



Supported Decision-making in Nova Scotia

Prepared for Nova Scotia Department of Justice

October 2025

Table of Contents

SUMMARY	II
INTRODUCTION	1
WHAT IS SUPPORTED DECISION-MAKING?.....	1
DECISION-MAKING IN NOVA SCOTIA	2
ABOUT THIS PROJECT	2
WHAT IS INCLUDED IN THIS REPORT	3
CAPACITY TO MAKE DECISIONS	5
TYPES OF DECISIONS	5
DECISION SUPPORTERS	6
AGREEMENTS	7
SAFEGUARDS AND OVERSIGHT	8
EDUCATION AND OTHER RESOURCES.....	9
EDUCATION AND TRAINING	9
STORING DECISION-MAKING AGREEMENTS	9
CONCLUSION AND PROVIDING FEEDBACK	11

Summary

What is this report about?

Everyone has the right to make decisions about their own life. Some adults may need help to do this, especially if they have a disability or condition that affects their ability to make decisions. **Supported decision-making** is an approach to making decisions that helps adults stay in control of their lives.

This report provides information about how other places in Canada and around the world use supported decision-making. It will help people understand supported decision-making and think about how it should be put in place in Nova Scotia.

What is supported decision-making?

Supported decision-making means that an adult makes their own decisions with help from someone they trust. This help can include:

- Finding and understanding information
- Thinking through options
- Sharing the decision with others

What does the report include?

Supported decision-making has been put in place in different ways across Canada and around the world. This report looks at different parts of supported decision-making:

- **Capacity to make decisions:** Adults are presumed to have the ability (capacity) to make decisions unless proven otherwise. Supported decision-making can be used when adults can make decisions with help.
- **Types of decisions:** Supported decision-making can be used for different kinds of decisions (like health care, money, or personal care). Adults can generally choose the decisions where they want support, but sometimes there are laws or rules that say which decisions can or cannot be included.
- **Decision supporters:** Adults choose their supporters, who must act honestly and follow the adult's wishes. Decision supporters can help gather and explain information, talk through options and consequences, and communicate the adult's decision to others.
- **Agreements:** Supported decision-making agreements are written documents that outline what decisions will be supported, who the supporter is, what information the supporter can access, and how the supporter will help the adult make decisions. Some places require lawyers to review these agreements, but many do not.
- **Safeguards and oversight:** Measures to protect adults from harm or abuse in supported decision-making can include using monitors to oversee agreements,

having more than one decision supporter acting jointly, requiring that agreements be regularly reviewed and renewed, keeping records of decisions, and creating processes for complaints and reviewing decisions.

- **Education and resources:** Education is very important to help adults and supporters understand their roles and responsibilities in supported decision-making. It will also help other organizations like healthcare providers and banks recognize and respect supported decision-making. Having a registry to store decision-making agreements so they can be viewed by others when needed could also be helpful.

Share your thoughts

The Nova Scotia Department of Justice wants to hear from people about how supported decision-making should work in Nova Scotia. You can share your thoughts by [registering for an engagement session](#) or [sending feedback in writing, audio, or video](#). For more information about supported decision-making and how to provide your feedback, please see <https://novascotia.ca/supported-decision-making>.

Introduction

Being able to make your own decisions is an important part of personal freedom and human rights. There are many different laws in Nova Scotia that tell us how adults can make decisions and when other people can make decisions on an adult's behalf. In 2017, a new law, the Adult Capacity and Decision-Making Act (ACDMA), was passed. In 2021, this law was reviewed. The review recommended that Nova Scotia explore how supported decision-making could be included in legislation.

What is Supported Decision-making?

All people need to make many different decisions throughout their lives. These include decisions about their health, where they live, where they work, their money, and their relationships with others. We all need support of different kinds to make decisions. We need information, time to think about our options, and sometimes a trusted person to talk to.

It is important that adults with disabilities or with other conditions that affect their ability to make decisions¹ (we will use the term “adults”) have as much opportunity as possible to make decisions about their own lives. Adults may need help to make some decisions. Some adults need different types of help or more help than others.

Provinces/territories in Canada and other countries around the world have made laws and policies that recognize different levels of support for decision-making. The different levels include:

- **Supported decision-making**, where a decision supporter helps the adult make a decision that follows what they want. The decision supporter can help the adult find information about a decision, understand information about the decision and the consequences of a decision, and share the decision that has been made. The supporter does not make the decision, the adult is the one making the decision with support.
- **Co-decision-making**, where the co-decision-maker makes decisions with the adult. This means that the co-decision-maker and the adult look at the information and make a decision together. In some places, co-decision-makers must be approved or appointed by a court.
- **Substitute decision-making**, where another person decides on behalf of an adult. In some places, a substitute decision-maker (also sometimes called a

¹ People that need help with decision-making could include those with neurodevelopmental disorders (e.g., Intellectual Developmental Disorders, Autism Spectrum Disorder); psychiatric disorders (e.g., Schizophrenia Spectrum and Other Psychotic Disorders, Bipolar and Related Disorders, Substance Related and Addictive Disorders), neurocognitive disorders (including dementia); and traumatic brain injury. Other people not listed here may also need support or help to make decisions.

representative) still needs to consider what they know about what the adult wants (their current or past wishes) or what they would want when they are deciding. A substitute decision-maker may need to be approved by the court.² For example, a representative under Nova Scotia's Adult Capacity and Decision Making Act needs to be approved by the court, but a representative appointed through a power of attorney³ or personal care directive⁴ does not.

Different places sometimes use different words for each of these decision-making approaches. We will use the words in this discussion paper as they are defined in the list above.

Many people know about substitute decision-making. This approach has been used the most in the past. Supported decision-making is different from substitute decision-making. It means that the adult is still making the decision, but they get help from others to do this. Supported decision-making helps adults get the support they need to make decisions. It helps them have control over their lives.

Decision-making in Nova Scotia

In Nova Scotia there are different laws that address decision-making for adults. These include: the Adult Capacity and Decision-making Act, the Adult Protection Act, court rules for litigation guardian appointments, the Hospitals Act, the Involuntary Psychiatric Treatment Act, the Personal Directives Act, the Personal Health Information Act, the Powers of Attorney Act, and the Public Trustee Act. All of these Acts follow a substitute decision-making model. There is currently no formal guidance or authorization for supported decision-making or other shared decision-making models in Nova Scotia's laws.

About this Project

Canada is a party to the UN Convention on the Rights of Persons with Disabilities (CRPD). The CRPD says people with disabilities should be able to make decisions, with support if they need and want it, and have equal rights in property and finances. The Canadian Charter of Rights and Freedoms says that everyone, including people with disabilities, has the right to equal protection and benefit from the law.

² Substitute decision-makers include statutory decision-makers. A statutory decision-maker is anyone who has been given the authority to make decisions through a law. In Nova Scotia, this might include the Personal Directives Act, Power of Attorney Act, the Adult Capacity and Decision-making Act, and others.

³ A power of attorney is a legal document that lets an adult choose someone to handle their money and property.

⁴ A health care directive or personal directive lets an adult document instructions about their care and choose someone to make healthcare decisions for them if they cannot make the decisions themselves.

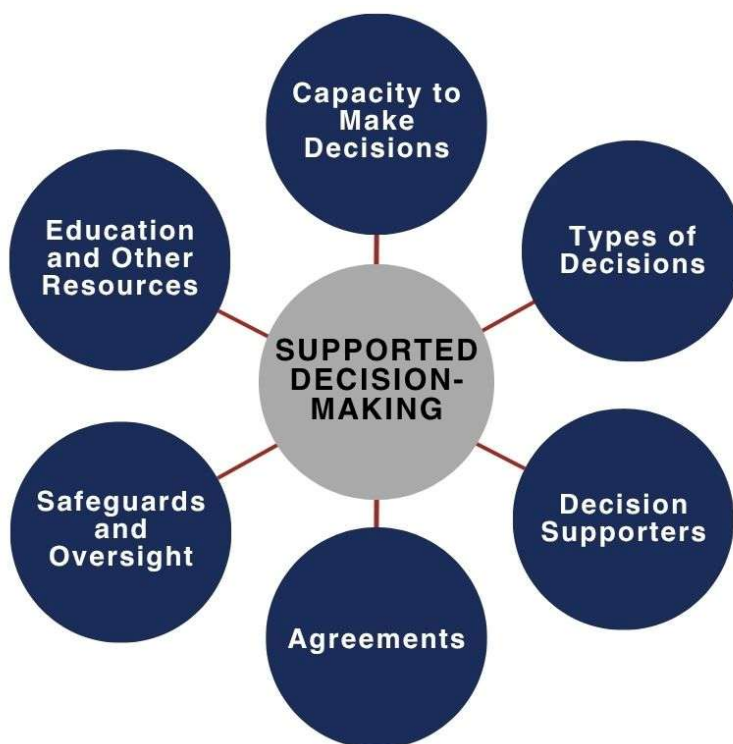
The Nova Scotia Department of Justice wants to review and update provincial laws and policies to better respect and support the rights of adults. Supported decision-making can help with this. The Department of Justice wants to learn about how supported decision-making could be put in place in Nova Scotia. This work is also connected to other work in Nova Scotia to improve human rights for people with disabilities as part of the [Human Rights Remedy](#).

An important part of the project is hearing from people affected by decision-making rules. This discussion paper will help readers understand how supported decision-making has been done in other places so that they can share their ideas and opinions about what supported decision-making could look like in Nova Scotia.

To develop this report, we looked at research and information about how supported decision-making has been put in place in other provinces and territories and other countries around the world. We also interviewed people from other places to see how they use supported decision-making. Other provinces and countries we looked at are British Columbia, Manitoba, Yukon, New Brunswick, Australia, and Ireland.

What is Included in this Report

This report provides information about how supported decision-making has been recognized in law and policy in other places. The report includes a section for each of the main considerations for putting supported decision-making in place. These main areas are described in the image below.



A short description of the information provided in each section follows:

- **Capacity to make decisions:** Describes how the ability to make decisions (capacity) is defined in laws about decision-making.
- **Types of decisions:** Describes the types of decisions that could be made using supported decision-making.
- **Decision supporters:** Describes who could be a decision supporter and what their roles and responsibilities might be.
- **Agreements:** Describes how supported decision-making agreements could be structured and what they might include.
- **Safeguards and oversight:** Describes the measures that could be put in place to make sure adults are treated fairly and protected from harm.
- **Education and other resources:** Describes the education and other resources that are needed to carry out supported decision-making.

Each section of the report also includes reflection questions. These are questions that will be explored through the engagement process. You can visit the [engagement website](#) to learn more about the engagement and find out how to participate.

Capacity to Make Decisions

In Canada, including in Nova Scotia, laws assume that adults have the capacity to make their own decisions, unless there is clear evidence that they are not able to do so. Most of the places we looked at with laws about supported decision-making say that if you have the mental capacity to make decisions with or without support, you have the capacity to create a formal supported decision-making arrangement or agreement.

An adult's decision-making capacity might change over time. Some places consider this in their laws. For example, in British Columbia it is possible to transition from decision supporter to representative decision-maker if someone's capacity changes. In many other places (such as Nova Scotia and Ireland), the law allows adults to plan for a future time when they may lose capacity through other legal tools like powers of attorney and healthcare directives.

Supported decision-making applies while the adult has capacity to make decisions, with support. In contrast, a power of attorney may come into effect when the adult no longer has capacity to make their own decisions (called an "enduring power of attorney"). It is important that there are clear rules about how different kinds of laws about decision-making work and when they apply.

Reflection Questions:

Who might participate in supported decision-making in Nova Scotia?
What requirements or criteria should there be to participate?

Types of Decisions

The types of decisions an adult may need help with are typically in one of three categories:

- **Personal care:** clothing, housing, support services, education, employment, recreation, and social activities.
- **Healthcare:** medical and dental care, treatment, and related services.
- **Financial:** managing money, paying bills, handling investments, and managing property.

Different places may organize or categorize decisions in different ways. There are also differences in what decisions are allowed in supported decision-making agreements. In the laws we reviewed, the adult creating the agreement can identify the types of decisions they want the supporter to help them with. The adult may also be able to identify decisions they *do not* want the supporter to help with. Some places limit the kinds of decisions that can be made using supported decision-making. Specific

decisions may also be governed by other laws or rules. For example, deciding to have medical assistance in dying (MAiD) and deciding to get married both have their own rules that state that a person has to understand what they are agreeing to and give their own consent.

Reflection Questions:

What types of decisions should supported decision-making be used for?
What types of decisions should not be made with supported decision-making?

Decision Supporters

Someone who helps an adult make decisions is called a **decision supporter** (although different places may use different words for this role). Other places with supported decision-making have described principles that decision supporters should follow when helping adults make decisions. Supporters must do what they know an adult would want and prefer (wishes and preferences). This includes following the adult's beliefs and usual way of doing things. Supporters must act honestly and in good faith.

There can be more than one decision supporter for an adult. One supporter may help an adult make some types of decisions and a different supporter could help with other kinds of decisions. Supporters can also work together (jointly) to support decisions.

The decision supporter can provide different kinds of support depending on the needs of the adult. Usually, support provided by decision supporters includes:

- Gathering and helping the adult understand information about a decision.
- Helping the adult think about different choices and understand the consequences of those choices.
- Communicating the decision that the adult has made to others.
- Taking steps to carry out the decision for the adult.

To help the adult make decisions, the supporter may need access to information related to the decision. In some places, laws give the supporter permission to access information about the adult related to decisions the supporter is helping the adult make. This could include information about the adult's health, finances, and personal care. For example, in British Columbia, legislation gives supporters the same access to information as the adult. Supporters have to provide a copy of the supported decision-making agreement before they can access the adult's information. For health records, supporters can complete a form to show they have permission to hear or see the adult's information.

A decision supporter should be someone that the adult already knows and trusts. Generally, an adult is able to choose any other person to be a decision supporter as

long as they do not have a conflict of interest with the person being supported, and the choice of supporter does not need to be reviewed or approved by a court or any other organization. Some places define who has a conflict of interest in their laws and rules about supported decision-making. For example, decision supporters are not allowed to be the adult's employer/manager, someone who works for or who is paid to provide services to the adult, or the Public Trustee.⁵ Decision supporters must also have the capacity (as discussed earlier in this report) to enter into a supported decision-making agreement.

Reflection Questions:

**Who should and should not be able to act as a decision supporter?
What roles and responsibilities should a decision supporter have?**

Agreements

A supported decision-making agreement is a document that describes how supported decision-making will be done. It includes information about the adult, the decision supporter(s), the kinds of decisions that can be made, the information the decision supporter(s) will be able to access to help with decisions, and how the supporter will help the adult make decisions. Many organizations provide templates for supported decision-making agreements.

Different places take different approaches to supported decision-making agreements. In some places, like British Columbia, an adult can make an agreement with their supporter, without involving a court, lawyer, or medical professional. In other places, like New Brunswick, supported decision-making agreements (New Brunswick calls these assisted decision-making agreements) must be signed by a lawyer who must attest to their belief that the adult has capacity to make the agreement.

Typically, if an adult has capacity to make a supported decision-making agreement, they also have capacity to decide to change or cancel (revoke) the agreement.

Reflection Questions:

**How formalized, structured and/or flexible should the process be?
To what extent should courts and lawyers be involved?**

⁵ The Public Trustee manages money and property for people who cannot make their own decisions, handles estates after someone dies, and can make healthcare decisions when needed.

Safeguards and Oversight

Safeguards and oversight are the rules and checks put in place to make sure adults are treated fairly and protected from harm. Safeguards are the protections, and oversight is the monitoring to make sure those protections are followed. Safeguards and oversight protect adults using supported decision-making from abuse and being pressured or controlled.

Supported decision-making does come with some risks, including the risk of abuse and the risk of pressure or influence from the supporter to decide in certain ways. Clearly defining the decision supporter's role, such as what types of decisions they can help with and how they can help can prevent abuse. In existing laws, using supported decision-making for financial decisions (day-to-day finances, investments, property) is often considered to need the strongest safeguards and oversight.

The different safeguards other places use in supported decision-making agreements include:

Monitor: In some places, the adult can assign one or more people to act as a monitor of a supported decision-making agreement. In some cases, this is a required part of the agreement. For example, in British Columbia, when the agreement includes financial decisions, a monitor must be assigned.

More than one supporter: Supported decision-making agreements can include more than one supporter. The agreement can require supporters to work together to support decisions. This reduces the risk of pressure or influence from one supporter.

Expiry date for agreements: In some places, the supported decision-making agreement will expire after a specific period of time. The length varies depending on the place and circumstance. For example, in Yukon, if the supporter helps the adult manage their finances, the agreement automatically expires after one year and must be renewed for the agreement to continue.

Records: In some places, supporters are required to keep records of decisions made with support. For example, in New Brunswick, if the court appoints a supporter to help with financial decisions, the supporter must keep financial records (such as bank statements and receipts) that show the actions taken because of supported decisions. A supporter may have to share these records with the person they support or, in some cases, with the court.

In some places, when there are problems with supported decision-making, a complaint can be made to a public organization, who will investigate. In some provinces/territories in Canada a role like this may be played, in limited circumstances,

by the Public Guardian and/or Trustee. In Ireland, a dedicated agency (the Decision Support Service) was created to support different decision-making arrangements, and they also investigate complaints. If an agreement includes a monitor, the monitor checks in on decisions and can also report any problems.

Reflection Question:

What should be in place to make sure that people who use supported decision-making are protected and their rights and decisions are followed?

Education and Other Resources

To make sure supported decision-making works well, other places have put different kinds of supports in place.

Education and Training

Supported decision-making is a newer approach to decision-making. Because it is a different approach, education and training about supported decision-making is very important. This will help adults and decision supporters understand what supported decision-making is, how it can be used, and how to create supported decision-making agreements. It will also help other organizations and people who may interact with the adult and their decision supporter (called **third parties**) understand supported decision-making. These other people/organizations could include people that provide services to the adult such as healthcare providers, financial institutions, disability support providers, lawyers, and others.

For adults and supporters, education materials that could be helpful include plain language guides with step-by-step instructions on how to create supported decision-making agreements, as well as workshops, videos, and information sessions.

Third parties that interact with adults and decision supporters need education about the information they can provide to supporters to help make decisions and what is required for them to provide this information.

Storing Decision-making Agreements

Another consideration is how decision-making agreements should be managed or stored. In British Columbia, a non-profit organization (Nidus) keeps a voluntary online registry where people can store different agreements related to decision-making, including supported decision-making agreements. Authorized third parties can search the registry to confirm that a supported decision-making agreement is in place. In Ireland, the Decision Support Service keeps a registry of some decision-

making agreements (co-decision-making, substitute decision-making) but supported decision-making agreements do not need to be registered.

Reflection Questions:

What should be in place so that people know about supported decision-making, including those that might use supported decision-making and third parties?

What other supports are needed to help people use supported decision-making?

Conclusion and Providing Feedback

This discussion paper gives information about different aspects of supported decision-making. It will help people in Nova Scotia understand supported decision-making and think about how it should be put in place in Nova Scotia.

You can provide your thoughts about how supported decision-making should work in Nova Scotia by [registering for an engagement session](#) or [sending feedback in writing, audio, or video](#). For more information about supported decision-making and how to provide your feedback, please see <https://novascotia.ca/supported-decision-making>.