

## Legal and financial arrangements

Alzheimer National Helpline  
**1800 341 341**

### Useful contacts and sources of information

#### The Alzheimer Society of Ireland

Contact the Alzheimer National Helpline Monday to Friday, 10am to 5pm Saturday, 10am to 4pm.

**FreePhone:** 1800 341 341

**Website:** [www.alzheimer.ie](http://www.alzheimer.ie)

**Email:** [helpline@alzheimer.ie](mailto:helpline@alzheimer.ie)

#### Citizens Information Service

**Phone:** 0818 077 820

**Website:** [www.citizensinformation.ie](http://www.citizensinformation.ie)

#### The Law Society of Ireland

**Phone:** 01 672 4800

**Website:** [www.lawsociety.ie](http://www.lawsociety.ie)

**Email:** [general@lawsociety.ie](mailto:general@lawsociety.ie)

#### Sage Advocacy

**Phone:** 01 536 7330

**Website:** [www.sageadvocacy.ie](http://www.sageadvocacy.ie)

**Email:** [info@sageadvocacy.ie](mailto:info@sageadvocacy.ie)

#### Think Ahead: Speak for yourself form

Think Ahead was developed by the Irish Hospice Foundation

**Phone:** 01 679 3188

**Website:** [www.thinkahead.ie](http://www.thinkahead.ie)

**Email:** [info@hospicefoundation.ie](mailto:info@hospicefoundation.ie)

#### Decision Support Service

**Phone:** 01 211 9750

**Website:** [www.decisionsupportservice.ie](http://www.decisionsupportservice.ie)

**Email:** [queries@decisionsupportservice.ie](mailto:queries@decisionsupportservice.ie)

#### FLAC: Free Legal Advice Centre

Information and referral line

**Phone:** 01 906 10 10

**Website:** [www.flac.ie](http://www.flac.ie)

#### Solicitors for the Elderly

**Phone:** 01 631 0360

**Website:** [www.solicitorsfortheelderly.ie](http://www.solicitorsfortheelderly.ie)

**Email:** [info@sfe.ie](mailto:info@sfe.ie)

#### Legal Aid Board

**Phone:** 066 947 1000 / 0818 615 200

**Website:** [www.legalaidboard.ie](http://www.legalaidboard.ie)

**Email:** [info@legalaidboard.ie](mailto:info@legalaidboard.ie)

### Information booklets

#### How do I plan for the future?

#### First steps after diagnosis

#### Living with dementia an introduction for family members

**Factsheet:** D2 **2nd Edition** Nov 2023  
**Reviewed by:** **Eleanor Edmond** Advocacy and Legal Capacity specialist

**Amanda Keane** Information and Helpline Officer, the Alzheimer Society of Ireland

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# Legal and financial arrangements

## D2

Alzheimer National Helpline  
**1800 341 341**

When a diagnosis of dementia, such as Alzheimer's disease, Vascular dementia or Lewy Body disease, is made, it can be difficult to think about the future. A diagnosis of dementia does not automatically mean a person cannot make legal and financial decisions. While a person has capacity to outline their wishes and to

understand the likely effect of a decision then they can continue to make such decisions. There are a number of important legal and financial arrangements which should be considered as early as possible. It can be reassuring for everyone to know that the wishes and preferences of the person with dementia are clear.

### Basic steps

It is a good idea for everyone, regardless of whether they have a diagnosis of dementia or not, to take a few steps which mean that our day-to-day affairs could be managed if we were not able to do so ourselves.

- Keep important documents together and tell a trusted person where they are stored. Important documents might include the deeds to a property, saving and investment details, insurance policy details, pension arrangements, details of income and outstanding loans such as mortgage payments, rent agreements, advance healthcare directives, Enduring Power of Attorney or any other arrangement under the Assisted Decision-Making Act.
- Take any possible steps to make sure any savings or income will be accessible to pay for day-to-day needs. Set up standing orders or direct debits to pay regular expenses and bills easily and securely. Most banks have a dedicated vulnerable adult support line to help with this.
- Have conversations with a trusted person or people about the things that are most important to you about the way you live your life: what are your key values that someone should know about if they had to participate in decision-making on your behalf?

For further information read our resource  
**I have dementia... How do I plan for the future?**



If someone is your next of kin, this doesn't mean they are automatically allowed to make any legal or medical decisions on your behalf. Next of Kin simply means who to contact in an emergency.

## Legal and financial arrangements



### Financial arrangements

Joint bank accounts or other arrangements such as named signatory on a Credit Union account can be useful if one person has mobility problems or is unable to take responsibility for maintaining an account. However they are not really a good way of managing finances, because, as dementia progresses the arrangement is no longer valid once one of the parties loses decision-making capacity. They are also one of the more common ways in which financial abuse occurs. You should talk to your bank or credit union about what they recommend.

Previously there were fewer options for securing access to finances for a person's benefit as their dementia progressed but now with more flexible and accessible options under the Assisted Decision-Making (Capacity) Act 2015, joint accounts should not be the option of choice. A co-decision-making agreement for the management of finances should be considered in the first instance, along with an Enduring Power of Attorney (EPA) to cover a situation in the future where either co-decision-maker is no longer capable of participating in the arrangement. If the person with dementia lacks the capacity to enter a co-decision-making agreement or to make an EPA, a decision-making representation order to cover financial decisions should be sought.

For more about arrangements under the Assisted Decision-Making (Capacity) Act 2015, see page 3.

### Agency arrangements for Social Welfare payments

Where a person is temporarily unable to attend the post office or on a longer-term basis is unable to manage their finances and collect their payments from the post office due to an illness or loss of mobility, they can appoint an agent to do this on their behalf. However as with joint accounts these arrangements automatically come to an end if one person loses capacity. There is a separate type of agency arrangement which can be made on application to the Department of Social Protection with certification from a GP that the person does not have the capacity to manage their own financial affairs. Arrangements are then made with the post office to facilitate the appointed person collecting the payment. It is recommended that a separate account be set up for this purpose.

Further information is available at your local citizen's information office. Contact details are on page 8 of this document.

### Tax Relief for Dependent Relatives

If you are caring for a family member, it may be possible to claim tax relief on the payments and any other additional medical expenses the person may have. Tax relief for nursing home expenses is claimed under the general scheme for tax relief on certain medical expenses. Most nursing homes are approved for tax relief.

If you are caring for a family member you can also claim tax relief on the cost of employing a carer. If you are caring for a dependent relative, you may qualify for the dependent relative tax credit.

You should contact your local tax office to discuss the specific situation about which tax credits, reliefs and exemptions apply to your situation and request the appropriate forms for making a claim by contacting your regional revenue service phone number or by logging onto [www.revenue.ie](http://www.revenue.ie). You can also ask at your local citizens information centre or read up on the full criteria for each type of credit or relief at [www.citizensinformation.ie](http://www.citizensinformation.ie).

Contact details are on page 8.

## Legal and financial arrangements

Depending on your financial circumstances, there are a range of financial supports that may be available to you and your loved one. Information on the different types of benefits and how to apply for them is available from our Living with dementia: an introduction for family members booklet or by contacting the citizen's information service with [contact details are listed on page 8 of this document](#).



### Legal planning

"We were told to look into our legal and financial affairs, we put it on the long finger and then my wife's dementia progressed and she wasn't able to participate. It was much more difficult. My advice is do this as early as you can, for both of you"

Anonymous, Kildare

It is important to think about how a person can be supported to participate in decisions about their own life for as long as possible. It is also important to make sure that if they are no longer able to make decisions for themselves, decisions are made by keeping their wishes and preferences in mind. It is advisable to seek appropriate professional advice when addressing such matters.

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

The Assisted Decision Making (Capacity) Act (ADM) commenced in April 2023. The Act abolished the Ward of Court system and created a new office called the Decision Support Service (DSS) and new decision-making agreements to support people whose decision-making capacity is in question or may be in question in the future.

There are three new decision-making support agreements. Each of these agreements provide a different level of support, with a decision-making assistance agreement being the lowest and decision-making representation order being the highest. A person can move from one type of agreement to another as their support needs change. This is done by creating a new support agreement. Enduring Powers of Attorney are also still a good option and are supervised by the DSS (see below page 6). It is also now possible to make an Advance Healthcare Directive (see page 6)

There are two ways to create an agreement under the ADM Act, (except for the decision-making representation order which must applied for in the Circuit Court).

An account must be created with [myDSS](#). The DSS are a digital first service and the quickest way to create an account is by going to [www.decisionsupportservice.ie](http://www.decisionsupportservice.ie). If you or the person with dementia does not have access to the internet, you can phone the DSS on 01 211 9750 and the DSS will send out some forms for you to fill in to create a myDSS account.

Once the myDSS account is set up, the application forms for the agreement can be accessed on the DSS website. The DSS can also send out paper application forms if you or the person with dementia does not have access to the internet. There are longer processing times with the paper application.

### Decision Making Assistance Agreement

If a person requires support to make certain decisions on their own, they can make a decision-making assistance agreement. This agreement allows them to appoint someone they know and trust as a decision-making assistant.

A decision-making assistant may help them to get information, explain so it is easier to understand, help them weigh up the options, and help them with communication.

A person who uses a decision-making assistance agreement is still making the decisions themselves. The assistant does not have any decision-making power.



## Legal and financial arrangements

- A solicitor is not necessary to make the agreement.
- The agreement must be in writing and must be signed by the decision-making assistant and the person who needs assistance.
- The decision-making assistant must undertake to carry out their duties in accordance with the Act and should read the Code of Practice for Decision-Making Assistants.
- The agreement must be submitted to the Decision Support Service within 5 weeks of being signed and witnessed.
- Certain people must be notified about the agreement including spouse/ civil partner and adult children. The DSS will supply the notification form.
- There is a small fee to notify the DSS of an agreement or to change an agreement. At the time of writing the fee is €15. This is set by the DSS. Prices may change. You can contact the DSS to confirm the cost. The fee may be waived, based on an assessment of the person's financial situation. For more information contact the Legal Aid Board. [Contact details are on Page 8](#)
- The agreement can be changed or cancelled at any time by the person with the agreement or their assistant. If the person no longer has capacity to make the decisions covered by the agreement, the agreement will automatically be void.
- A decision-making assistance agreement can only last for up to 3 years.
- A person can have more than one decision-making assistance agreement (for different types of decisions).
- The decision-making assistant is not required to submit a report to the DSS, unless specifically requested by the DSS.
- It is possible to move from a decision making assistance agreement to co-decision-making agreement. To do this, you need to contact the DSS and fill in new forms and register the new agreement with the DSS.



### Co-decision-making agreement

If someone is unable to make certain decisions on their own, they can appoint a person they trust as their co-decision maker under a co-decision-making agreement. This agreement lets them document decisions or types of decisions that they need help with and give someone the legal authority to make those decisions jointly with them.

These decisions can be about personal welfare or property and money matters. A solicitor is not required but the co-decision-making agreement must be made in writing using a form supplied by the DSS and must be signed by both parties and witnessed by two other people. A doctor or another healthcare professional must state that the person has capacity i.e. understands the implications of making the agreement.

- Once the declaration is signed in front of a witness, the co-decision-making agreement must be sent to the DSS within 5 weeks.
- Certain people must be notified about the agreement, using a form supplied by the DSS, including spouse/ civil partner and adult children.
- If the agreement is registered a certified copy will be issued.
- There is a fee to register the agreement and to change it. Prices are set by the DSS. At the time of writing, the cost to register the agreement is €95. The cost to change the agreement is €95. These prices may change. You can confirm the prices by contacting the DSS. The fee may be waived, based on an assessment of the person's financial situation. For more information contact the Legal Aid Board. [Contact details are on Page 8](#)

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- A person can have more than one co-decision making agreement but can only have one co-decision maker for each agreement.
- A person can have both a decision making assistance agreement and a co-decision making agreement for different decisions.
- The co-decision maker must undertake to carry out their duties in accordance with the Act and should read the Code of Practice for Co-Decision-makers.
- A written report must be sent to the Decision Support Service by the co-decision-maker every year. It will include details of financial matters, costs and expenses associated to the agreement. The DSS will monitor the agreement and can send someone to investigate how it is working.
- The agreement can be changed or ended by going through a similar series of steps to those involved in making it.
- The agreement automatically ends if either party loses capacity to make any of the decisions it covers, or if it is replaced by a decision-making representation order or Enduring Power of Attorney (EPA). [For more information see page 6.](#)



### Decision-making representation order

If a person living with dementia is unable to make certain decisions even with support and they do not have an EPA which covers the decisions which need to be made, they or another person with a legitimate interest in their welfare can ask the Circuit Court to make a decision-making representation order. If the court agrees that they are not able to make certain decisions for themselves,

a decision-making representative is appointed by the court to make certain decisions on their behalf, taking into account their wishes.

If possible, the court will appoint someone who the person living with dementia knows and trusts. However, if there is no-one willing or able to act on their behalf, the court may appoint someone from the Decision Support Service panel.

When a decision-making representation order is made by the court, they will send a copy to the DSS.

Making an application to court for a decision-making representation order takes several steps. It is not essential to have a solicitor, but it may be useful and legal aid may be available to anyone who meets the income criteria. The steps include completing a specific form and getting a report from a doctor or another healthcare professional. There may be one or more hearings in court as part of this process. This order can't be made in advance. If you or someone you care for has dementia and still has capacity to make decisions alone, with assistance or jointly, a decision-making assistance agreement or co-decision-making agreement should be explored.

An enduring power of attorney (EPA) should also be considered as it may be possible to avoid the need for a decision-making representation order. [For more information see page 6.](#)

- Both the person the subject of the application and the person applying, if different, may be entitled to legal aid.
- The DSS will keep a register and certain people and organisations can search the register.
- There is a fee for this (Circuit Court fees).
- The decision-making representative must submit a report to the DSS every year. This includes details such as assets, income, and expenses.

More details about the process, costs and forms can be found at <https://www.courts.ie/assisted-decision-making-circuit-court>



## Legal and financial arrangements



### Advance Healthcare Directive

It is important to note that if someone does not plan their care in advance, their family will not have the authority to make healthcare decisions on their behalf.

An advance healthcare directive lets people set out their wishes regarding medical and healthcare treatment in the event they are unable to make these decisions in the future. If someone loses capacity to make a healthcare decision and they have an advance healthcare directive, doctors must consult it. Requests for a specific treatment must be considered but are not legally binding.

Refusal of a specific treatment is legally binding and must be respected. However, it is not possible to refuse basic care in an advance healthcare directive. It is important to be very specific in your wishes and preferences. A trusted person can be appointed to be a designated healthcare representative. A designated healthcare representative has the power to advise on and interpret a loved one's wishes and can agree to or refuse treatment on their behalf based on the wishes expressed in their directive.

An advance healthcare directive must be in writing but does not have to be registered with the DSS or be in a specific format. However, it is a good idea to consult the DSS guidance on making an advance healthcare directive.

The Think Ahead: Speak for Yourself planning pack is useful, this can be found on [www.thinkahead.ie](http://www.thinkahead.ie). [See page 8 for contact details.](#)

At the time of publication, the DSS currently does not keep a register of advance healthcare directives. It is important that the designated healthcare representative and other trusted people are informed that an advance healthcare directive has been written. It is also important to provide the GP/Doctors with copies to keep on file.

An advance healthcare directive can be changed or revoked while the person still has capacity. It must be done in writing, and all the relevant people should be made aware of the most up-to-date version.

If a doctor or consultant thinks a person may have dementia, they must check to see if an advanced healthcare directive has been arranged.



### Enduring Power of Attorney (EPA)

Many people with dementia will eventually reach a point where they are no longer able to make certain decisions for themselves. When this happens, someone else will need to make decisions on their behalf. If there is no agreement in place to allow for this, an application can be made to the Circuit Court for a decision-making representative to be appointed.

However, many people prefer the idea of being able to choose in advance the person whom they would want to make decisions on their behalf. The way to do this is to make an Enduring Power of Attorney (EPA).

An EPA is a legal document which is put in place when a person (donor) is still able to manage their own affairs, but it only comes into effect when the person is no longer able to manage their affairs.

It is still possible for someone to set up an EPA after dementia has been diagnosed so long as they are fully aware of what is involved. It is advisable to set one up as soon as possible after a diagnosis to ensure that the person with dementia can consider their options and have their say while they still have the capacity to do so.

It is a good idea to appoint two people to be an attorney in case one person cannot take up the role when the time comes or if the donor wants each attorney to only deal with specified aspects of their affairs or to both be involved with certain decisions.

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- If someone has already made an EPA before the 26th of April 2023, this remains valid. They will continue to be registered with the Courts Service. The DSS will manage complaints with those EPA's.
  - To create an EPA under the new Act, the person must register with the DSS. This can be done online or alternatively the DSS can post the paper forms out. [See page 8 for contact details](#)
  - Once the person has registered with the DSS, they can fill in the form on the DSS website, or through a paper application form. A solicitor is needed to ensure the person understands the consequences of making an EPA.
  - Once the declarations have been signed in front of 2 witnesses, the EPA must be sent to the DSS within 3 months.
  - A medical report is needed to say that the person living with dementia has capacity at that time to understand the consequences of creating an EPA.
  - At the time of writing, the fee to register the EPA with the DSS is €30 and to notify the DSS is €90. This fee may change. The price can be confirmed with the DSS.
  - Solicitors fees can vary across the country, so shop around if possible. See useful contacts on page 8 for some suggested sources of legal advice.
  - An attorney can only begin to manage legal affairs once the person has lost capacity. They will formally notify the DSS and pay the fee to activate the EPA.
  - The EPA sets out what tasks the attorney may carry out. This is up to the person making the EPA but typically would include tasks such as signing cheques and withdrawing money from various accounts, buying, or selling shares or using assets to finance long-term care.
- An attorney can also be given power make certain personal care decisions such as diet, dress, social welfare, and housing.
- An attorney can't make medical/healthcare decisions. This can only be done by creating an Advance Healthcare Directive. [See page 6.](#)

- Any decisions the attorney makes must be made considering the person's wishes and preferences i.e., what they would be likely to have decided themselves in the circumstances.
- When the donor dies, their EPA ends. Any assets they have at time of death, after any outstanding debts are paid, are distributed in accordance with their will or if they have no will, the rules of intestacy.

### Making a Will

Making a will involves decisions about what will happen to a person's possessions, property, and money after they die. A person's possessions, property and money are called their estate. People with dementia who wish to make a will or change their will should seek legal advice from a solicitor as soon as possible. The people you want to receive or inherit your estate are called beneficiaries. As part of making a will it is necessary to appoint one or two people to manage the estate. These people are called executors and they make sure a person's wishes are followed.

Anyone who makes a will must be able to understand what they are doing and the likely consequences of their decisions. This is called "testamentary capacity". It is the solicitor's responsibility to check this. They must explain things clearly and carefully and check that the person understands. Once the person is deemed to no longer have capacity, they will not be able to make or change a will.

A will only takes effect after a person dies and applies to property which they own at the time of their death. It does not give anyone any entitlement while they are alive.

If a will is not made, then everything the person owns will be distributed in accordance with the law as set out in the Succession Act 1965.

Dying without a will is called dying intestate. If a person dies without a will, the law sets out who may inherit and in what order they may inherit. If there are no living relatives, the State will inherit the estate.