

Supported Decision Making

Supported decision making is a human rights concept that promotes freedom of choice for people using public mental health services.

This information sheet aims to provide a clear overview to help people know what they should expect from services, and to help clinicians know what they should be able to provide.

What is supported decision making?

Supported decision making means that people are provided with the support they need in order to be able to make their own decisions. In the context of mental health services, this usually means making medical treatment decisions, but it may include other types of decisions too.

Supported decision making prevents the emotional harm of losing control over decision-making. Making our own decisions about treatment is a human right and is important for recovery.

“The central principle underlying supported decision making is autonomy, that no person should have another person appointed to make a decision on their behalf, if they could make the decision themselves with assistance and support.”²

Because the Victorian Mental Health Act (2014) allows substitute decision making. In certain circumstances, a psychiatrist is authorised to make decisions on behalf of a person diagnosed with mental illness. Substitute decision making means that people lose the freedom to make their own choices about mental health treatment.

Why can't people just be allowed to make their own decisions?

What are the other types of decision making?

SUBSTITUTE decision making	SHARED / COLLABORATIVE decision making	SUPPORTED decision making
The doctor makes the decision	The doctor and person make decision together	The person makes their own decision, with support if needed

Shared decision making (also called collaborative decision making) describes decision making in a voluntary relationship, such as between a person and their GP.

It does not realistically apply to relationships between people and their psychiatrists in public mental health services. This is because a psychiatrist is able to make final decisions that might go against what the person wants.

What is shared decision making?

Where does supported decision making come from?

Supported decision making has a long history in the disability field. Activists and their allies have fought for the legal right to be able to access support to make decisions on an equal basis with others. The United Nations Convention on the Rights of Persons with Disability (CRPD, 2006) clearly expresses this aim.

Supported decision making was introduced into Victorian mental health services as part of the Mental Health Act (2014):

*'At the very heart of the bill is a supported decision-making model that will enable patients to make or participate in decisions about their assessment, treatment and recovery, and to be provided with the support to do so.'*¹

Legal capacity refers to people's legal right to make their own decisions about their own lives, on an equal basis with others. Supported decision making means that people can keep their legal capacity, regardless of how much support is needed.

Mental capacity is different from legal capacity. It refers to testing to see if a person is able to make a decision. Mental capacity means you:

- **Understand** the information given to you
- **Use** or weigh the information to make a decision
- **Remember** the information
- **Communicate** your decision

What about capacity?



Tip for clinicians and support people: It's important to think about what you can do to support people to build their mental capacity. Rather than ask if the person has capacity, ask how you can build their capacity.

Underpinning principles of supported decision making³

- ✓ Everyone has the right to make decisions about the things that affect them
- ✓ Every effort should be made to support people to make their own decisions
- ✓ People have the right to learn from experience
- ✓ People have the right to change their mind
- ✓ People have the right to make decisions others might not agree with



Tip for clinicians and support people: Think about times you've made important life decisions that others didn't agree with. How can you support consumers to retain the choice that you had?

From

A presumption that people with mental health diagnoses don't have mental capacity to make their own decisions

Assessing deficits in mental capacity (ability to make decisions without support)

Detention in mental health and related services

To

A presumption that people with mental health diagnoses can make decisions by themselves and for themselves, with the assistance of supporters if needed.

Exploring the type and level of supports that may be required to make decisions

Exploration of support alternatives in the community

Changing our thinking³



Supported decision making tools

Read about other tools to make supported decision making real:

- [Independent Mental Health Advocacy \(IMHA\)](http://www.imha.vic.gov.au/know-your-rights)
<http://www.imha.vic.gov.au/know-your-rights>
- [VMIAC](http://www.vmiac.org.au/get-involved/resources/)
www.vmiac.org.au/get-involved/resources/
- [Ottawa Hospital Research Institute](https://decisionaid.ohri.ca/odsf.html)
<https://decisionaid.ohri.ca/odsf.html>
- [World Health Organisation \(WHO\)](http://www.who.int/mental_health/policy/quality_rights/guidance_training_tools/en/)
http://www.who.int/mental_health/policy/quality_rights/guidance_training_tools/en/
- [Convention on the Rights of Persons with Disability \(CRPD\)](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html)
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

Advance statements

An advance statement is a formal written document about your treatment and care preferences if you are subject to compulsory mental health treatment.

An advance statement is not legally binding but needs to be considered.

For services: It promotes autonomy, dignity and respect by helping you understand how to uphold the person's will and preferences.

Nominated persons

A nominated person is someone you choose to represent your will and preferences about treatment at a time when you might be subject to compulsory treatment.

A nominated person can provide you support to make decisions about treatment while in hospital.

Nominated persons are supposed to represent what you have told them, rather than their own opinions about what you might need. It's important to choose someone you trust to respect your values and preferences.

For services: A nominated person has similar benefits to advance statements, with the added benefit of practical support for people to make decisions while admitted.

Advocacy

An advocate can support you to make decisions about your treatment and care, and they can:

- Support you to advocate for yourself
- Advocate on your behalf with clinical services

For services: Advocates play a critical role in helping you to hear what really matters to the person, and to find solutions that lead to better outcomes for people and services.

Information & resources

It's important to have all the information you need, in the format that works for you the best, before making a decision. Sometimes this is challenging in a mental health service. You have a right to accessible and relevant information, so be confident asking for what you need.

Accessibility note: Reading can be affected by extreme emotions and medications. Accessibility must take account of other disability needs and different languages.

For services: Providing accessible information will save time in the long term, and can provide great opportunities for co-production and learning in your service.

Comparing supported and substitute decision making

The table below provides a comparison between supported and substitute decision making. We acknowledge that the information in this table won't represent every different experience, but these are common experiences that people have told us about over many years.

Type of decision making	Who has control?	How it may be experienced by the person	Underpinning principles	Clinical practice approaches
Supported	Consumer	<ul style="list-style-type: none"> • My dignity is upheld • I feel respected • I have autonomy and freedom • My hope, confidence & self-esteem increased • I trust my clinicians 	<ul style="list-style-type: none"> • People are the best experts about their own lives • Taking risks can promote growth & recovery • Limiting autonomy can be psychologically harmful and counter-productive for recovery • Everyone can make decisions with the right supports • Emotional safety and physical safety both matter • Upholds the right to legal capacity 	<ul style="list-style-type: none"> • Listens deeply to what matters to the person, and why • Explores with the person what will assist them to make a decision. Examples: <ul style="list-style-type: none"> – Do they want the support of loved ones or friends to arrive at a decision? – Do they need information in different formats to retain or resume decision making? – Keeps re-visiting support requirements
Substitute	Psychiatrist	<ul style="list-style-type: none"> • I feel useless • I feel disrespected • I have no rights • I've lost a lot of hope, confidence & self-esteem • I don't trust clinicians 	<ul style="list-style-type: none"> • Doctors are the experts • Decisions are guided by what is considered in the person's 'best interests' • Risks should always be avoided • Autonomy is not as important as managing risk and symptoms • Physical safety matters much more than emotional safety • Ignores the right to legal capacity 	<ul style="list-style-type: none"> • Assesses the person's mental capacity based on clinical knowledge • Makes a clinical decision about whether or not the person has mental capacity • If mental capacity is judged to be lacking: <ul style="list-style-type: none"> – makes decisions on behalf of the person – considers what is believed to be in the person's 'best interests' – must not assume that the person is not able to make any decisions – must regularly reassess capacity looking for changes

This document was conceived and developed by consumers.

References

- ¹ Wooldridge, M. (2014). *Mental Health Bill second reading speech to parliament*, Hansard.
- ² Chartres, D. and Brayley, J. (2010). *Submission to the Productivity Commission Inquiry into Disability Care and Support*. Office of the Public Advocate, South Australia.
- ³ WHO. (2017). *Realising supported decision making and advance planning - WHO QualityRights training to act, unite and empower for mental health (pilot version)*. Geneva: World Health Organization.

Endorsements

