

# Assisted Decision-Making (Capacity) Act 2015

Implications for the regulatory framework  
under the Mental Health Act 2001

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# Kia ora!



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## Regulatory Process

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Monitoring mental health services and the registering and inspection of approved centres in line with legal requirements. We are a responsive regulator and use data collected to take a risk based approach.

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## Mental Health Tribunals

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Protecting the human rights and interests of persons detained for care and treatment; specifically through ensuring the independent review of involuntary admission orders by a Mental Health Tribunal.



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## Decision Support Service

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Maximising autonomy for all relevant persons requiring support to make decisions about their healthcare, property and finances. Regulating individuals who are providing a range of supports to people with capacity difficulties.

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## Quality Improvement

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Encouraging continuous quality improvement; fostering high standards and good practices in the delivery of mental health services. Issuing guidance and developing evidence based standards to improve service delivery and service user experience.

## **Our Vision**

The highest quality mental health and decision support services underpinned by a person's human rights.

## **Our Mission**

Regulate and engage to promote, support and uphold the rights, health and well-being of all people who access mental health and decision support services.



# From 2001 to 2015

- Framing the challenge
- Identifying focus areas
- What we need to do now



# Mental Health (Amendment) Act 2015

"2. Section 59(1) of the Principal Act is amended by the deletion, in paragraph (b), of “or **unwilling**”.

3. Section 60 of the Principal Act is amended by the deletion, in paragraph (b), of “or **unwilling**”.”

# Details of your assessment of the patient's capacity

**"The patient had capacity,  
but chose not to engage  
with the team"**

"I feel he lacks  
capacity to give  
consent"

"The patient is  
unwilling to  
consider...is not  
willing to engage"

**"The patient does not  
appreciate the need for  
medication and does not wish  
to have \_\_\_\_\_. He doesn't  
really believe he needs  
medication"**

# 'Consent Form'

I consent to the  
receipt of medication  
whilst I am an  
inpatient in



# What did we learn?

- **Clear guidance**
- **Forms – not the answer, but a good start**
- **Record keeping**
- **It takes time**



# Framing the challenge

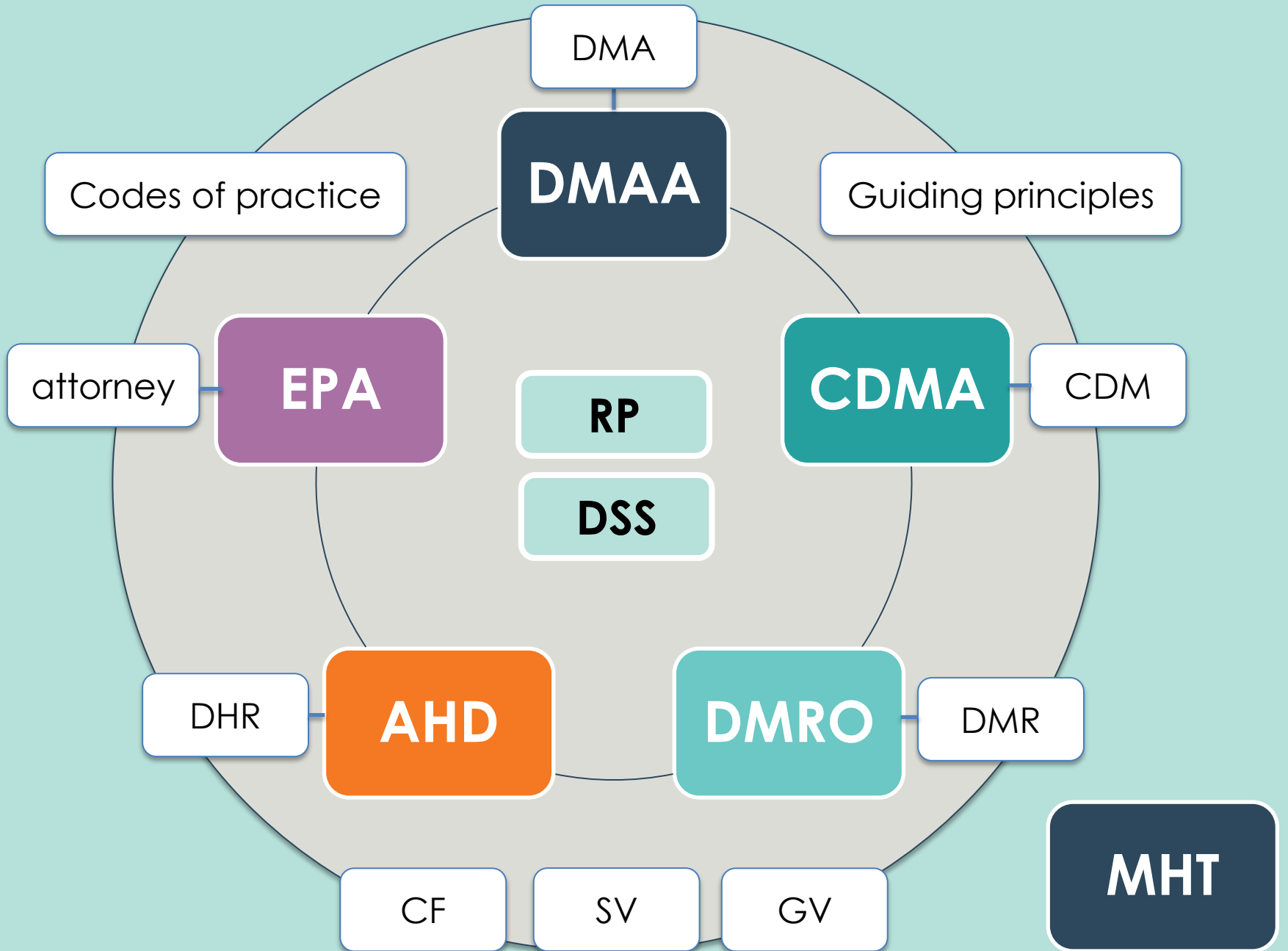


## FROM

- Detention, wardship & involuntary treatment
- De facto detention
- Best interests
- Next of kin

## TO

- Supported, autonomous decision-making
- Advanced planning
- Will and preference



# A new legal framework

## Support arrangements

Assistance

Support

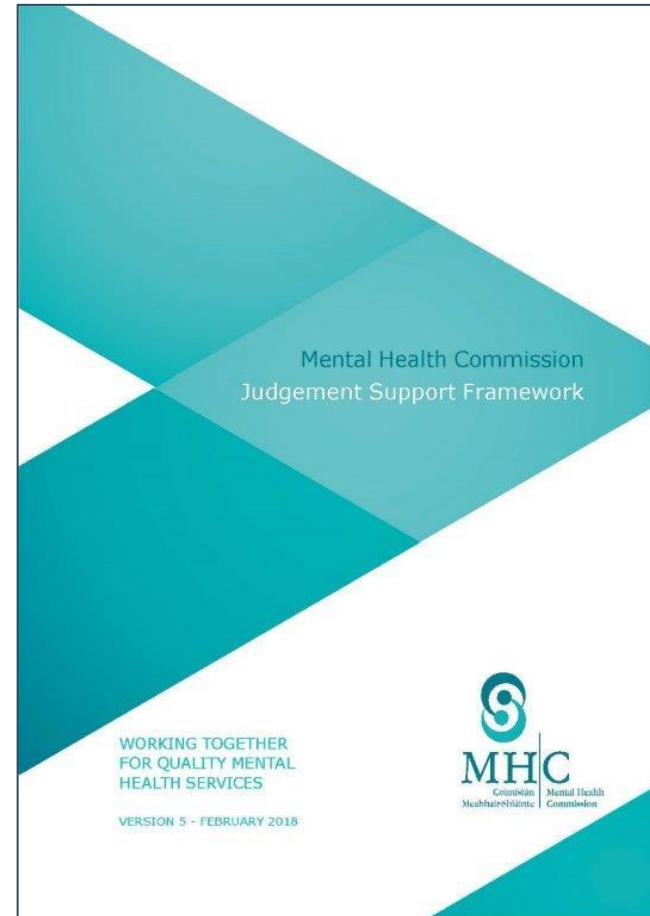
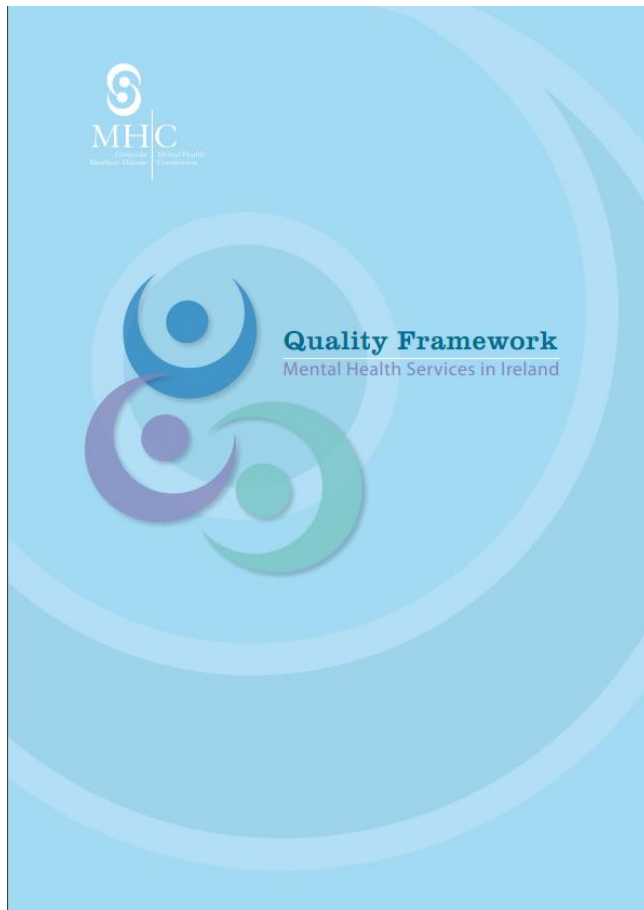
Representation

## Future planning

Power of Attorney

Healthcare

# Current regulatory framework



# Areas of focus - regulated services

- admission, transfer and discharge
- provision of information
- care planning

.....crisis planning?

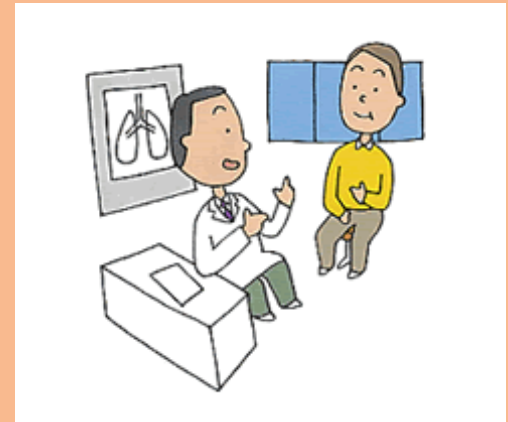
# Admission, transfer and discharge



- informed consent
- admission procedures
- decision support arrangement

# Provision of information

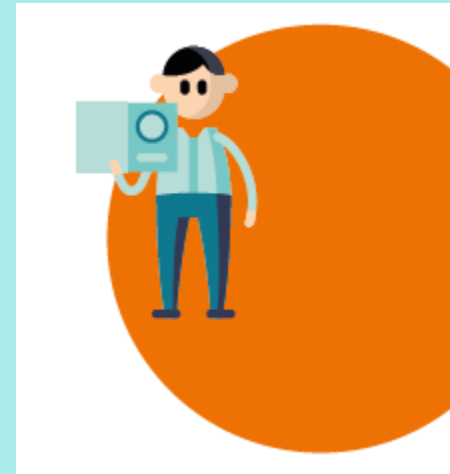
- tailored information
- what, when, how, who?
- medication, medication, medication!





# Care planning

- initial comprehensive assessment
- review meeting
- support to engage



# What can you do now?

- processes
- training and education
- monitoring
- get started...



# Processes



- PPPGs
- Service specific vs. standardised
- Rights-based review

# Training and education

- Understanding processes

- Service champions



- Training needs assessment – capacity assessment, communication, supported decision making?

# Monitoring



- What does success look like?
- What is your starting point?
- Where is the baseline?

# Getting started

- Utilise existing structures
- Forms, templates, checklists
- Start now

**Thank you**

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