



Supported decision-
making:

Having a voice when
change is needed

Claire Stewart, PhD

IHC Advocacy

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Introduction

- Supported decision-making
- Issues and Barriers
- NZ Protection of Personal and Property Rights Act (PPPR)
- Individualised funding
- Questions and challenges



Supported decision-making

- Not new, consistent with citizenship, self-determination, person-centred approaches, circle of friends/support
- UN CRPD: Article 12 – shift from substitute decision-making
- Recognises legal capacity on an equal basis with others
- Obligation to provide support required to exercise legal capacity



Supported decision-making

- Help to understand information and make choices based on own decisions
- Do not lose right to make decisions because may need help
- Support must be provided in a way that respects individual's wishes
- Safeguards to prevent abuse
- Laws and other measures

Rights vs. competence

- Opportunities lost with law reform and ideological progress
- Progressive response that adds value to peoples' lives seldom achieved for disabled people, particularly those with intellectual impairment for lack of two things
 1. Ability of concerned adults to allow people to take supported and managed risks for fear of the consequences
 2. Investment in creative, innovative solutions that accommodate diversity

Philip Patston – Blog 16 July, 2010



Issues and barriers

- Supports, accessible information, total communication approach
- Reluctance to accept people with an intellectual disability as decision-makers
- Cast as passive participants
- Sliding scale of support rather than competent/not competent



Issues and barriers

- Lack of opportunity – difficult to make the ‘big’ decisions when don’t make day-day ones
- Opportunities crucial for maximising capacity
- Teaching skills
- Role of self-advocates and others as supporters

Issues and barriers

- Risk – protecting from mistakes versus being allowed to make mistakes
- Unwise decision making is not incapacity
- Compounded by risk averse society
- Interdependence – being self-determined does not mean that do everything for self or make complex decisions completely independently (Wehmeyer)
- Rights and responsibilities

NZ context PPPR Act 1988

- In its time 'state of the art' – high expectations
- Applied in ways not envisaged by original proponents
- Principle focus protection, promotion of interests of person and encouraging self-determination
- Presumption of competence, must establish incapacity

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NZ context PPPR Act

- Notion of a continuum of competence
- Obligations of Welfare Guardian and Property Manager
- Who benefits from welfare guardianship? (Bray & Dawson, 2000)
- Use in deinstitutionalisation
- Often little understanding of role welfare guardian

NZ context PPPR Act

- Compatibility with supported decision-making?
- UK Mental Incapacity Act 2005 – assume I can, give me the right support, its up to me, is it right for me, I have the same rights as anyone else
- Supports involvement of person and those who love and care about them and provision for Independent Mental Capacity Advocates

Individualised funding

- Individual funding agency - Manawanui in Charge developed 2004
- 2007 scheme progressed from Pilot to become part of nationally available services (limited to home based support)
- Entry criteria – must possess the competence to manage their own support budget, in certain circumstances a relative/appointed person may manage budget
- Uptake slower than anticipated



Individualised funding

- ‘New model’ disability support services
- Implications/obligations for supported decision-making for people with an intellectual disability
- Requires decisions to be made at a number of points
- Building service user capacity, those who are supporting and community capacity
- Accessible information



Questions and challenges

- What changes to legislation, if any, are required in order for NZ to meet obligations Article 12?
- What needs to happen to ensure better support for decision-making?
- How can we maximise opportunities for decision making?
- Further research