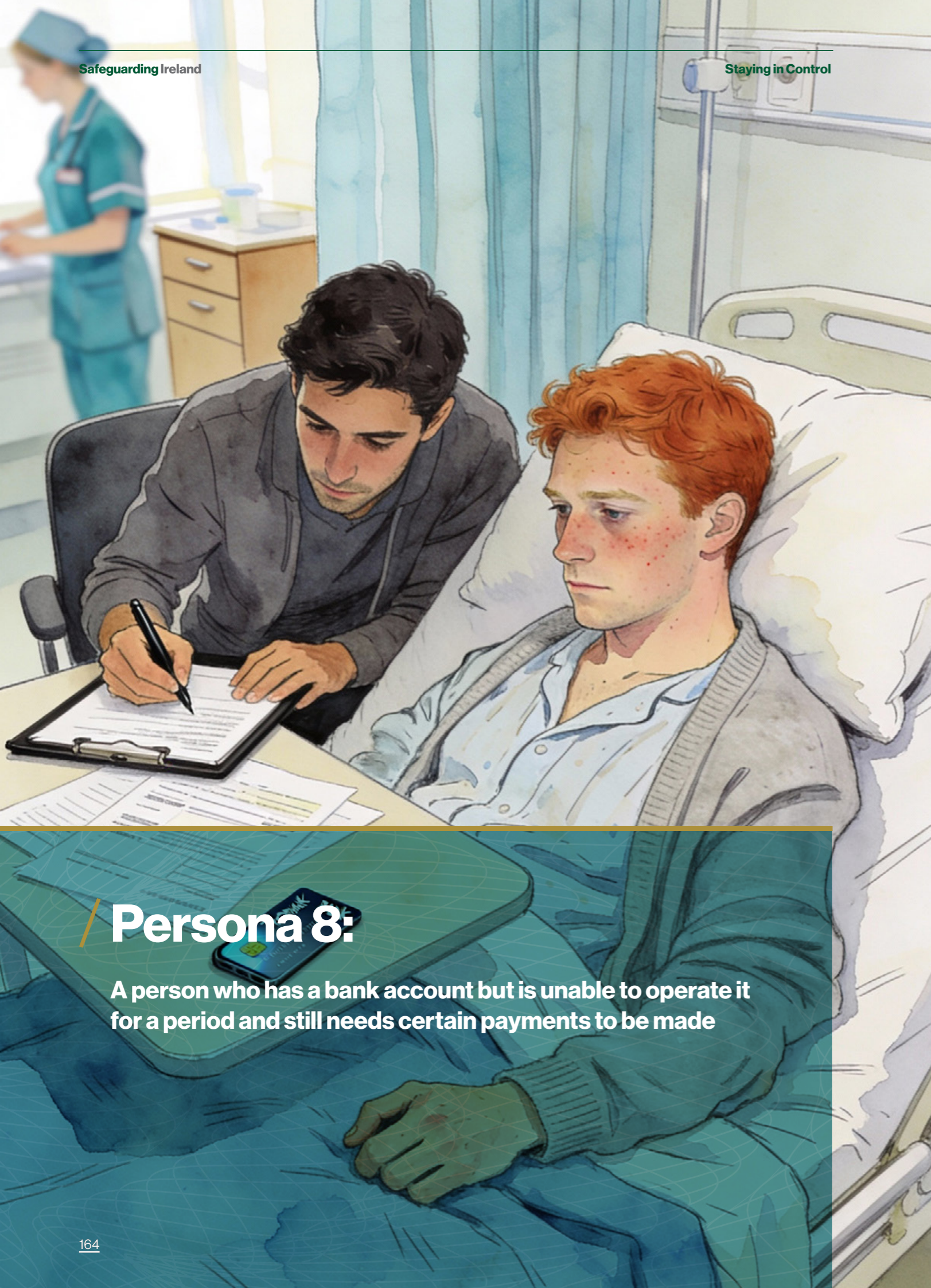
Help from an independent advocate

There is a strong case for ensuring that Bernie has access to the support of an independent advocate. Such a person can assist Bernie in making her wishes known, in protecting her various rights – including her rights to managing her own finances, in supporting her in her interactions with financial institutions, as well as with family.

If you want to know more about where Bernie can get additional information, go to Section Eight of this Guide.

Clear consent reduces financial disputes.





Persona 8:

A person who has a bank account but is unable to operate it for a period and still needs certain payments to be made

Thomas's Story

Thomas has a mild intellectual disability and has recently suffered a major mental health crisis which has resulted in him being temporarily hospitalised and assessed as lacking sufficient capacity to manage some of his affairs, including managing his finances. Thomas has managed his own finances quite capably until now, including paying his rent, keeping up repayments on a loan, and dealing with other periodic, one-off and routine expenses. Thomas has both a savings and current account with his bank. He has been the sole authorised person for these accounts. Unfortunately, most of his outgoings have been dealt with as they arose, not by direct debit.

Thomas's account needs a certain amount of management as his bank balance can fluctuate and occasionally move toward the red if not monitored carefully.

Advice for Thomas

Thomas has already been assessed as lacking decision-making capacity regarding his financial affairs. However, it is important to recognise that this assessment – presumably carried out by a qualified person – relates to his decision-making capacity regarding specified issues (such as financial management) and at a particular point in time.

There are physical and intellectual conditions that contribute to a sometimes rapid and irreversible loss of capacity. However, in many other situations the loss can be temporary and reversible. The fact of Thomas's lack of capacity right now should not be taken as proof that he will always be in the same position. Decision-making capacity can fluctuate over time, and can, in many cases, be regained and restored. There is a risk that lack of decision-making capacity at this time on Thomas's part would be seen as a permanent condition, when it is possible that he will recover his full abilities.

Advocacy and support

At this time of crisis and upset Thomas needs the support of a person who he can trust to assist him in ensuring that his finances are properly managed, hopefully over the short- to medium-term. Such a person should be personally capable of understanding Thomas's finances, of assisting Thomas in looking after his affairs, and – most importantly – of facilitating communications between Thomas and his bank. In addition, it will be important that anyone involved in helping Thomas should not be in any position that involves a conflict of interest.

There is a strong case for ensuring that Thomas has access to the support of an independent advocate. Such a person can assist him in making his wishes known, in protecting his various rights, and in supporting him in monitoring the management of his finances.

Support should be proportionate to the decision to be made.



Lack of information increases dependence on others.



Thomas's situation is, to a certain extent, simplified by the fact that many of his financial commitments are well-established – such as his rent, loan repayments and routine utility bills. There can be little doubt or confusion about what Thomas's wishes are regarding these expenditures, or regarding the fact that his income should be lodged to one of his accounts. It would appear likely that Thomas's finances need to be arranged and organised rather than be decided for him by someone else.

Get support from the bank

Thomas needs to get in direct contact with his bank and explain his situation to them. He should be asking to be put in touch with an official in his bank's dedicated support unit. This person should be able to check and identify Thomas's pattern of expenditure and to make arrangements for these routine and recognisable transactions to be carried out as required.

Thomas should ask that he be informed if and when his account moved towards the red. He should, of course, inform the bank of his need to have information about his account passed to his support person or advocate.

Decision-making support

If Thomas's capacity to make decisions is seriously impaired, it may be necessary for a more formal decision-making support arrangement to be put in place.

Thomas has three options in this regard:

- Decision-making assistance agreement

Thomas can appoint someone he trusts to act as a decision-making assistant under a decision-making assistance agreement. This agreement lets him specify decisions he needs help with and gives someone the legal authority to help him get relevant information and/or interpret information to enable him to make those decisions for himself. These decisions can be about his financial arrangements as well as other personal welfare or property matters.

His decision-making assistant will help him to gather information and explain it to him. They can help him to understand and weigh up his options. They can also help to let other people know what his decisions are.

- Co-decision-making agreement (CDMA)

A CDMA lets Thomas choose someone he knows and trusts such as a friend or family member as a co-decision-maker. This agreement lets him write down decisions he needs help with and give someone the legal authority to make those decisions jointly with him. They will help him to gather information and explain it to him in a way that he can understand. They can also support him to let other people know about the decision Thomas and his co-decision maker have made together.

If Thomas chooses to make a co-decision-making agreement, it must be in writing and must be signed by him and his co-decision-maker.

The agreement needs to be witnessed by two other people. It must contain details of the decisions that Thomas and his co-decision-maker will make together. The decisions included in the agreement must be made jointly with the co-decision-maker. This means that Thomas should think carefully about the types of decisions he wants to include in the agreement. It may be useful for Thomas to discuss this with someone he trusts – be that a friend, a family member, a support worker, or an advocate.

Setting up a CDMA involves some paperwork, it must be registered with the Decision Support Service (DSS) for it to come into effect. The DSS provides a good range of supports, guidance and templates. The DSS also has oversight over the process and operation of CDMA's, so that provides Thomas with another layer of protection.

Both options outlined above would ensure that Thomas could continue to exercise control over his bank accounts and finances, albeit with the support of someone else.

- Decision-making representative

There is a third legally recognised option available under the provisions of the assisted decision-making legislation – the appointment by the court of a decision-making representative who would make decisions on Thomas's behalf. The decision-making representative would be obliged to take Thomas's wishes and preferences fully into account when making decisions on his behalf.

The law is clear in insisting that – where there is a need to provide legally recognised decision-making support to a person like Thomas – the least intrusive approach should be taken. If Thomas recovers and his capacity to make decisions about his money improves, the type of decision-making arrangement that is in place can also change. In all cases Thomas's wishes and preferences must be respected and his finances can only be used toward meeting his needs and not those of anyone else.

Banks and other financial institutions are required under Central Bank of Ireland guidelines to put procedures and arrangements in place that meet the needs of customers who may be temporarily or in a more long-term way in a situation of risk. Thomas's financial services provider should work to support Thomas at the current time, recognising that he is a customer in vulnerable circumstances, and should also be mindful that Thomas's current circumstances could lead to a heightened risk of financial abuse.

If Thomas is not happy with the service he receives from his financial institution, then he should be encouraged to make a complaint. (see the earlier section in this Guide that tells how a person can go about making a complaint).

If you want to know more about where Thomas can get additional information, go to Section Eight of this Guide.



Persona 9:

An older person considering equity release

Anna's Story

Anna is 72 years of age and lives in her own house, on which there are no debts or outstanding mortgages. She has very little by way of savings and depends financially on her state pension and a small private pension. Anna's husband died five years ago. She has three children, two of whom are married, and she has four grandchildren who are in their late teens and early 20's.

One of her adult sons and her eldest grandchild have, on occasions, lodged with her in her home while looking for accommodation of their own. She was happy to be able to help them out and she enjoyed their company. It is possible that her other grandchildren might come to stay with her when and if they go to university or get a job nearby.

Anna is an independent person. She is in good health and is quite capable of looking after herself and of conducting her financial affairs. Admittedly, when her husband was alive, she did leave most of their money matters to him.

Anna's intention is that, when she dies, her house and any savings she has will be divided equally between her children. She has started the process of making her Will. She has also been thinking about whether she should do some improvements on her house and, more immediately, how she can help some members of her family who are under pressure money-wise. She knows that she does not have the readily available cash that this would need, but she has heard about ways that a person can borrow against the value of their house. She thinks this is an idea worth following up.

Advice for Anna

If Anna intends to make a financial gift to any of her family – perhaps as an 'advance' on what she intends to leave them in her will – it is important that this gift be documented to avoid any confusion or disagreements after her death.

More importantly, Anna should give serious consideration as to whether and to what extent she should make 'advance' financial gifts.

Can she really afford to do so?

Is there a risk that she will find herself unable to meet her own future financial needs?

Learn More About Equity Release

Equity Release Schemes are a form of lifetime loan. They are aimed at people who own their own homes and have paid off their mortgage. Equity Release Schemes allow people to release cash from their home by borrowing against it. The home must be a main residence and not an investment property or holiday home. If you own your home, an Equity Release Scheme could allow you to release some of the value of your home without having to make repayments during your lifetime, move out or sell your home on the open market.

Financial decisions vary in complexity, risk, and consequence.



The conditions of Equity Release include that you cannot have an existing mortgage on your home and that you have reached a certain age, for example 60 years, to avail of the loan.

The biggest difference between the main type of Equity Release Scheme now available in Ireland and an ordinary loan is that there are no repayments during the lifetime of the borrower. Instead, the loan must be repaid, with considerable interest, when the homeowner dies or when the property is sold. This means that when the property is eventually sold, a considerable portion of its value will have to go toward clearing the loan.

For example, if a person borrowed €50,000 against a property valued at €250,000 today and if they died (or the property was sold when they went into nursing home care) some 20 years later, then the loan would have grown to just under €200,000 by that time. This could be a sizeable chunk of the value of the house, depending on how house values grew (or not) over that period. In addition, it should be remembered that the longer the borrower lives, the greater the cost of the loan. After 25 years, the repayment on a loan of €50,000 would have grown to over €260,000.

In practice, this would mean that the value of the property that would be left for dividing between Anna's three children – in accordance with her will – would be seriously reduced.

In order to apply for a loan, the applicant must usually be 60 years of age or older. Generally, the share of the property one may borrow against increases with the age of the applicant. For example, an 80-year-old person can borrow against a higher share of the property than a 65-year-old.

Is an Equity Release Scheme suitable?

Equity Release Schemes may provide a satisfactory means of accessing cash for some older people. However, they are not suitable for everyone. Anyone thinking of availing of such schemes needs to consider them very carefully and should get independent financial and legal advice before deciding.

If Anna should decide to avail of Equity Release it must be her decision and hers alone. She should not feel pressurised by anyone else to borrow against the equity in her home. This is particularly the case if she is considering releasing equity to give money to a child or grandchild, even as a loan or 'advance' on her Will. While it remains up to her to make the decision, it is a very costly way of transferring funds to a child. It would have serious effects on her final estate and consequently on the amount any beneficiaries would receive by way of inheritance.

3. Based on fixed interest rate of 6.7%. Even with an assumed annual house price growth rate, the estimated equity remaining would have decreased to €207,058 after 10 years, €199,979 after 15 years, €180,827 after 20 years and €143,820 after 25 years.

Discuss with family

As availing of Equity Release will lower the value of her estate, Anna might consider if it would be appropriate or wise to discuss her intention with members of her family, so as to make them aware of the rationale for her decision.

Some older people have found that sharing this type of information is a positive move; some have found that it has resulted in them being subjected to pressure from other family members. Anna should be clear in her mind that the final decision is hers alone to make and she should not feel obliged to involve others in her decision.

Anna's future needs

Of course, Anna may be thinking about how she can afford, for example, to upgrade the energy efficiency of her home, adapt it for better disabled access, or she may feel that she needs a financial cushion against other possible future expenses such as homecare or health-related expenses. Before making a big financial decision, Anna should consider how essential or important the various expenditures that she is thinking about are. She should explore all the other options that could be available to her. For many people like Anna, their house is their single most valuable asset but, more than that, it is their home and the place where she will wish to reside for as long as possible. There can be challenges in maintaining a home in later years, particularly if a person's income is relatively low.

Other options

Anna's options could include:

- Get advice on how to better manage her household expenses
- Look into grants that aim to help older people adapt their homes
- Check out energy upgrade grants
- See about taking out a small loan from her bank or credit union
- Ask any family members who lodge with her, even on a temporary basis to make a financial contribution to household costs
- Look to her family for financial support
- Even think about renting a room
- Consider the ultimate – selling up and moving to a smaller house.

People are more vulnerable during periods of stress or change.



Implications for eligibility for State supports

It is very important that Anna should consider how taking out an Equity Release loan could impact on her access to and eligibility for various State support schemes, and for any application she may make in future years for the Nursing Homes Support Scheme, usually referred to as the *Fair Deal Scheme*.

Non-Contributory Old Age Pension

If Anna were in receipt of a Non-Contributory Old Age Pension, availing of an Equity Release Scheme could affect this pension. If she sells all or part of her home to a financial institution or to another party, e.g., under an Equity Release agreement, and she is permitted as part of this arrangement to continue to reside in her home, the amount she receives from this sale will be fully taken into account in calculating her means for pension purposes. Since Anna is in receipt of a Contributory Pension, this does not apply.

Equity Release and the Fair Deal Scheme

It is possible that, at some future date, Anna will wish to move into long-term nursing home care. In such a case she is very likely to want – or probably need – to take advantage of the Nursing Home Support Scheme. She will be required to contribute to the cost of nursing home care calculated based on her financial assets, including the value of her principal residence – her home. The financial assessment of a person's principal residence under the Nursing Homes Support Scheme is based on its market value at date of application, less allowable deductions. Allowable deductions in relation to a person's principal residence are borrowings incurred specifically for the purchase/repair or improvement of the asset.

Monies borrowed as life loans may be treated as allowable deductions under the Nursing Homes Support Scheme only if those borrowings were specifically for the purchase, repair or improvement of the property concerned. The allowable deduction is the value of the sum borrowed specifically for the repair/improvement of the asset, but not the interest.

Borrowings that were made for purposes other than the improvement and repair of Anna's house – such as for making a loan or gift to a family member – are not allowable deductions.

So, if Anna took out an Equity Release loan of €50,000 and spent half of it on her house (€25,000), this could reduce her contribution under Fair Deal by around €36 per week.

Nursing Home Loan Scheme

It seems unlikely, however, that Anna could afford to meet the cost of her contribution under the Fair Deal Scheme. Her income from her pension is simply not high enough. However, she will, most probably be eligible for the Nursing Home Loan (Ancillary State Support).

This is an optional extra feature of the Fair Deal Scheme for people who own property. Instead of paying their full weekly contribution for care from their own means, they can choose to apply for a Nursing Home Loan, to cover the portion of the contribution which is based on the value of their home. The HSE then pays that portion of the cost of care on top of the person's State Support payment. The loan is paid back to the State after the sale of all or part of the asset or on the person's death, whichever occurs first.

In order to approve Ancillary State Support in respect of applicants with Equity Release loans, the HSE must ensure that there will be sufficient equity remaining on the property at death or other relevant event to enable the recovery of any monies advanced under the Ancillary State Support loan. The HSE will need to assess whether an Equity Release loan taken out by Anna might jeopardise the HSE's ability to recover the loan made under the Ancillary State Support. While it is likely that the eventual sale of Anna's house will result in enough cash to repay both HSE and the Equity Release loans, it will certainly mean that the income from the sale of her house will be very much reduced. The family is unlikely to benefit from Anna's will to any significant extent.

Do not be pressured!

Anna needs to take good advice on the implications arising from any decision she might make about borrowing. Similarly, if, having weighed up the pros and cons and fully understood the costs and the consequences, and taken independent legal/financial advice, she believes that Equity Release is a suitable product for her at this point in your life, she should then shop around for the best deal available. Unfortunately, in Ireland there are limited possibilities in this regard.

Above all else, Anna should not allow herself to be put under pressure by anybody else regarding whether or not to take out the loan, or how best to use the financial assets that are rightfully hers.

If you want to know more about where Anna can get additional information, go to Section Eight of this Guide.

Pressure can be subtle, persistent, and difficult to challenge.





/ Persona 10:

An older person who has full decision-making capacity, but because of reduced mobility must depend on others to conduct many day-to-day tasks

Joseph's Story

Joseph is a widower aged 81 who lives alone in a local authority house. He is dependent financially on his State Pension, although he also has a small nest-egg that he and his late spouse built up over the years. While Joseph can still manage many of his domestic activities without difficulty, his mobility difficulties have reached a point where he cannot carry out tasks such as, for example, going out to do shopping and collecting his pension.

Joseph has a home care assistant who visits him for a few hours twice a week. She does his grocery shopping for him and does light household tasks such as cleaning and laundry.

Joseph has a daughter who manages to visit him once or twice a week. He also has a son who lives some distance away and who keeps in touch by phone and through occasional visits.

Joseph has, until now, been quite used to carrying out his affairs with cash, although he recognises that he should be using debit cards and such like. He has little or no familiarity with computers or online banking.

While he trusts his children and his home help, Joseph is somewhat anxious as he is aware of reports in the media about money being taken from people like him through scams, by carers and by relatives.

He wants to know what, if anything, he can do to ensure that his money is safe. He is also fearful that, as he grows older, his memory may become less reliable and his mind less sharp and is wondering if there is something that he should do now to protect himself financially if such a scenario were to evolve.

Advice for Joseph

Joseph clearly has decision-making capacity regarding his financial affairs. His immediate challenge arises from his limited mobility and his resulting dependency on other people to carry out routine tasks for him such as shopping and collecting his pension. It is a good thing that he is thinking about his future and about how he can take steps now that will ensure his financial security and safety in years to come.

There are several practical steps that Joseph can take that will give him peace of mind regarding his financial affairs and that will make sure that his wishes are recognised, respected and acted on.

Advocacy and support

Joseph would benefit from the support of a person who he can trust to assist him in ensuring that his finances are properly managed and safeguarded. Such a person should be personally capable of understanding Joseph's finances, of assisting Joseph in looking after his affairs, and of facilitating communications between Joseph and his bank. The person involved in helping Joseph should ideally not be in any position that involves a conflict of interest.

Safeguarding improves when concerns are raised early.



“People in vulnerable circumstances are often exploited by people they know and trust.”

Joseph's situation is, at present, relatively simple in that many of his financial commitments are well-established – such as his rent, shopping bills and other routine utility bills. Similarly, his income is quite straight forward. There can be little doubt or confusion about what Joseph's wishes are regarding these expenditures, or regarding the fact that his income should be lodged to one of his own accounts.

Joseph has trust in his family and carers. This should not, however, deter him from taking steps to ensure that his finances will continue to be safe into the future. At the very least Joseph, like anyone with financial accounts, should begin the practice of checking his accounts regularly – with support if needed – in order to protect himself from financial abuse and from scams.

The problem with joint accounts

There may be a temptation on Joseph's part to set up his bank or credit union accounts as joint accounts, perhaps with a son or daughter as a co-signatory. This can be a very handy arrangement. However, there are several potential problems attaching to joint accounts. Most joint accounts assume that both persons are owners of the money in the account and that both have authority to draw on the account. While this might be satisfactory in the case, for example, of a married couple, this is not the case in Joseph's situation.

The joint account would only contain his money. Unless there is total clarity and understanding that the money is Joseph's alone it would be wise to avoid a joint account. Apart from the possible ongoing risks, there is the added danger that, in the event of Joseph's death, the money in the account would become the property of the second account holder, and not a part of Joseph's estate, to be disposed of according to his wishes.

Joseph's state pension

Joseph can, if he wishes, continue to draw his pension in cash. He will, most probably, need to nominate another person to collect his pension for him. This must be done using the official *Authority to Appoint an Agent* application form. He will be appointing what is known as a Type 1 Agent. The Agent only has the authority to collect the pension.

If Joseph does not have a current account with a bank or credit union, he should now open one. This will allow him to pay many of his outgoing directly or using a debit card. While a move away from cash-only may seem challenging initially, Joseph should, with support, soon adapt to the new arrangements.

Thinking and planning ahead

Joseph should consider making an Enduring Power of Attorney. Putting an Enduring Power of Attorney (EPA) in place will provide for how things should be dealt with after he reaches a situation in which he can no longer manage financial decisions himself. An EPA should specify exactly which matters – financial or otherwise – that the person nominated in the EPA as his Attorney can carry out. The EPA may give general authority to the Attorney to do anything that the Attorney might lawfully do, or it may merely give the Attorney authority to do specific acts on Joseph's behalf.

Joseph can only create an EPA at a time when he has the decision-making capacity to do so.

An EPA will also provide a mechanism that will facilitate the cooperation of banks and other financial institutions in providing access to his accounts by Joseph's nominated Attorney, when and if he himself can no longer do so – assuming such a situation ever arises.

Joseph should go about making a will. This will help make sure that his wishes about what happens to his property and assets after his death are complied with.

Support with financial matters

Banks and other financial institutions are required under Central Bank of Ireland's Consumer Protection Code to put procedures and arrangements in place that meet the needs of customers who may be temporarily or on a more long-term basis in a situation of risk. The Central Bank's Consumer Protection Code provides that customers can nominate a *Trusted Contact Person*.

A Trusted Contact Person is not a legal representative of the consumer. 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. This arrangement will ensure that Joseph – even if he is unable to personally be in contact with his bank or credit union – will be able to communicate with his bank or credit union. It should be emphasised that the Trusted Contact Person will have absolutely no right, entitlement or power to carry out transactions, make decisions or access information about a person's accounts.

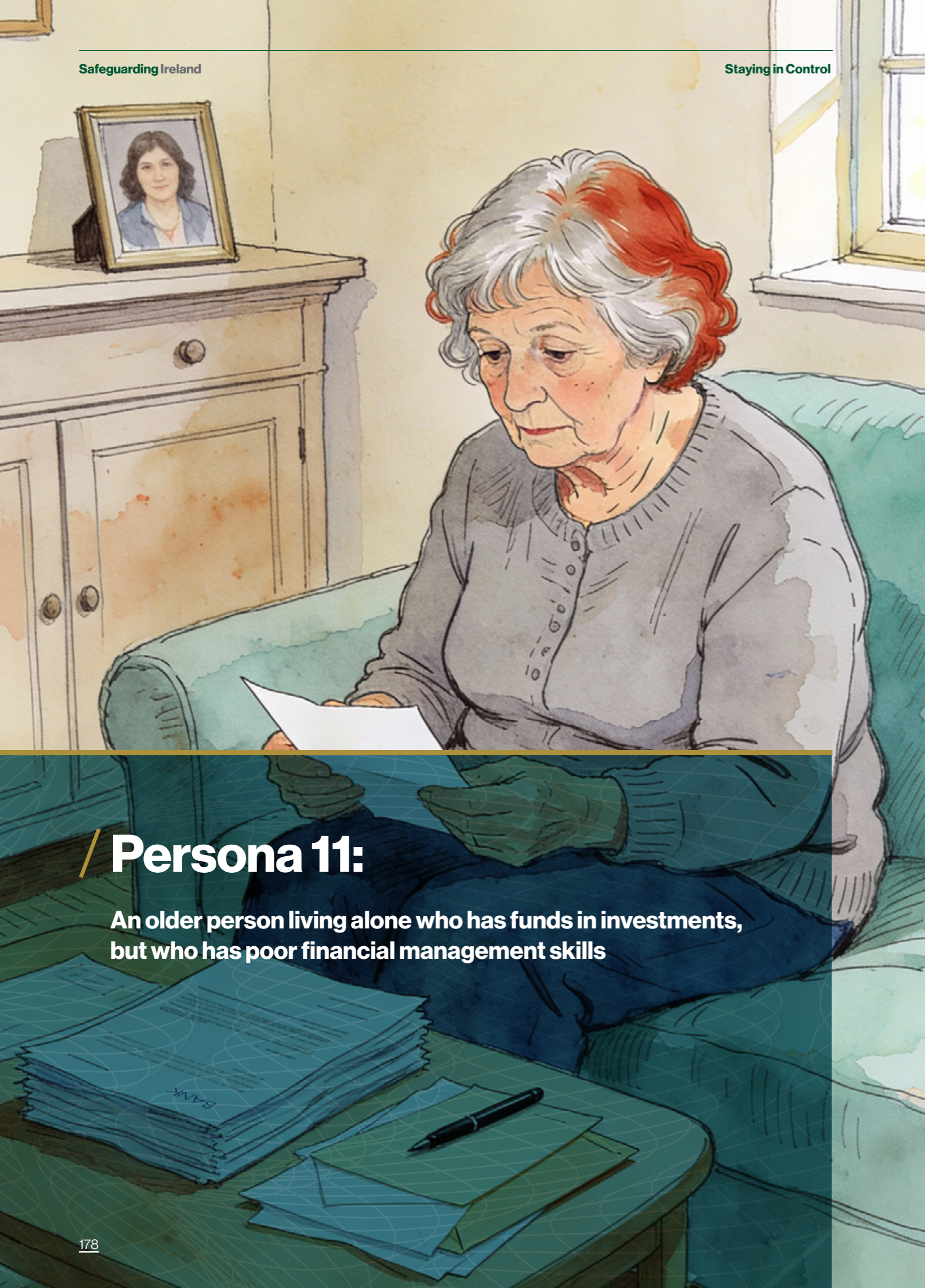
Third Party Authority

Since Joseph has decision-making capacity, he could create a Third Party Authority with his bank which would allow him to select someone (perhaps his daughter or son) to do day-to-day banking on his behalf. He can cancel that authority at any stage. All the mainstream banks and some credit unions offer a third-party authorisation facility.

This could involve his son or daughter becoming a signatory on his account. In such a circumstance, it should be made clear that the second person is obliged to only withdraw and use funds from the account for Joseph's benefit and in keeping with Joseph's wishes. It would be important that any such agreement is in writing and agreed by both parties.

If Joseph is not happy with the service he receives from his financial institution, then he should be encouraged to make a complaint. (See Section Five of this Guide on *How to Complain*).

If you want to know more about where Joseph can get additional information, go to Section Eight of this Guide.



Persona 11:

An older person living alone who has funds in investments, but who has poor financial management skills

Sheila's Story

Sheila lives alone in a cottage that she now owns outright herself. She has never been married or in a relationship and has lived most of her life with her sister Tricia. Tricia died a few years ago. Sheila is 81 years of age. Her main income is the non-contributory state pension. Sheila leads a simple life. While she finds that her pension income is adequate for her needs, she has noticed that things are more expensive and that it is costing more to keep her home comfortable and warm.

Sheila is in good health although she does find it increasingly difficult to carry out some tasks that are physically demanding.

Sheila and her sister both received payments under one of the government's redress schemes some years ago. Their combined redress amount totalled just over €60,000. At the time they were advised to invest the money with State Savings, as this was seen as safe, secure and uncomplicated. Since they had no immediate financial burdens or needs, they followed this advice and placed their money in a 10 Year State Bond which offered a reasonable rate of interest. The Bond reached maturity last year.

In addition, the sisters received an inheritance from their aunt, which was not in cash but was made up of shares in what was then considered a 'blue-chip' Irish company. At the present time these shares are worth in the region of €45,000, although their value has been dropping in recent times.

Sheila always left financial matters in the hands of her sister Tricia. Since Tricia's death Sheila has paid little attention to the investments that are now totally in her name and ownership. She pays little attention to the annual statements that she receives. Generally, she tends to ignore communications about her finances, assuming that all is well.

Sheila has nieces and nephews as well as grand nieces and nephews; however, she has no surviving sisters or brothers. Her relations keep in touch, and a number of them who live nearby visit regularly and check up on how she is faring. One of her nieces collects her pension for her and helps her with her shopping. Sheila has lived in the same cottage all her life and still has neighbours with whom she is friendly, and who sometimes help out with practical things that need doing around her cottage. A neighbour's son comes over during the summer months to help keep her little garden in order. Sheila pays him a suitable amount for his effort.

Advice for Sheila

Sheila may feel that her finances do not need very much attention and that everything is generally in good shape. Like many people, she seems to be happy to deal with matters as they arise and not to worry unduly about the future. However, it is clear that her 'hands-off' approach may be damaging her finances. In addition, she may be building up problems in the longer term both for herself and for her family members, such as, for example, outstanding tax returns.

Sheila needs to take greater control of her finances. This can be achieved through a number of simple actions.

Complex information
increases risk.



Get support and advice

Sheila should look for support and help from a trustworthy person to whom she feels comfortable talking. This does not have to be a family member; it could be a relative, a friend, a neighbour, or a healthcare professional. It could be a person at MABS or a Citizens Information Centre. The person does not have to be very knowledgeable about financial or legal matters. They should simply be someone who will be prepared to put Sheila in touch with the professionals who can help her plan ahead. All Sheila needs to explain to such a person is that she wants to get her affairs in order and that she needs to talk to a Solicitor and, possibly, a financial advisor. This is Sheila's important first step.

Legal advice

Sheila needs to talk to a Solicitor in order to accomplish three important things: creating an Enduring Power of Attorney; getting financial guidance; and making her Will. Not every Solicitor will feel equipped to offer financial guidance, but, if they cannot, then they should be able to refer Sheila to a reputable financial advisor.

An Enduring Power of Attorney (EPA)

Making an EPA for financial decisions enables Sheila to appoint a trustworthy person (or people) to make financial decisions for her if and when she cannot make those decisions herself. These could be decisions about paying expenses or selling property. Since an EPA is a legal document, she will need to engage with a Solicitor and healthcare professional when making one.

In an EPA, Sheila can give authority for decisions including controlling and managing her property and finances; managing, buying, selling, renting or mortgaging any property she owns; making sure bills are paid including paying taxes; entering into contracts; dealing with her social welfare or other benefits.

Without an EPA, these important decisions may be prone to misunderstanding and confusion. Family members may have differing views, problems can arise, and – unfortunately – it sometimes happens that money is stolen, and property used in ways never intended. When Sheila sets up her EPA, she can be specific about what exactly she wants included and excluded under the terms of the EPA.

Sheila's EPA does not become operational immediately – it will not come into effect until such time as she is deemed to lack capacity to make her own financial decisions. Physical incapacity due to a medical condition does not equate with a loss of decision-making capacity.

It is a serious matter to appoint a person to make decisions about your finances, property and personal welfare.

Sheila's Solicitor must ensure that she fully understands that she will be giving control over her assets to her chosen person, for a time when she is no longer able to make those decisions herself. Making an EPA includes setting out what decisions she is giving her appointed Attorney the authority to make and also setting out guidance for them on her wishes and preferences. The person that she appoints is called an 'Attorney'. This is a legal title and not necessarily a Solicitor or legal practitioner. Obviously, Sheila needs to think about who would be best for this role and responsibility.

The person she chooses should have a willingness to listen to, respect and act on her wishes and preferences, rather than their own; be trustworthy; possess the skill and time required to perform the role; have the ability to manage property and money well; have the ability to stay calm in a crisis; be able to deal on Sheila's behalf with others - for example, the ability to talk to her Solicitors, banks, care providers, and government agencies and departments; that the person understands and respects her preferences and wishes; and be willing to take on the role with all its responsibilities. If Sheila finds that there is nobody available who would be a suitable and willing Attorney, then she can employ a Solicitor in that role.

While, for Sheila, putting an EPA in place requires some effort and involves thought and discussion with people around her that are trusted, it is hugely important as a lack of clarity can create confusion, tension among family and loved ones who may not know her wishes. An EPA is a very important safeguard to ensure that to the greatest possible extent she retains legal control of her finances, property and personal welfare into the future.

Advance Healthcare Directive

Sheila should also consider making an Advance Healthcare Directive. This is a specific document in which a person can record future healthcare refusals and requests – what she does not want under any circumstances and what she would like – on treatment approaches, surgery, medicines and resuscitation. An Advance Healthcare Directive is recognised in law. It would be a good idea for Sheila to talk with her Doctor about making one.

Financial advice

As well as her income from her pension, Sheila has money invested in State Savings and in shares. In order to make sure that these financial assets are giving Sheila full value, she needs advice on how they should be managed. A reputable financial advisor can do this for Sheila. A good advisor will not only make sure that Sheila's funds are invested in the best place, but they should also explore and discuss with Sheila what her financial needs are likely to look like in the future. The funds will need to be there when she needs them and not difficult to access if necessary.

State Savings, for example, reach maturity after a pre-determined number of years – 10 years in Sheila's case. After that they no longer earn any interest unless they are re-invested in the purchase of new Bonds. Sheila's savings have not been re-invested. Her State Savings have attracted no interest since they reached maturity a year ago. Funds lodged in other types of saving accounts could also be yielding little or no returns.

Likewise, shares in companies that were once considered 'blue-chip' may no longer be as beneficial as previously. They may be giving a very small return or indeed may be losing their value. This is where good financial advice is crucially important.

Sheila can be given advice as to how to arrange her financial savings to get best value from them, while also ensuring suitable access to them when and if needed. In any case, she will now know exactly what financial assets she possesses, where they are, and how she can access them. It may be beneficial for Sheila to consider consolidating her savings and investments in one place, but with a portion of them more readily accessible for urgent spending situations.

It is possible that Sheila's income, if any, from her shares may not have been declared for tax or pension assessment purposes. There could be liabilities arising from such a situation. It would be wise to establish whether this is the case sooner rather than later.

Making a Will

Sheila would be well advised to make a Will, and she should take legal advice when doing so. She should give consideration as to whether it would be appropriate or wise to let family members know what decisions about her assets and money she has included in her Will.

She should be clear in her own mind, however, that her Will is a matter for herself; she does not need to involve others in the making of it, nor does she have to tell anyone about the contents of her Will. It is also the case that, in some circumstances, informing family of the contents of a Will can result in pressure being put on a person to change a Will to the benefit of a particular family member.

However, Sheila may wish to let someone know she has made a Will and how it can be accessed when she dies. She may also wish to let someone know where the details of her financial information are stored. All of this is important confidential information that should be stored safely.

If Sheila intends to make a financial gift to any of her family (perhaps as an 'advance' on what she intends to leave them in her Will), it is important that this gift be documented to avoid any confusion or disagreements after her death. Sheila should however think long and hard about giving any of her assets away. She may well need to have full access to them for her own needs in the future. Having a Will in place will ensure that Sheila's own wishes and intentions are respected and adhered to after her death.

Thinking ahead

Sheila should keep in mind that she may well need to use some of her investments in the future to meet costs associated with home care and/or nursing home care. While there are financial supports and services that are provided by the government, many people find that they need to draw on their own financial resources to fully meet their needs, both in the short and long-term.

In thinking about nursing home care, Sheila needs to familiarise herself with the provisions and conditions attached to the Fair Deal scheme. The Fair Deal scheme will require that Sheila contribute toward the cost of care from her investments. Part of the proceeds from the eventual sale of her home can also be required to be contributed toward these costs.

However, Sheila should be cautioned about immediately disposing of any of her assets to her relatives to avoid them being taken into consideration when and if her contribution toward long-term care is being assessed. The Fair Deal scheme will take into account any assets that Sheila disposes of in the five-years preceding her taking up the Fair Deal. In addition, Sheila may need to cover the cost of long-term care in a period before her eligibility for Fair Deal is established.

Sheila may also need to spend money on her own home if she wishes to continue living there in a comfortable and sustainable manner. Spending on her home should be a priority for her. She should think of it as an investment rather than a simple expenditure.

A trustworthy person

As mentioned earlier, Sheila really needs to have people available to her who can support, help and advise her. People in Sheila's circumstances are often exploited and financially abused by others, some of whom can be strangers. However, in many cases, abuse is carried out by family and people known to the victim. It is important, therefore, that Sheila has good support.

While it may become necessary for Sheila to give over some degree of control of her money affairs to someone else – such as by appointing someone to collect her pension, giving a person access to her bank account through a joint account – she needs to be aware of the need for caution and care.

Financial institutions have a duty of care toward their customers. Alerts about suspicious activity on an account, warnings about scams, information about changes in how accounts are managed – all these communications may not reach, make sense to, or be noticed by some customers. This puts those customers at risk. Sheila needs to ensure that she keeps effective lines of communication open between herself and the institutions that hold her financial assets. In this regard it would be advisable that Sheila chooses a trustworthy person – be they a friend or a relative – who can act as a Trusted Contact Person in dealing with her bank and other financial bodies. This can ensure that any important communications or alerts will always be brought to her attention and dealt with if needed.

If you want to know more about where Sheila can get additional information, go to Section Eight of this Guide.

Main issues arising in each persona/scenario

The chart below identifies the key issues that are seen as arising in each of the personas/scenarios presented in this section of the Guide.

Main issues arising	1. Seán	2. Michelle	3. Maeve	4. Brian	5. Miriam	6. Brendan	7. Bernie	8. Thomas	9. Anna	10. Joseph	11. Sheila
Opening a Bank Account	✓						✓			✓	
Decision-making support	✓	✓	✓	✓		✓	✓	✓			
Concerns about Joint Accounts	✓	✓	✓	✓	✓	✓	✓			✓	
Vulnerable Customer Support	✓	✓	✓	✓			✓	✓		✓	
Online-only banking	✓			✓			✓				
Inheritance and Wills		✓							✓		✓
Enduring Power of Attorney		✓	✓		✓					✓	✓
Agency Account Agreements		✓			✓	✓	✓				
Role of family members	✓	✓	✓	✓	✓	✓	✓		✓	✓	
Nursing home care & Fair Deal			✓		✓				✓	✓	✓
Advance Healthcare Directives					✓				✓		✓
Independent Advocacy	✓	✓		✓		✓	✓	✓		✓	
Equity Release Schemes									✓		

/ Section Eight

Information and resources

This section of the Guide provides a list of information and resources provided by a wide range of organisations.

The various sections of this Guide have described and discussed many aspects of how you can stay in control of your money, benefits and assets, as well as outlining your rights in protecting yourself and your possessions.

This section of the Guide provides a listing of the information and resources that are provided by a wide range of organisations, and which offer further elaboration or different perspectives on the topics that have been dealt with in the Guide.

This section of the Guide is presented in two parts.

The first gives a listing of organisations and institutions – voluntary, statutory and commercial – along with an outline of the information, support and resources that they offer.

The second part is arranged by topic and points you to where information, support and resources can be found that are relevant to a particular issue or topic.

Information and resources by organisation

As has become the norm, most organisations now publish much of their information online. A simple online search using the name of the organisation will, in almost all cases, bring you to that organisation's website, where you should be able to find a Help, Support, Further Resources, Additional Information, Publications or other similar link.

Another option is to do a search using both the name of the organisation and a phrase describing the issue in which you are interested. For example, typing in 'Decision Support Service' or 'Enduring Power of Attorney' in a search bar will bring you to the Decision Support Service's webpage dealing with Enduring Power of Attorney.

Some organisations make it easier for users by providing a search option on their website homepage. This can be extremely valuable in helping you to navigate to the information that you need.

A number of organisations do continue to produce pamphlets, leaflets and information booklets in hardcopy format.

The Banking and Financial Services Sector

Central Bank of Ireland (CBI)

The Central Bank of Ireland is responsible for regulating the financial services sector.

The Central Bank Consumer Protection Code came into effect on 24 March 2026. The Code is a set of regulations designed to protect the interests of financial consumers. The Code details how financial institutions should behave in delivering services to their customers.

The Central Bank has published a number of documents online explaining and discussing the various aspects of the Code. While these publications are mainly aimed at financial institutions rather than at consumers, they are useful in outlining what a consumer can and should expect from their financial institution.

<https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-codes-regulations>

The Central Bank has also published a guidance document relating to the protection of consumers who are in vulnerable circumstances.

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

You can access further information for consumers on the Central Bank's website.

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

AIB

AIB has a dedicated phone line for customers who need additional support. The bank states that this Additional Support Helpline will be of value if a person needs help to organise banking from their home, is a person caring for one of the bank's customers and needs support with banking or is worried that someone else has control over a person's money without their permission.

The bank, on its website, offers 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.

"If you are worried that someone else might have control over your money without your permission, you can ask us for help. Also let us know if you are concerned that a family member or friend has lost control of their money to someone they do not trust."

"Our people are trained to recognise situations like financial abuse. Even if you are in a branch accompanied by someone who you no longer trust, we may be able to recognise the situation."

Advice for older customers is available on the AIB website.

<https://aib.ie/help-and-guidance/need-extra-help/support-for-older-customers>.

See also AIB's webpage regarding dementia.

<https://aib.ie/help-and-guidance/need-extra-help/living-with-dementia>

AIB's Additional Support Helpline is 0818 227 056.

As with Bank of Ireland, AIB points customers towards the Banking & Payments Federation Ireland (BPF) publication – *Guide to Safeguarding your Money Now and in the Future*.

Bank of Ireland

Bank of Ireland launched its *Extra Help Hub* in 2023 with the stated purpose of serving the needs of vulnerable customers, their families and carers.

The Hub aims to act as a reference point for 'where to next?' questions. It features information and links to resources concerning areas such as financial abuse, dementia, incapacity, Power of Attorney, the assisted decision-making legislation, and related matters. It offers advice and information on how to resolve a number of common issues and ways to access supports from the bank's Vulnerable Customer Unit.

The bank's Vulnerable Customer Unit is, according to the bank, staffed by specialists with extensive experience in retail and community banking, fraud and financial crime. It provides training, support, and guidance to staff in branches and contact centres across the country.

The Extra Help Hub gives guidance on how to set up a Vulnerable Customer Account, how to register an Enduring Power of Attorney with the bank, and how to place practical safeguards on an account, such as, for example, by limiting the amount of cash a person can withdraw.

The bank's website contains further links to a wide range of issues that might be of interest to you.

<https://personalbanking.bankofireland.com/financial-wellbeing/>

The Bank offers a dedicated email address for senior customers.

See Bank of Ireland's webpage for Vulnerable Customers Accounts.

<https://personalbanking.bankofireland.com/financial-wellbeing/extra-help/>

The phone number is 1800 946 146.

An ability to access and navigate the bank's appropriate website is an advantage – and in some cases an essential skill – in taking initial steps toward protection and/or resolution of problems.

PTSB

PTSB offers advice on its website aimed at warning older people about financial abuse and fraud. It recommends that a concerned customer should contact a trusted relative or friend for advice, their bank (who have staff trained to offer support and guidance), An Garda Síochána, a Doctor/Solicitor, Citizens Information or the Money Advice and Budgeting Service (MABS).

PTSB states that it has a dedicated Enhanced Customer Support team within its Contact Centre. The bank can make arrangements for someone:

'... to withdraw money on your behalf. If you are unable to visit one of our branches, we have a support in place to allow you to nominate a family member, friend, or carer to withdraw money for you.'

The contact phone number is 0818 818 721.

Credit Unions

Increasingly, many individual credit unions offer advice, guidance, and information for at-risk customers on their individual websites. However, this is not evident as a general policy or provision across all credit unions. If you are a credit union member you should check with your own branch.

See <https://www.creditunion.ie/credit-union-locator/>

Your credit union should be equipped to deal directly with any query or request for support that you have.

Digital Banks

In general terms, the digital banks, including Revolut and N26, confine interaction with customers to online communications and 'chat' applications, with considerable barriers in place against telephone communications and against paper-based postal communications.

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 for a proportion of customers in at-risk situations. However, the Financial Ombudsman Service in the UK has recently accepted 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 digital financial literacy.

If you are a customer of a digital bank you will need to familiarise yourself with the online tools and processes that your digital bank provides on its website or through its app. It is wise to check out these online tools and supports before you are likely to need them. Be prepared!

Revolut and N26

Revolut asserts, in its submission to the Central Bank Consumer Protection 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).

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

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

According to Revolut its agents will take time to listen to the needs of customers at risk and take those needs into account when offering practical and realistic 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 its support team's vulnerability training. Agents can reach out to customers at risk 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.

Revolut has a webpage dedicated to the needs of customers in vulnerable circumstances.

https://help.revolut.com/en-IE/help/more/life-challenges-and-well-being/how-can-i-share-sensitive-information-with-revolut/?utm_source=chatgpt.com

An Post

An Post – on their website – provides basic recommendations regarding how to avoid financial abuse. The website directs people to the Banking & Payments Federation Ireland (BPF) publication, *Guide to Safeguarding your Money Now and in the Future* (see below). An Post's website offers information and support for customers in vulnerable circumstances.

The contact phone number is 01 705 8000.

<https://www.anpost.com/Money/Help-Support>

Banking and Payments Federation Ireland (BPFI)

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

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

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

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

Irish Banking Culture Board (IBCB)

The purpose of the Irish Banking Culture Board is to work with member banks – Allied Irish Banks, Bank of Ireland and PTSB – to build trustworthiness with the public. It seeks to be a trusted independent voice in relation to banking culture, to hold members to account and to promote good ethical practice and behaviours. The IBCB is not a regulator.

The IBCB publishes a range of '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 control and/or abuse except in the most general way. The Guides are available at <https://www.irishbankingcultureboard.ie/media/>

Other Financial Service Providers

Other financial service providers publish information that addresses the issue of vulnerable customers. For example, Irish Life has published a Vulnerable Customers Charter which is available on their website at:

https://www.irishlifeemployersolutions.ie/sites/default/files/document_download_centre/04_Other_Documents/20_Miscellaneous_Documents/12_Vulnerable_Customers_Charter.pdf

Law Society of Ireland

The Law Society of Ireland issues guidance notes to its members from time to time. A Guidance Note of December 2008 dealt with the issue of joint accounts. *Joint Bank Accounts – Guidelines for Solicitors*. While this guidance note is aimed at Solicitors, it provides a good explanation of the issues involved that may be useful and understandable to the non-legal consumer also. It is available at:

<https://www.lawsociety.ie/Solicitors/knowledge-base/Practice-Notes/Joint-Bank-Accounts---Guidelines-for-Solicitors>

Other guidance for Solicitors includes online publication of information dealing with Enduring Powers of Attorney and Equity Release for the Elderly.

Information, Advice and Advocacy Services

Citizens Information

The Citizens Information Board (CIB) provides a wide range of information services to the public through Citizens Information Centres, its website and via a national phone service (Citizens Information Phone Service). Relevant topics covered on the website include, inter alia, Power of Attorney, advance healthcare directives, agency agreements for DSP payments, decision support arrangements, joint bank accounts, making a will. You can search within the Citizens Information website for specific topics.

Citizens Information Centres (CIS) are widespread around the country. Check where your local Centre is. A Citizens Information Centres can also help clients by providing advice and advocacy support.

<https://www.citizensinformation.ie/>

The contact phone number is 0818 07 4000. Open 9am to 8pm

Money Advice and Budgeting Service (MABS)

MABS provides a nationwide face-to-face advice, information and support service to people regarding their financial affairs. It also has a website and a phone service. In addition, it conducts research on personal finance and publishes reports and guides. You can find a list of MABS 58 offices on its website.

<https://www.mabs.ie/en/>

The MABS Helpline is 0818 07 2000. Open 9am to 8pm.

National Advocacy Service for People with Disabilities (NAS)

NAS provides a free and confidential nationwide independent advocacy service to adults with a disability, NAS has a particular remit to work with people with disabilities who are in vulnerable situations, such as people who are isolated from their community of choice or mainstream society, may communicate differently and who have limited formal or natural supports.

NAS has published an easy-to-read guide to managing finances, aimed at persons with disabilities - *My Money, My Rights, My Options*, available at:

<https://advocacy.ie/app/uploads/2024/02/NAS-Easy-to-Read-Leaflet-My-Money-My-Rights-My-Options-Final-Web.pdf>

Contact details for NAS can be found at <https://advocacy.ie/help/contact-us/>

You can email NAS at info@advocacy.ie or phone the NAS National Line at 0818 07 3000.

Safeguarding Ireland

Safeguarding Ireland publishes information, guides, advisory materials and discussion papers on the topic of financial control and abuse, including, for example, *Get in Control and prevent financial abuse*. Safeguarding Ireland also publishes reports and research findings that provide an in-depth analysis of the many challenges and issues facing adults at risk.

Safeguarding Ireland's website and publications include material dealing with Enduring Power of Attorney, Advance Healthcare Directives, and all aspects of assisted decision-making.

<https://safeguardingireland.org/safeguarding/>

Sage Advocacy

Sage Advocacy is the National Advocacy Service for Older People. It provides a free and confidential independent advocacy service to older persons nationwide. It also supports survivors of institutional abuse and healthcare patients in certain situations where no other service can assist.

Sage Advocacy works to ensure that adults at risk have easy access to information, support, independent advocacy and safeguarding services in all settings – people's own homes, day centres, respite facilities, congregated care settings/nursing homes, hospitals, hostels, hospices and in transitional care units.

The Sage Advocacy website provides information and guidance on a wide range of related issues, including on safeguarding matters and can be visited at - <https://sageadvocacy.ie/>

Sage Advocacy has published an information document, *Managing Finances: Supporting adults who may be vulnerable*. This is available to download at –

<https://sageadvocacy.ie/wp-content/uploads/2024/08/managing-finances-march-2023.pdf>

If you feel that Sage Advocacy can help you, you can contact Sage Advocacy by email at info@sageadvocacy.ie or on its phonenumber 01 536 7330.

Government Departments and Agencies

Commission for Regulation of Utilities

Customers in vulnerable situations may have difficulties when dealing with their suppliers or network operator. These customers are entitled to additional protection.

<https://www.cru.ie/consumer-information/your-rights/vulnerable-customers/>

Decision Support Service (DSS)

The Decision Support Service is the government agency set up to promote the rights and interests of people who may need support with decision-making. It registers decision support arrangements and supervises decision supporters.

It has a good website with detailed information about the range of supports available under the assisted decision-making legislation:

Decision-making assistance agreement

<https://www.decisionsupportservice.ie/services/decision-making-assistance-agreement>

Co-decision-making agreement

<https://www.decisionsupportservice.ie/services/co-Decision-making-agreement/making-co-Decision-making-agreement>

Decision-making representative

<https://decisionsupportservice.ie/services/Decision-making-representation-order/becoming-Decision-making-representative>

Enduring Power of Attorney

<https://decisionsupportservice.ie/services/enduring-power-Attorney-epa#:~:text=An%20Enduring%20Power%20of%20Attorney,certain%20decisions%20in%20the%20future.>

<https://www.decisionsupportservice.ie/epa>

The DSS publishes a guide for decision supporters (under the assisted Decision-making legislation) entitled *Guidance about banking arrangements as a decision supporter*. It is available on the DSS website.

<https://decisionsupportservice.ie/resources/guidance-materials>

The DSS provides detailed guidelines for financial service providers in its Code of Practice for Financial Service Providers:

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

Equally important is its Code of Practice for supporting decision-making and assessing capacity:

https://decisionsupportservice.ie/sites/default/files/2023-03/1.%20COP_on_supporting_Decision-making_and_assessing_capacity_0.pdf

You can email the DSS at queries@decisionsupportservice.ie or freephone 01 211 9750.

Department of Social Protection (DSP)

The Department of Social Protection is the government department responsible for providing a range of social welfare payments such as State Pension, Jobseeker's Benefit, Disability Allowance and various support services to the public. The Department manages payments for conditions like unemployment, illness, and old age, and also runs schemes to help with dental, optical, and medical appliance costs.

The DSP is responsible for paying out a wide range of benefits including the State Pension. The DSP provides directions for customers regarding how to set up arrangements for the involvement of others in the collection of benefits.

Detailed information about the appointing of an agent is given on the DSP website.

<https://www.gov.ie/en/department-of-social-protection/services/appoint-someone-to-act-on-your-behalf/>

Access to the DSP can be made through local Intreo Centres, Social Welfare Branch Offices, post, email or telephone.

You can find information about the DSP services and links to the Sections that deal with specific schemes and benefits on their official website.

<https://www.gov.ie/en/department-of-social-protection/>

Also see www.mywelfare.ie

Examples of the contact details for particular DSP Sections include:

State Pension (Contributory) Section

Address: State Pension (Contributory) Section, Department of Social Protection, College Road, Sligo, F91 T384

Website: www.gov.ie/SPC

Email: state.con@welfare.ie

Telephone: 0818 200400; 071 9157100.

State Pension (Non-contributory) Section

Address: State Pension (Non-contributory) Section, Department of Social Protection, College Road, Sligo, Co. Sligo, F91 T384.

Website: www.gov.ie/SPNC

Email: State.NonCon@welfare.ie

Telephone: 0818 200400; 071 9157100.

Disablement Benefit Section

Address: Disablement Benefit Section, Social Welfare Services Office, Government Buildings,

Ballinalee Road, Longford, Co. Longford, N39 E4E0

Website: www.gov.ie/disablementbenefit

Email: WorkRelatedDisablementBenefit@welfare.ie

Telephone: 0818 927770; 043 3340000.

Disability Allowance Section

Address: Disability Allowance Section, Department of Social Protection, Government Buildings, Ballinalee Road, Co. Longford, N39 E4E0.

Website: www.gov.ie/DA

Email: DA_InetInfo@welfare.ie

Telephone: 0818 927770; 043 3340000.

Financial Services and Pensions Ombudsman (FSPO)

The Financial Services and Pensions Ombudsman (FSPO) is an independent, impartial and free service that helps resolve complaints from consumers, including small businesses and other organisations, against financial service providers and pension providers. In 2017, the Government merged the offices of the Financial Services Ombudsman Bureau and the Office of the Pensions Ombudsman, to form the FSPO. The FSPO was established by the Financial Services and Pensions Ombudsman Act 2017 and opened for business on 1 January 2018. It is funded by levies on financial services providers and by a grant from the State.

FSPO operates a mechanism through which members of the public can make complaints about how they have been dealt with by financial institutions. It publishes online guides aimed at helping people have their complaints addressed.

The FSPO website gives detailed instructions on when and how to lodge a complaint.

https://www.fspo.ie/make-a-complaint/how-to-make-a-complaint-to-the-fspo/?gad_source=1&gad_campaignid=20761223402&gclid=CjwKCAjwk7DFBhBAEiwAeYbJsS2G-GmSkGDW_SWOC-kjXtbokJOdae9hbmEB2-Y9pmvfOIR6rKC4OxoCEBEQAvD_BwE

FSPO publishes an annual *Digest of Legally Binding Decision*.

Competition and Consumer Protection Commission (CCPC)

The CCPC is the agency responsible for ensuring that consumers' rights are upheld and respected. Its website offers a wide range of advice for consumers including dealing with financial matters. It gives advice on how to manage your finances, how to choose between financial institutions, and the issues that may arise with financial products.

<https://www.ccpc.ie/consumers/money/>

The Commission has an excellent explanation of Equity Release Schemes on its website. <https://www>.

ccpc.ie/consumers/money/mortgages/equity-release-mortgages/

HSE

The HSE, amongst its many other functions, is responsible for Adult Safeguarding across the country. Information about this role is outlined on its website.

<https://www2.hse.ie/complaints-feedback/report-a-concern-about-a-vulnerable-adult>

The HSE is also responsible for the Fair Deal Scheme. Its website has detailed information about all aspects of the scheme.

<https://www2.hse.ie/services/schemes-allowances/fair-deal-scheme/about/>

Regarding the Fair Deal, You can also phone 1800 700 700 or 01 240 8787 (Monday to Friday, 8am-8pm / Saturday, 9am-5pm).

The HSE has a facility for managing the assets of people in residential care facilities. This facility is known as Patients' Private Property Accounts. Detailed guidance is available from the HSE about how such accounts operate and can be accessed at <https://www2.healthservice.hse.ie/files/187/>

Legal Aid Board

The Legal Aid Board provides legal aid and advice in civil cases to people in Ireland who meet certain requirements (mainly, their means must be below a certain limit and there must be merit in the case).

<https://www.legalaidboard.ie/en/>

Office of the Ombudsman

The Office of the Ombudsman – usually referred to simply as the Ombudsman – investigates complaints by people who feel they have been unfairly treated by certain public service providers, including Government Departments.

You can write to the Ombudsman at:

The Office of the Ombudsman
6 Earlsfort Terrace,
Dublin 2
D02 W773.

The Ombudsman's telephone number is: 01 639 5600.

You can access information factsheets about the Ombudsman's work at www.ombudsman.ie

Social Welfare Appeals Office

The Social Welfare Appeals Office provides an independent and fair appeals process. It will examine your appeal to see if you are entitled to the social welfare payment under social welfare law.

Address: Social Welfare Appeals Office, D'Olier House, D'Olier Street, Dublin, D02 XY31

Please note that this is not a public office, admittance is only granted for appellants attending a pre-arranged in person Oral hearing.

Website: <http://www.gov.ie/socialwelfareappealsoffice>

Email: swappeals@welfare.ie

Telephone: 0818 747434; 01 673 2800.

Sustainable Energy Authority of Ireland (SEAI)

SEAI provides grants and supports aimed at improving the energy efficiency of people's homes. For information on grants visit their website.

https://www.seai.ie/grants/home-energy-grants?gad_source=1

Other Sources of Information, Advice and Support

Irish Hospice Foundation

The Irish Hospice Foundation publishes a number of pamphlets dealing with the issues involved with planning ahead. Think Ahead is a practical tool and customisable guide for advance care planning and end of life. It helps you document your healthcare choices and personal wishes.

<https://hospicefoundation.ie/i-need-help/i-want-to-think-ahead/>

<https://hospicefoundation.ie/i-need-help/i-want-to-think-ahead/get-my-think-ahead-planning-pack/>

Free Legal Advice Centre (FLAC)

FLAC is an organisation that offers free basic legal advice and information to help people understand and access their rights.

<http://www.flac.ie/>

NALA (National Adult Literacy Agency)

NALA provides support and learning courses on reading, writing and spelling, maths and financial information and using technology and computers.

NALA can be contacted at Freephone 1800 20 20 65 or at <https://www.nala.ie/>

Others in the Voluntary and Community Sector

A wide range of sometimes special-interest organisations in the voluntary sector provide support and information to and regarding financially at-risk persons. Much of the published information and guidance repeats or is based on material produced by a smaller number of bodies with specialist expertise. However, special-interest organisations are often able to offer guidance and support that is targeted specifically at issues and challenges that are within their area of interest, experience and expertise.

Many other groups publish – usually only on their websites – advice regarding how to avoid financial abuse – Age Action, Alone, Women's Aid.

It is wise to be careful when considering looking for information, advice and support from organisations on the internet offering free advice on money or debt. Always check the status of the organisation and whether they are regulated for the provision of advice either by the Charities Regulator or the Central Bank of Ireland.

Information, support and resources by topic

Opening a Bank Account

Almost all banks, credit unions, An Post and other financial service providers provide information and guidance on their websites about how to go about opening an account. This includes the e-banks or online-only banks such as Revolut, N26 and Bunq. As information can change over time it is wise to check these websites for up-to-date information. Take a little time to look at the terms and conditions that apply, especially regarding fees and charges.

Other sources of good information and advice include:

- ✓ Citizens Information Services
- ✓ Money Advice and Budgeting Service (MABS)
- ✓ National Advocacy Service
- ✓ Irish Banking Culture Board
- ✓ Competition and Consumer Protection Commission.

Decision-making supports and the assisted decision-making legislation

The main source of information and guidance regarding decision-making support arrangements is the Decision Support Service. Their website deals with all aspects of this issue.

Other good sources include –

- ✓ Citizens Information Services
- ✓ Safeguarding Ireland
- ✓ Sage Advocacy
- ✓ HSE.

Several of the banks and credit unions also provide detailed information about assisted decision-making, especially as it applies to financial matters.

Joint Accounts

As discussed earlier in this Guide, joint accounts can present particular risks and challenges, as well as being very useful and practical in a range of situations.

The Law Society of Ireland has dealt with the joint account issue in its Joint Accounts - Guidelines for Solicitors publication. <https://www.lawsociety.ie/Solicitors/knowledge-base/Practice-Notes/Joint-Bank-Accounts---Guidelines-for-Solicitors>

The issue is also dealt with by the following:

- ✓ Safeguarding Ireland
- ✓ Citizens Information Services
- ✓ Sage Advocacy
- ✓ Competition and Consumer Protection Commission.

Support for customers at risk

Many of the banks and other financial institutions outline their procedures on their websites. The Central Bank of Ireland deals with the issue in its Consumer Protection Code.

Other sources of information and guidance include:

- ✓ Citizens Information Services
- ✓ Safeguarding Ireland
- ✓ Sage Advocacy
- ✓ National Advocacy Service
- ✓ Irish Banking Culture Board
- ✓ HSE.

Making Complaints

Complaints can be made directly to financial institutions, government departments and through the services of:

- ✓ Financial Services and Pensions Ombudsman
- ✓ The Office of the Ombudsman
- ✓ Social Welfare Appeals Office.

Online-only banking

There is very little information or guidance available other than that provided by the relevant financial institutions themselves. Ultimately, it is up to you – the consumer – to decide whether online-only banking is right for you. Take time to familiarise yourself with the terms and conditions that are involved, the fees and charges that could apply, and the level of digital skills that are needed in order to conduct your financial affairs in this way.

Inheritance and Wills

Information and guidance regarding how you go about making arrangements for how your wishes will be implemented after your death can be accessed from a wide range of sources. These include:

- ✓ Citizens Information Services
- ✓ Irish Hospice Foundation
- ✓ Free Legal Aid Centres (FLAC)
- ✓ Inclusion Ireland
- ✓ Law Society of Ireland
- ✓ The Courts Service (Probate Office).

Banks and other financial institutions may also offer relevant information and advice to customers.

Enduring Power of Attorney (EPA)

Further details regarding EPAs can be found from:

- ✓ Decision Support Service
- ✓ Citizens Information Service
- ✓ Banking and Payments Federation of Ireland
- ✓ Safeguarding Ireland
- ✓ Sage Advocacy.

Banks and other financial institutions may also offer relevant information and advice to customers.

Agency account arrangements

Agency accounts are often used to support a person with limited mobility or reduced decision-making capacity to access their finances and benefits such as the state pension or disability benefits.

Information about how agency arrangements can be set up and managed is available from:

- ✓ Department of Social Protection
- ✓ Citizens Information Services
- ✓ Banks, credit unions and other financial institutions.

Check also bank websites for information about *Third Party Account Access*.

Fair Deal

The primary source for information about the Fair Deal Scheme (officially named the Nursing Home Support Scheme) is the HSE.

Other sources include:

- ✓ Citizens Information Services
- ✓ Revenue Commissioners.

Several banks and other financial institutions also have information about the Scheme on their websites, as do many nursing homes, voluntary organisations and others.

Advance Healthcare Directive

Information on this topic can be found from:

- ✓ HSE
- ✓ Citizens Information Services
- ✓ Decision Support Service
- ✓ Irish Hospice Foundation
- ✓ Safeguarding Ireland.

Independent advocacy

Information and access to independent advocacy can be sourced from:

- ✓ Sage Advocacy
- ✓ National Advocacy Service for People with Disabilities
- ✓ Social and Health Education Project (Cork)
- ✓ Irish Advocacy Network.

Equity Release

Check the following sources for further information on this topic:

- ✓ Competition and Consumer Protection Commission
- ✓ Money Advice and Budgeting Service (MABS)
- ✓ Citizens Information Services
- ✓ Safeguarding Ireland.

Several of the banks and financial firms who specialise in Equity Release also publish information on their websites.

Glossary of Terms

Adults at risk

The term 'adults at risk' is used throughout the Guide to refer to people who are more likely to be susceptible to abuse and exploitation because of one or more of a range of factors, including in particular, reduced decision-making capacity, social isolation, having to depend on others to manage their daily living. Risk is thus related to people's living circumstances and environment as well as to personal characteristics relating to ability/disability, decision-making capacity or coping skills. Various other terms are used to describe adults at risk, including 'vulnerable adults' and 'living in vulnerable circumstances'.

Adult Safeguarding

Adult safeguarding refers to measures that are, or may be, put in place to promote the health, safety and welfare of at-risk adults; minimise the risk of harm to them; and support them to protect themselves from harm, including harm arising from manipulation or coercive control. Adult safeguarding includes the protection of at-risk adults from financial abuse and exploitation.

Advance Healthcare Directive (AHD)

An Advance Healthcare Directive (AHD) is a document which sets out a person's instructions in relation to the healthcare treatments they wish to refuse or would like to request, in the future when they no longer have the capacity to do so. There is no legally required format for an Advance Healthcare Directive.

Agent: Department of Social Protection (DSP)

If a person is unable to collect their social welfare payment due to an illness or reduced mobility, they can nominate a person (an agent) to collect their payment on their behalf. This can be on a short-term or long-term basis. If a person is living in a nursing home or other residential care facility, they may nominate the person in charge to collect the payment on their behalf. The agent is obliged to hand over all monies received to the recipient in a transparent and accountable manner.

Where a person is unable to manage their own financial affairs, an agent may be appointed to act on their behalf. In this case a medical practitioner must certify that the person does not have the capacity to manage their financial affairs. Appointed agents have a legal duty to ensure that the money is used for the recipient's benefit.

Assisted Decision-making (Capacity) Acts (ADMCA)

The ADMCA legislation is new legislation which commenced in 2023. It put on a statutory footing the requirement that a person's 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 a time a decision has to be made as well as the nature and consequences of the decision to be made by a person in the context of available choices at that time. It applies to all regardless of physical or mental health/disability/age and operates on a presumption of capacity principle and places the onus/burden of proof of lack of decision-making capacity on the person who is alleging lack of capacity.

Basic Bank Account

A Basic Bank Account is a current account that is free of charge for everyday banking for at least the first year. A person can open a Basic Bank Account if they are resident in the EU and do not already have another account in Ireland. Not all current account services are available with a basic account. You cannot get an overdraft or cheque book. Your debit card may not come with the contactless payment feature. You can only hold one account.

Capacity

Capacity refers to decision-making capacity and means a person's ability to understand, at the time that a decision is to be made, the nature and consequences of the decision to be made by them in the context of the available choices at the time. The ADMCA sets out a statutory presumption of capacity approach.

Consumer Protection Code 2025: Central Bank of Ireland

The Central Bank of Ireland's Consumer Protection Code came into effect on 24 March 2026. The Code contains regulations to ensure that firms effectively incorporate customers' interests into their strategy and decision-making. The Code includes regulations on how financial services firms should deal with consumers in vulnerable circumstances.

Coercive Control

Coercive control is a pattern of behaviour which is designed to exert control over another person. It is used, with intent by an abuser, to make a person dependent and isolate them to exploit them and to exercise control over their behaviour and choices. It is a form of abuse that can include emotional, physical, financial and sexual abuse and it is most likely to occur between two adults who are in close contact with each other.

Consumer in Vulnerable Circumstances

A consumer in vulnerable circumstances (a term used by the Central Bank and by financial services) means a consumer whose personal circumstances, whether permanent or temporary, make that person especially susceptible to harm, especially if a financial institution does not act with the appropriate levels of care for the individual customer.

Cryptocurrencies

Cryptocurrencies – also known as digital currencies or virtual currencies – are a form of digital money. They allow payments to be made electronically and function in a similar way to standard currencies that use physical cash. However, unlike standard currencies that can be exchanged physically using notes and coins, cryptocurrencies are only exchanged electronically.

Most 'paper currencies,' such as the euro, have legal tender status. This means the currency is the country's officially recognised currency and must be accepted as payment of a debt. Cryptocurrencies, on the other hand, do not have legal tender status. This means that there is no legal obligation for them to be accepted. Another big difference between cryptocurrencies and paper currencies is how they are structured. Official currencies are centralised and guaranteed by a central bank that controls their supply. Cryptocurrencies are unregulated and decentralised. This means that no central bank guarantees them or controls their supply.

Co-decision-maker

A co-decision-maker's role is to make certain decisions together with a person who may have reduced decision-making capacity. A duly appointed co-decision-maker and registered with the Decision Support Service (see below) has the legal authority to help the person by gathering relevant information and explaining it to them and jointly coming to a decision that respects the wishes of the person. A co-decision-maker can also support the person to let other people know about a decision that has been made.

Decision-making assistant

A decision-making assistant also known as an assisted decision-maker is a person appointed to help someone with capacity challenges to make decisions about their personal welfare, property, and money matters, while the person retains ultimate decision-making authority in respect of all their affairs.

Decision Support Service (DSS)

The Decision Support Service (DSS) is the body responsible for overseeing the implementation of the assisted decision-making legislation. The DSS has put in place a range of mechanisms relating to the implementation of the legislation, including information on key aspects of the legislation. It has also developed a number of Codes of Practice for professionals and agencies involved in implementing the legislation. It also keeps a register of decision-support arrangements put in place and keeps a panel of people available to be appointed to implement decisions taken by the Courts.

Decision-making representative (DMR)

If a person is unable to make certain decisions, the court can appoint a decision-making representative to them. This will be documented in a decision-making representation order (DMRO). The decision-making representative's role is to make certain decisions listed by the court on the person's behalf while adhering to the guiding principles of the ADMCA. Where possible, the court picks someone the person knows and trusts. If there is no one suitable who can do the role, the court can pick a decision-making representative from a panel of experts maintained by the Decision Support Service.

Decision-making representation order

This is a court order appointing a decision-making representative to make certain decisions on a person's behalf, taking their wishes into account. The order sets out their functions and what decisions they can make. The court may make decisions directly on behalf of person where a decision-making representative has not yet been appointed and where it is satisfied that the matter is urgent or that it is otherwise expedient to do so.

Deprivation of Liberty (also sometimes referred to as Protection of Liberty)

The right to personal liberty is one of the most fundamental human rights. It includes the right to freedom of movement and freedom from arbitrary detention by others and is protected by both the Irish Constitution) and international human rights declarations including the Universal Declaration of Human Rights.

Digital (Online) Banking

Digital banking is the term used to mean managing your financial accounts online, either through a bank's website or a mobile app. Digital banking requires the use of an electronic device such as a smartphone, laptop, computer or iPad. Banks, credit unions, An Post, and other financial institutions almost all offer a digital banking facility.

Digital Only Banking

Digital only banking – sometimes called e-banking – is the term used to mean banking that can only be carried out online. Digital banks have no public offices that a customer can visit. All communication is conducted online or – in a minority of instances – by telephone.

Enduring Power of Attorney (EPA)

An Enduring Power of Attorney (EPA) lets a person appoint someone they trust as their Attorney. The Attorney's role is to act on the person's behalf to make certain decisions if they are unable to do so in the future because of reduced decision-making capacity. An Attorney can be given the general authority to act on a person's behalf about all or part of their property and affairs and personal welfare or, alternatively, they can be given the authority to do specific things on a person's behalf. An Attorney does not need to be a lawyer.

Executor

An executor is a person named in a Will to manage a deceased person's estate after their death. They are responsible for ensuring the Will's instructions are carried out, including paying debts, distributing assets to beneficiaries, and managing the estate's assets.

Fair Deal

See Nursing Home Support Scheme on next page.

Financial abuse

Financial abuse refers to a situation in which one person – the perpetrator – takes control of another person's money or other financial assets and property without their knowledge or consent. It is a denial of a person's right to control all their assets and to have those assets used only for their benefit and in keeping with their own wishes.

Financial services

The term financial services refers to the full range of services and products offered and provided by financial institutions such as banks, credit unions, An Post, investment firms, financial advisors, mortgage brokers, and such like. (The term 'financial firm' is sometimes used in the Guide as this is the term used by the Central Bank).

Guiding principles of the assisted-decision-making legislation

References to guiding principles in this Guide refer to those nine principles set out in Section 8 of the Assisted Decision-making (Capacity) Act 2015.

Independent advocacy

Independent advocacy is a professional support service provided that is free from any conflict of interest and is independent of family and service providers. There are a number of agencies providing independent advocacy services in Ireland.

Intestate

In legal terms, intestate means dying without a valid Will. When someone dies intestate, their estate is distributed according to the laws of succession, which dictate how assets are divided among surviving relatives. If there are no relatives, the estate goes to the State.

JAM (Just a Minute) Card

This is a simple and effective tool for people with hidden disabilities or who communicate differently to let others know they need extra help and time. Many financial services as well as the Department of Social Protection now have a JAM Card facility.

Joint accounts

Joint accounts held in banks or credit unions are accounts where, normally, any one of two or more nominated persons are authorised to carry out financial transactions. Joint accounts can involve arrangements where both account holders have full ownership and rights over the account – as is, for example, frequently the case with married or cohabiting couples. However, a joint account can also involve a situation known as an 'agency' agreement. In such an arrangement the second account holder – the 'agent' – only has authority over the funds in the account to the extent determined by the primary account holder. These accounts are usually created for purposes of convenience only and any withdrawals are purely for the care, needs, wishes and expenses of the primary account holder. The 'agent' has no right to withdraw money for their own use and benefit.

Loan guarantor

A loan guarantor is a person who guarantees a loan taken out by another person. If the person taking out the loan fails to make the agreed repayments, then the loan guarantor can be required to make the repayments.

National Shared Services Office

This is the agency responsible for human resources, payroll administration and finance services for Government Departments and Public Service Bodies (PSBs), including the payment of public service pensions.

Next-of-kin

In medical care circumstances the term 'next-of-kin' simply means a person who should be contacted in an emergency. The status of next-of-kin provides no legal standing. It grants no automatic decision-making power. Nor does it grant legal authority to make healthcare or financial decisions on behalf of an individual. Next-of-kin has meaning in respect of inheritance law in circumstances where a person died without having made a valid will. In such cases the provisions of the Succession Act 1965 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 apply.

Nursing Home Support Scheme

The Nursing Home Support Scheme – generally referred to as the 'Fair Deal' – is a government scheme that provides financial support for people in long-term nursing home care. It is administered by the HSE. Access to the scheme is based on both a medical assessment and a financial assessment.

Nursing Home Loan

The Nursing Home Loan is an arrangement whereby a person's contribution toward the cost of care under the Fair Deal is deferred. The HSE pays the full cost of nursing home care and recoups the beneficiary's proportion of the cost after the person has died. This loan is secured by the value of the assets that the beneficiary owns, normally the family home.

Probate

Probate is the process of getting legal authorisation to implement what is set out in a person's Will.

Proof of identity

Banks and other financial institutions require potential customers to produce proof-of-identity when a person is opening an account. This normally involves production of a photographic ID document such as a passport or driving licence. Proof of residency may also be required, usually by way of a recent utility bill or such like, showing name and address. Financial institutions may, in some instances, consider other forms of proof-of-identity.

Relevant Person

A Relevant Person under the assisted decision-making legislation is a person who lacks capacity in respect of one or more matters or whose capacity is in question or may shortly be in question in respect of one or more matters.

Residuary clause

A residuary clause is a section in a person's Will that sets out what to do with any property not specifically dealt with in the Will.

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/>

Supported decision-making

The assisted decision-making legislation has as one of its core principles that a person shall not be considered as unable to decide about a particular matter unless all practicable steps have been taken, without success, to help them to do so.

Under the legislation, people whose decision-making capacity is in question are entitled to support tailored to their individual circumstances to help them to make their own decisions. Supported decision-making includes providing relevant information and ensuring that all available options are explained in a manner that the person can understand.

Testator

Testator is the term used to describe the person who is making or who has made a Will.

Third-party access

Third-party access means letting a trustworthy representative have access to a person's bank or other financial account with the purpose of helping the account holder manage the account and its contents. The authorised representative is obliged to ensure that the account is used solely for the needs and benefit of the original account holder. Financial institutions are likely to insist on legal provisions being put in place, such as those provided for under the assisted decision-making legislation, when agreeing to third-party access. A number of banks do, however, have discretionary support in place which permits a non-legal third party to access a customer's account for the customer's daily care and comfort. Special conditions apply.

Third Party Authority in banking

Third Party Authority in banking allows a person to nominate someone to access and manage their bank accounts with permission, either for a specific period or indefinitely. This authority typically covers activities like paying bills or transferring money but often excludes actions like opening new accounts. It can also refer to Third-Party Providers (TPPs) under Open Banking legislation, which use your account data with your consent to provide services such as consolidating accounts or initiating payments, subject to strict security and data protection laws.

Trusted Contact Person

The Central Bank Consumer Protection Code enables customers of financial institutions to nominate a Trusted Contact Person. This person would be someone with whom the financial institution could communicate in situations where there may be difficulty in communicating with the customer themselves, or where financial abuse is suspected. A trusted contact person is not a legal representative of the customer and does not have any right to make decisions on behalf of the customer.

Wardship (Wards of Court)

Wardship is a legal process where the High Court takes responsibility for the welfare and property of an individual who lacks the capacity to manage their own affairs. Wardship was abolished in the Assisted Decision-making Act 2015 and was replaced by new provisions for supported decision-making for people with reduced decision-making capacity. There is provision in the legislation for the position of all current wards of court to be reviewed within a specific timeframe.

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