

# Supported Decision Making Lessons for Scotland

## Easy Read Summary

### Introduction



This paper looks at examples of how supported decisions making is being done in three different countries outside of the UK.



Each of these countries have passed laws saying the people with learning disabilities are entitled to supported decision making as part of their human rights.



The examples from these different countries can give the Scottish Government different ideas on how to introduce supported excision making in the new mental health and capacity laws they are planning to write.



The three different examples can be seen below.

# The Republic of Ireland



In 2015 The Republic of Ireland passed a new law which introduced supported decision making for those who are unable to make decisions on their own.



This law replaced a system in which guardians would make people's decisions for them.

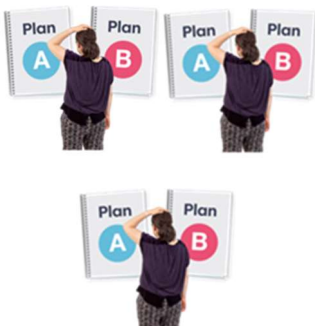


An organisation called the Decision Support Service was also introduced.

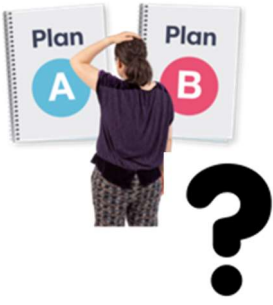


They make sure that the different types of supported decision making are being done in a way which is fair and protects people's human rights.

## Different Types of Supported Decision Making in the Republic of Ireland



3 types of supported decision making were introduced in The Republic of Ireland.



1 person can get different types of supported decision making depending on each decision they need support with.



The different types of supported decision making in the Republic of Ireland are described below.

## 1. Decision Making Assistance Agreement



The person chooses who helps them with making decisions.



The person getting the support must choose what decision they want support with and talk it over with the person they have chosen.



The person being supported will be the only one who has the power to make a final decision.

## 2. Co-decision Making Agreement



A joint decision maker will be chosen to support someone.



Both the decision maker and the person they are supporting will make their decisions together.



The decision maker can only go against what the person they are supporting wants to decide if it will harm them or others.



The decision maker cannot make decisions which will take away the human rights of the person they are supporting.

### 3. Decision Making Representation Order



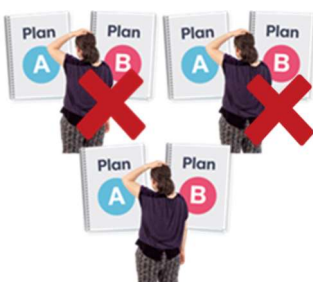
This is when a decision maker is chosen who has all of the power when it comes making a decision for a person.



Only a court can decide to do this.



The person will usually already know their decision maker but in some cases they could be a stranger.

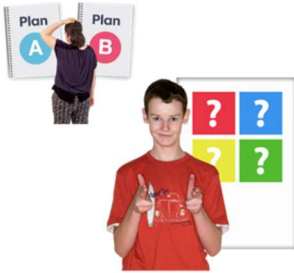


This type of supported decision making can only be introduced if the other types have been tried but have not worked.

What can we learn from the Republic of Ireland?



It is good that there are different supported decision making options.



The different options can make sure that people get the support they need without losing too much independence.



However some people believe that the options are too similar and this can make it unclear what support people should get.



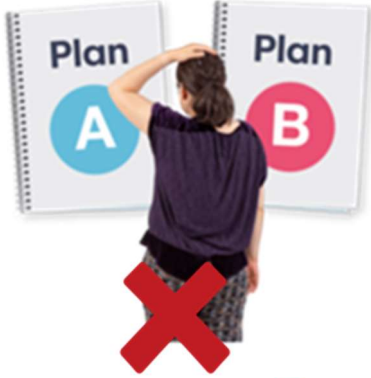
It is good that there is a Decision Support Service that people can go to if they have any complaints.



However some people are worried that it is not a good thing to give all the power over monitoring supported decision making to one organisation.



Some people feel that there has not been enough funding for training on supported decision making across the different services in Ireland.



Because of this many people who need supported decision making in Ireland still do not have access to it.



The Scottish government should make sure that they include funding and training across all services in their plans for supported decision-making before it is introduced.

## Sweden



Sweden introduced supported decision making in 1989.



Sweden does not do tests to find out if someone is able to make their own decisions or not.





This means that people getting supported decision making keep the same rights as people not getting it.

## Different Types of Supported Decision Making in Sweden



There are two different types of supported decision making in Sweden.



They are known Good Man and Administrator.



They are listed below.

1. Good Man





This is someone who is chosen by the court to give supported decision making.



The person getting the support must give permission for the court to choose the supported decision maker.



The supported decision maker can make decisions in most situations except for in certain legal situations such as signing marriage documents or wills.



The person getting the support has to give their permission for each decision their supported decision maker makes.



However the decision maker is allowed to make decisions on their own if it is felt the person they are supporting is unable to give permission



The person getting the support is free to make their own decisions without their supported decision maker if they want.

## 2. Administrator



This a supported decision maker who is chosen if the Good Man type of supported decision making has been tried and not worked.



This decision maker can be chosen if the person needing support is at risk of harm or becoming homeless.





The courts can choose this type of supported-  
decision maker without permission from the  
person getting the support.



The decision maker does have to listen to wishes  
of the person they are supporting and try to act in  
their best interests.



But the decision maker is allowed to make  
decisions without the permission of the person  
they are supporting.

## What can we learn from Sweden?



The rules in Sweden shows that it is possible for  
people to use supported decision making services  
without having to take a test to prove that they  
are not able to make their own decisions.



However, there is not very much guidance on what makes someone unable to give permission for decision making in Sweden.



This means decision makers cannot be stopped if they don't think about what the person they are supporting wants when making a decision.



Another problem is that supported decision making in Sweden does not follow the rules in United Nations Convention on the Rights of Persons with Disabilities.



If supported decision making is introduced in Scotland it should have clear guidance which makes sure people have their human rights protected.



Any supported decision making laws in Scotland should also follow the United Nations Convention on the Rights of Persons with Disabilities.

## Canada (British Columbia)



The province of British Columbia in Canada first introduced laws on supported decision making in 1996.



The laws in British Columbia follow the United Nations Convention on the Rights of Persons with Disabilities.



To get supported decision making the person being supported or a member of their family have to sign an agreement.

## Different Types of Supported Decision Making in Canada (British Columbia)



There are two different types of supported decision making in British Columbia.



They are listed below.

### 1. Representative with powers of Section 7



This is for any adult who may find it difficult to understand important decisions they need to make.



The powers of the decision maker can include things like managing money or making decisions about health care or using legal services.



If the supported decision maker is making decisions about money a person called a monitor will have to be chosen.



A monitor is someone who makes sure that the supported decision maker is always acting in the best interests of the person they are supporting.



If there is more than one supported decision maker or the supported decision maker is married to the person they are supporting a monitor does not have to be chosen.

## Representative with powers of Section 9



This type of supported decision making can only be given after talking to a lawyer.





In this type of supported decision-making supported decision makers have much more control over people lives.



They are able to make decisions on things like turning down certain types healthcare treatment or giving permission to restrain a person.



Adults who are getting this type of supported decision making must understand what it is at the time they first apply for it.

## What can we learn from Canada (British Columbia)



British Columbian supported decision making does not rely on tests about whether a person is able to make their own decisions or not.



Instead it is based on things like whether a person is able to say if you like or don't like something or if they trust the person they want to make decisions for them or not



It also tries to make sure that decision makers are people who are already trusted by the person they are supporting.



This means supported decision making in British Columbia can be good for people with profound and multiple learning disabilities.



It should be made sure that supported decision making services can support people with many different types of learning disability when they introduced the new laws in Scotland.