

Issue

What needs to be done

It is clear that independent advocacy plays a critical role in the implementation of the ADMC legislation but there is no formal recognition here in law for independent advocacy practice



Legislative provision in Ireland for independent advocacy practice is required as a matter of some urgency with related integrated state funding.

The experience of Sage Advocacy is that some professionals, (both legal and health and social care) appear not to be fully au fait with the underlying principles of the legislation and what is required to implement these.

There should be more emphasis on **continuous professional development and training** in all relevant agencies around ADMC principles (Part 8 of the legislation) and their implementation.

For many of the people where an intervention under the legislation is required, there is likely to be a safeguarding dimension and a related need to ensure that the most appropriate and least restrictive support is put in place.

There should be a stronger focus on **positive adult safeguarding** as an overarching consideration in all interventions under the legislation.



It is regularly the case that a Decision-Making Representative Order (the most restrictive intervention) is sought for a person when a less restrictive option would be adequate.

A proactive **information campaign** is required to make the public and professionals more aware of the various options under the legislation.

There are instances, especially in the case of nursing home residents, where a person is unable to bring an application to the court themselves but where nobody is willing to do so.



This matter needs to be reviewed from a legal and human rights perspective in order to **ensure that no relevant person is excluded**.

Although there is a requirement in the legislation for the relevant person to attend court for the hearing and be supported to do so, relatively few people actually attend either in person or via video-link.

There is a need for more **specific guidance** as to who is responsible for ensuring that the relevant person is aware of their right to attend the court hearing and for the provision of support to do so.

The ADMC process would be enhanced by having jointly agreed mechanisms for collaboration between HSE safeguarding social workers and independent advocates.

Agreed **mechanisms for joint working** should be put in place.

There is a dearth of statistics publicly available relating to attendance at court by Relevant Persons as well as in the areas of legal representation and independent advocacy.

The Courts Service should develop mechanisms for gathering **statistics and reporting** in relation to these matters.



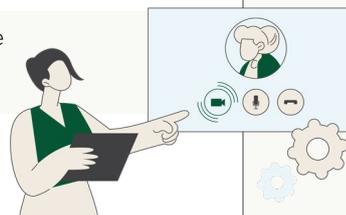
Some courts have a clear understanding of the legislation while others (e.g., those who only hear a small number of applications) are not yet fully au fait with its provisions.

Consideration should be given to reducing the **number of court locations** dealing with ADMC applications in order to ensure more efficiency.

It is not at all clear how well the respective DSS Codes of Practice are being adhered to in practice.

The DSS should put in place a mechanism to **capture actual practice** under the various Codes.

There is a clear issue with the slow pace of discharge from wardship and a need to address the contributory factors.



The Wards of Court Office should ensure that all **wards are given the supports that they require** to enable them to avail of the review process.

The requirement for the EPA to be signed in the presence of the donor is not always practical.

The Minister should make a Regulation providing for the interpretation of 'in the presence of', to **include online presence**.

There are issues around Advance Health Care Directives, in particular, the fact that there is no central facility for their registration.

The Minister should fast-track the making of a Regulation under Section 84(12) to **operationalise the AHD Register** already set up by the DSS.

The consent of the court is required under Section 36 of the Act by way of ex parte application by someone not on the specified list which delays the process.

There is a strong argument that **ex parte applications should be taken by the Registrar of the Court** and not by the court itself.



Circuit Court Rules confirm that a capacity application may be signed by the applicant or their solicitor where a person cannot give instructions - not all solicitors adhere to this.

More **discussion and guidance** is required around this matter.

There are strong arguments for people being legally able to indicate their place care arrangements when they have capacity to do so.

Place of care legislation should be introduced to complement the provision for an Advance Health Care Directive in the ADMC legislation.

There is a need for a national forum of key organisations to address interorganisational and operational issues arising.



A National ADMC Stakeholders' Forum should be established with an independent chair.