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## **The Assisted Decision Making (Capacity) Act 2015.**

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**Legal Capacity Training Ltd**  
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# **The Assisted Decision Making (Capacity) Act 2015.**

This course will provide participants with the knowledge and skills required to implement the Assisted Decision Making (Capacity) Act into everyday practice. As this legislation is a key element in the ratification of the UN Convention on the Rights of Persons with Disabilities it also aims to support the learner to develop an understanding of the Convention. In doing so it focuses on the importance of building decision making capacity and the concept of will and preference.

Health and Social Care Practitioners support people to make some of the most significant decisions in their lives with the potential to make life altering differences. By using the Assisted Decision Making (Capacity) Act services can make those life changing decisions possible for everyone not just for those who make decisions independently. This course is intended to give participants the skills and knowledge to implement the Act into their practice, and ensure they are compliant with the law, as well as ensuring the best outcomes for the people they support. Placing the values and wishes of the person at the forefront and affording the person dignity of risk is common across services however using a process as directed by law can be a daunting prospect. This course aims to provide frontline practitioners with the confidence to interact with the law on a daily basis and in doing so provide support in accordance with the supported person's will and preference, values and beliefs.

Participants will examine case scenarios relevant to their role and apply them within the context of the guiding principles and the functional assessment of capacity. Participants will also explore the decision - making arrangements under the Act.

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## On Completion of this Course Participants will:

1. Understand the historical context of the Assisted Decision-Making Act with regard to 1871 Lunacy Regulation Act.
2. Understand the term – a ward of court and the culture that has existed under wardship.
3. Appreciate the significance of a designation of incapacity.
4. Understand that ‘incapacity is not an off switch to rights’.
5. Appreciate the dramatic change in culture and practice which will be required by the Assisted Decision Making (Capacity) Act 2015.
6. Understand the different approaches to decision making capacity.
7. Recognise the current structures in place with regard to capacity.
10. Understand this Act through the lens of the UN Convention on the Rights of Persons with Disabilities.
11. Understand and put into practice terms such as reasonable Accommodation and supported decision making.
12. Know the purpose of the Act.
13. Understand how to apply the guiding principles of the Act to practice.

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14. Understand the importance of the following statement and learn strategies for acting on it " a person is not treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success."

15. Appreciate the concept of will and preference.

16. Move from the position of acting on the basis of best interest to acting on the basis of will and preference.

17. Understand the role of the functional assessment of capacity within the Act.

18. Develop the skills and knowledge to apply the functional assessment of capacity in practice.

19. Understand the decision - making arrangements such as the decision – making assistant arrangement, a co-decision making arrangement and decision-making representative.

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# Course Timetable

## Assisted Decision Making (Capacity) Act 2015

### Day One

- **Morning Session: 9am – 11:15am.**
- **Introductions:**
  - Time - table for the day.
  - Trainer Background.
  - Participant's introduction and expectations for the course.
- **The Historical Context:**
  - The impact of Wardship.
  - Incapacity is not an "off switch" to rights.  
Transitioning from Wardship to the ADMCA
- **The approaches to decision making capacity:**
  - The status approach.
  - The outcome approach.
  - The functional approach.
  - The approach outlined by Article 12 UNCRPD.
- **Current practices:**
  - Current policy and guidance.

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- The significance of the term “legal authority”.
  - Next of Kin.
  
  - **The Current Status of the Assisted Decision Making (Capacity) Act:**
    - What aspects have commenced?
  
  - **The UN Convention on the Rights of Persons with Disabilities – The foundation of ADMCA:**
    - The purpose of the UNCRPD.
    - The significance of the paradigm shift.
    - Article 5 Equality and Non – Discrimination.
  
  - **Morning Break: 11:00 – 11:15.**
  
  - **Mid-Morning Session: 11:15 – 13:00**
  
  - **Group Activity:**
    - Four Groups examining scenarios. The aim of this activity is to give participants the knowledge and skills to fulfil the statutory requirement to build decision making capacity.

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- **Article 12 UNCRPD:**
    - Article 12 Equal Recognition Before the Law.
    - What is:
      - Legal Capacity?
      - Supported Decision Making?
      - Gabby's story – video on supported decision making.
  
  - **The Assisted Decision Making (Capacity) Act.**
    - Who is the law for?
    - The purpose of the law.
    - The values of the law.
    - Definitions:
      - Personal Welfare Decisions.
      - Relevant Person.
      - Appointer.
      - Intervener.
      - Intervention.
  
  - **13:00 – Lunch Break: 13:00 – 13:40**
  
  - **Afternoon Session: 13:40 – 15:00**
  
  - **The Guiding Principles.**
  
  - **The application of the Guiding Principles to Practice.**



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Group Activity – four groups with four scenarios. The purpose of this activity is to apply the Guiding Principles to practice.

## Assisted Decision Making (Capacity) Act 2015

### Day Two

- **Morning Session: 9am – 11:15am**
  
- **Review of Day One.**
  - Recap and questions.
  
- **The Functional Assessment of Capacity:**
  
- **Organisational Responsibilities**
  - Monitoring Quality.
  
- **Individual Responsibilities**
  - Identifying where to start.
  - Identifying conditions which should be met before assessing capacity.
  
- **Morning Break: 11:00 – 11:15**

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- **Mid-Morning Session: 11:15 – 13:00**
    - The Functional Assessment of Capacity:**
      - Who will assess capacity?
      - Capacity the legal definition.
      - Identifying the correct instrument to use when assessing decision making capacity.
      - Important guidelines when assessing capacity.
  
  - **13:00 – Lunch Break: 13:00 – 13:40**
  
  - **Afternoon Session: 13:40 – 16.00**
  
  - **Group Activity:**
    - Four Groups examining four scenarios. The aim of this activity is to give participants the opportunity to apply the legal test for assessing decision making capacity to practice.
  
  - **The Decision - Making Arrangements:**
  
  - **Decision Making Assistant:**
    - General information.
    - The role of the DMA.
    - Who cannot be appointed?

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- Can a complaint be made about a DMA?
  
  - **Co – Decision Maker:**
    - General Information.
    - The role of the CDM.
    - Who cannot be a CDM?
    - Can a complaint be made about a CDM?
    - What does it mean to register a Co – Decision Making Arrangement.
  
  - **Decision Making Representative:**
    - Who appoints a DMR and what criteria is used?
    - How is will and preference discovered?
    - Who cannot be a DMR?
    - Can a complaint be made about a DMR?
    - Video – Supported Decision Making and Complex Needs.
  
  - Summary and Questions

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## **How Will This Training Be Delivered?**

This training will be delivered on zoom over two days.

## **Is this course approved?**

The course has category 1 approval from the Nursing and Midwifery Board of Ireland.

## **Relevant Experience:**

### **Personnel:**

Josephine McLoughlin is the Director of Legal Capacity Training. Josephine qualified with a BA in Social Care in 2008 and has over 20 years' experience as a Social Care Leader. In 1995 Josephine started her career in the HSE Special Care Units for children, followed by two years in the homeless service and 16 years in the disability sector specializing in disability and mental health. In 2013, she qualified as a friendship, relationship, and sexuality instructor from the Callan Institute. Following this, she completed an LL.M. (master's in law) in International and Comparative Disability Law and Policy at the Centre for Disability Law and Policy at the NUI Galway. In 2015 Josephine graduated with a first-class honours and in addition was awarded the CDLP Gold Medal for Excellence. She continues to build on her knowledge and skills completing a Certificate in Decision-Making Capacity and Support at the Law Society of Ireland. Most recently Josephine completed a Master Class in Complex Capacity Assessments at the Mental Health Justice Project Maudsley Learning Kings College London.

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## **Previous Projects**

Josephine has been providing training in the UNCRPD and assisted decision making since 2015. She has delivered staff training to a wide range of organizations some of which are Dublin City Council, Ability West, Sun Beam House Services, St Christopher's Longford, The Muiriosa Foundation, Peamount Health Care, St

John of God Services Kerry, Camphill Communities, Irish Association of Social Workers, the Irish Association of Social Care Workers and the Rehab Group. In addition, training for people who use services has been delivered to among others Inclusion Ireland, Enable Ireland, Muiriosa Foundation, Brothers of Charity Galway, Roscommon, Clare and Waterford.

## **Contact:**

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***“Legal Capacity Training promoting Equality and Human rights in Health and Social Care Practice.”***

