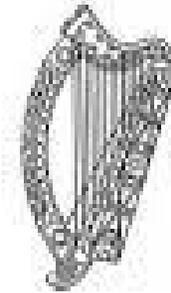




# Sharing the Learning on Capacity Building

Learning from Practice:  
Sharing Experiences from  
Commencing Capacity Applications  
to the Court Room

Katie Lynch  
Principal Social Worker  
14<sup>th</sup> May 2024  
South/South West Hospital Group



*Number 64 of 2015*

**Assisted Decision-Making (Capacity) Act 2015**





# Learning from Practice: Sharing Experiences from commencing Capacity Applications to the Court Room

- Timeframe for Ex Parte HSE Applications
- Case Example A and B
- Sharing Section 139 Experiences (RP Court Attendance)
- Considerations for Practice





# Timeline: HSE Application (Ex Parte), Case A

Capacity Statement (Part 5) completed on **29<sup>th</sup> November 2023**  
(\*completed within 48 hours)

Medical SW requested Legal Support on **30<sup>th</sup> November 2024**

Counsel Accepted Nomination on **23<sup>rd</sup> January 2024**

Ex Parte Consent Granted on **7<sup>th</sup> March 2024**

Supporting Affidavit Sworn on **8<sup>th</sup> April 2024** by Medical SW

1<sup>st</sup> Hearing Date on **29<sup>th</sup> May 2024**

**24 Weeks and Counting!**





# Timeline: HSE Application (Ex Parte) requiring DSS Panel nomination, Case B

Capacity Statement Completed on **9<sup>th</sup> October 2023**

Ex Parte Consent Granted on **8<sup>th</sup> December 2023**

Supporting Affidavit Sworn **24<sup>th</sup> January 2024**

1<sup>st</sup> Hearing Date on **21<sup>st</sup> March 2024**: Adjourned DSS nominations

2<sup>nd</sup> Hearing Date and nomination for DMR: **25<sup>th</sup> April 2024**

**24 Weeks** from Capacity Statement

**Order Awaiting Registration from DSS**

DMR is Restricted in  
Decision Making





## Timeline of HSE Application (Ex Parte)

Timeline for Ex Parte Hearing (after Supporting Affidavit is sworn by MSW and submitted): **4 weeks**

Wait time from Ex Parte Granting until Hearing Date: **10 weeks**

Shortest Length of Capacity Application: **22 weeks (excluding DSS Registration)**

Longest Duration: **26 weeks and Counting**: Case adjourned to 29<sup>th</sup> May 2024

Waiting time for Order for DSS registration: **2.5 weeks to 5.5 weeks**





## Section 139: Relevant Person Shall Attend Court

- In all cases applications for Civil Legal Aid were made by the Medical SW.
- 100% of cases the Section 139: Relevant Person Shall Attend Court was dispensed with.
- In all cases, no use of technology was adopted.
- The Court was satisfied by RP Independent Presentation made the Civil Legal Aid/Legal Aid Panel.





## Considerations for Practice

- What can assist in supporting Capacity Application delays?
  - ✓ Availability of Courts Dates
  - ✓ Integrated process between acute and community social work
  - ✓ Robust ADM Social Worker Case Management
- Ethical considerations when commencing Capacity Applications given the length of time- 4 PRs died before the process was completed.
- DMRs have limited ability to implement decisions until registration is completed- challenges managing Fair Deal/Personal Decisions.
- Differences among Circuit Court applying Section 139

