



**NATIONAL ADVOCACY  
SERVICE**

**FOR PEOPLE WITH  
DISABILITIES**



# Shortchanged: Barriers to Financial Autonomy for People with Disabilities in Ireland



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# Foreword



**By Joanne Condon, National Manager  
National Advocacy Service for people with disabilities**

Despite significant advances in progressing the rights of people with disabilities in Ireland over the past decade, it has become increasingly apparent through our work at the National Advocacy Service (NAS) that many people with disabilities continue to face significant challenges in exercising their financial autonomy and rights; of our total advocacy work in 2022, 14% alone was focused on supporting people with financial advocacy issues. This figure was 12% of cases in 2023. Despite this, there is little written about this issue in an Irish context. As a result, in 2023 NAS chose to focus in depth on this systemic issue. Alongside this social policy paper, NAS has produced an Easy-to-read, 'My Money, My Rights, My Options' document<sup>1</sup>, a tool aimed at supporting people to understand their rights in relation to finances. NAS has participated in a national Banking Roundtable event aimed at generating solutions to many of the issues identified throughout this paper. NAS has also undertaken extensive key stakeholder engagement and collaboration with multiple organisations and individuals. These inputs, captured within the paper, reflect the widespread nature of this issue right across Ireland.

NAS, which is funded by the Citizens Information Board (CIB), focuses on ensuring that the rights of people with disabilities are upheld. We provide people with disabilities across Ireland with an independent, professional, and free advocacy service that helps people to have their voices heard, make decisions, and live their lives independently.

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<sup>1</sup> 'My Money, My Rights, My Options' easy-to-read document is available on [www.advocacy.ie](http://www.advocacy.ie) and by requesting a physical copy from an advocate or through the National Advocacy Service National phoneline (0818 073 000) or via email [info@advocacy.ie](mailto:info@advocacy.ie)

We were delighted to secure funding from CIB under the Social Policy Grants Scheme to produce this important social policy paper. The paper aims to give voice to the experiences of those we support to detail the myriad of barriers that many people with disabilities face when managing and accessing their finances. The report captures the key role that Independent Advocacy plays in supporting people to overcome such challenges and barriers.

The examples provided throughout this report aim to paint a clear picture of the nature of the types of challenges that many people with disabilities face in relation to financial autonomy. We hope the paper will raise awareness of and contribute to generating a discussion on this important issue, particularly considering the commencement of the Assisted Decision-Making (Capacity) Act (ADMCA) in 2023 and the focus it puts on supporting people to exercise their capacity. Our hope is that the paper will promote positive systemic change and ultimately a move to a more human rights-based, person-centred approach right across the banking, health, and social care sector. This is fundamental to seeing people with disabilities taking charge of their own lives and developing their own distinctive personhood in line with the United Nations Convention on the Rights of People with Disabilities (UNCRPD).

I would like to sincerely thank the NAS Social Policy Project team who worked hard to produce this paper, led by Regional Manager, Micheál Walsh. I would like to recognise the excellent advocacy work that is undertaken consistently by all the staff of NAS in supporting people to overcome financial barriers and challenges. I wish to acknowledge the many valuable contributions to this document from all of the agencies and stakeholders who provided feedback and input, particularly our Australian colleague Harry Rutner, who is a disability advocate and was previously a solicitor at the Australian centre for disability law. Harry contributed valuable insights on this same issue from another jurisdiction. I would also like to thank CIB for their support in funding the work.

Thank you,

**Joanne Condon**

**National Manager**

**The National Advocacy Service for People with Disabilities**

## Introduction

	<p>This report is by the National Advocacy Service for People with Disabilities.</p> <p>The National Advocacy Service for People with Disabilities is called NAS for short.</p>
	<p>NAS helps people with disabilities have their human rights met and their voices heard.</p>
	<p>This report is about the rights of people with disabilities to have access to their own money.</p>
	<p>NAS has worked with many people who have difficulties accessing their money.</p>
	<p>This report talks about some of the issues people have experienced when they have tried to access their money.</p>
	<p>This report also talks about changes that could help people access their money more easily.</p>
	<p>You can find out more about your money rights in our easy-to-read booklet called 'My Money, My Rights, My Options.'<sup>2</sup></p>

<sup>2</sup> ibid, page 7

## Financial Services Issues

	<p>Not all staff in Financial Services are aware of the human rights that people with disabilities have around their money.</p>
	<p>Staff can sometimes think that a person with a disability cannot manage or make decisions about their own money.</p>
	<p>The computer systems being used by these services are not always easy for people with disabilities to use and can stop them using the service.</p>
	<p>How these services communicate with the public is not always easy for some people with disabilities to understand.</p>
	<p>Not all people with disabilities have the photo identification they need, such as a passport or driving licence to use these services or open an account.</p>
	<p>Services can sometimes see people with disabilities as vulnerable and needing to be looked after instead of people with the same rights as everyone else.</p>

## Changes NAS Would Like To See Happen

	<p>Training on human rights and disability rights for staff in Financial Services.</p> <p>Training on the Assisted Decision-Making (Capacity) Act.</p>
	<p>Staff should talk and listen to people with disabilities so they can make their services accessible to everyone.</p>
	<p>Financial Services should allow other types of photo identification.</p>
	<p>Staff should treat people with disabilities as equal citizens and respect their rights.</p>

## Third Party Control of People's Finances Issues

	<p>Other people - third parties - sometimes support people with disabilities around their money.</p>
	<p>There can be a plan between the person and these third parties. NAS knows there are some good plans which work very well for people with disabilities.</p>
	<p>However, NAS knows there are also plans which do not work very well for some people with disabilities.</p>
	<p>This happens when:  The person did not agree to the plan on how their money is looked after.</p>
	<p>Some third parties think they have the right to make all the decisions about the person's money.</p>
	<p>Some third parties do not let the person access or spend their own money on what they want or need.</p>
	<p>The person is not getting help to learn about how to look after their money or being given information about their money.</p>
	<p>Some third parties may make the person feel that they must choose between having a relationship with them or accessing their own money.</p>
	<p>Some third parties who are an agent and collect the person's social welfare payment, and do not let the person have this money.</p>

	<p>Some third parties do not let the person collect their own social welfare payment.</p>
	<p>Sometimes if a third party does not look after another person's money in the way they should, this is called financial abuse. You can read more about this in the section called: <a href="#">‘Responses to Financial Abuse Issues’</a>.</p>

## Changes NAS Would Like To See Happen

	<p>Third parties should not assume the person cannot look after their own money because they have a disability.</p>
	<p>People should be allowed to use the skills they have to look after their money, or people should be supported to learn new skills to do this if they need it.</p>
	<p>Everyone should know about the rights of people with disabilities and their money. NAS has an easy-to-read booklet on this.</p>
	<p>Information and support should be provided to third parties to make sure they understand disability rights.</p>
	<p>The Department of Social Protection should look at the best supports for people who need help to collect their weekly payment.</p>
	<p>The Government should review rules around supporting people to look after their money.</p>

**Responses to Financial Abuse Issues**

	<p>Sometimes families and services do not fully understand what financial abuse is. For example, they might think it is OK for someone’s family to have their money just because they have a disability.</p>
	<p>If someone needs help with managing their money, there is a bigger chance that financial abuse might happen. This is because they might have less control of their money and know less about their money.</p>
	<p>If financial abuse is happening to someone then there should be support given to the person.</p>
	<p>There should be a plan made with the person. This is called a safeguarding plan. This is a plan about how to stop the abuse happening.</p>
	<p>This safeguarding plan should be made with the Designated Safeguarding Officer in the service or a social worker from the Health Service Executive (HSE) Safeguarding and Protection Team.</p>
	<p>Sometimes these safeguarding plans can work very well.</p>
	<p>However, sometimes they do not because people are not involved or being listened to about their own plan.</p>

	<p>All safeguarding plans should be person-centred. Sometimes people or services do not know that they can ask for an Advocate to help them with their safeguarding plan.</p>
	<p>Sometimes the part of the country you live in means you might have to wait to get a safeguarding social worker.</p>
	<p>Sometimes it is hard to get the service and the HSE to agree on who should be helping.</p>

## Changes NAS Would Like To See Happen

	<p>New laws should be brought in to make it very clear what the rules are around financial abuse and about safeguarding.</p>
	<p>Safeguarding Protection Teams should have more staff so they can help people quicker.</p>
	<p>There should be an Independent Oversight Body to make sure safeguarding is being done properly.</p>

## Managing Finances in Service Settings Issues

	<p>Some services do not give people information on their money and how to look after their money in an accessible way.</p>
	<p>Some services do things that can make someone's quality of life worse.</p>
	<p>Some services have policies that are not empowering for people with disabilities.</p>
	<p>Some services make decisions about people's money without the person's permission, or allow families to make decisions about money belonging to people with disabilities.</p>
	<p>Some services can focus too much on protecting people, their money and their property and do not listen to what the person wants.</p>
	<p>Services do not always support people in line with the Assisted Decision-Making (Capacity) Act to help them make their own decisions.</p>
	<p>Some services listen to what other people think about how a person should spend their money, and do not listen to the person themselves. An example of this is what clothes a person can buy.</p>

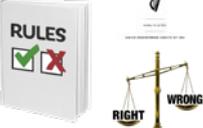
## Changes NAS Would Like To See happen

	<p>Services must support people in line with the United Nations Convention on the Rights of People with Disabilities (UNCRPD) and Assisted Decision-Making (Capacity) Act. These laws are about people’s rights and about how to support people to make their own decisions.</p>
	<p>Making sure everyone knows about people with disabilities' rights around their money. NAS has an easy-to-read booklet on this.</p>
	<p>Services should be more aware of how the things they do can impact a person’s quality of life.</p>
	<p>Information on how a person is supported to look after their money and how this was agreed with them should be in their personal plan. This should say if the person wishes for their family to support them with money or not.</p>
	<p>The Health Act 2007 should be reviewed to have more rules for services to make sure they are supporting people better with their money. This would help The Health Information and Quality Authority (HIQA) during inspections of services.</p>

## Discrimination and Equality Issues

	<p>There are laws in place like the Equal Status Act and the Assisted Decision-Making (Capacity) Act.</p>
	<p>These laws say that people must be treated fairly and have the right to have and use their own money.</p>
	<p>Sometimes, the people working in Financial Services think that a person with a disability is vulnerable.</p>
	<p>This means they think a person with a disability cannot use their own money without the help of someone else.</p>
	<p>When this happens, a person with a disability might not be able to use their own money the way they want to or may not be able to open their own account.</p>
	<p>Financial Services are now also getting people to use technology to do their banking.</p>
	<p>This technology is not always accessible to people with disabilities so they cannot access their money like other people can.</p>
	<p>This all means people with a disability are not treated fairly. This could lead to discrimination.</p>

## Changes NAS Would Like To See Happen

	<p>Everyone should be told about the Assisted Decision-Making (Capacity) Act so they understand the rights people with disabilities have around their money.</p>
	<p>Financial Services must make sure they obey the rules of the Equal Status Act and the Assisted Decision-Making (Capacity) Act.</p>



# Methodology

As this paper examines the barriers that people with disabilities face in relation to managing and accessing their finances, the key thrust of the document is to give voice to the lived experiences of those The National Advocacy Service for People with Disabilities (NAS) supports. The views of people NAS has supported were gathered through informal engagement by their Advocates. Both quantitative and qualitative methods of data collection were used. Desk-based research consisted of a review of NAS' electronic case management system reports, examination of relevant policy, regulatory and legal and contextual information. Additionally, while this paper was chiefly concerned with the experiences of people with disabilities, it was also important to receive input from other key stakeholders who have relevant experience and knowledge in this area. NAS therefore circulated a short questionnaire to a number of key stakeholders across a broad range of disability-related and Financial Services, these included: the banking sector, residential services and day services, The Health Service Executive (HSE) Disability Teams, The Health Information and Quality Authority (HIQA), other advocacy services, The Independent Living Movement Ireland (ILMI), academia, The Decision Support Service, Disability Federation of Ireland (DFI), Inclusion Ireland, An Garda Síochána, HSE Safeguarding and Protection team personnel, legal professionals, The National Federation of Voluntary Bodies Providing Services to People with Intellectual Disability (FEDVOL), Safeguarding Ireland, HSE Human Rights and Equality Policy Office, among others. A total of 32 questionnaires were distributed and a total of 12 completed questionnaires were returned to NAS. Quotations and insights obtained from returned questionnaires are included throughout the report.

Input from Harry Rutner, Australian Disability Advocate and Human Rights Solicitor was also sought as it provided useful comparative insight into similar challenges faced by people with disabilities within another jurisdiction – Australia.

Report findings are also based on the collective knowledge and experience of NAS Advocates supporting people with financial issues right across Ireland over many years. Figures for NAS advocacy work on financial-related issues in 2022-2023 are as follows and provide some context on the sample size that many of the observations and findings in this report are drawn from:

Advocacy Issue	2022 Total number of active cases	2023 Total number of active cases
Access to and management of own money	118	141
Accessing financial products	17	17
Supporting input to safeguarding plans	46	74
Debt-related issues	15	21
Succession, wills, and trusts	27	36
Advocacy work relating to having own bank account (issues with)	29	31
Financial/material abuse	24	32
<b>Totals</b>	<b>276</b>	<b>352</b>

The total overall number of new enquiries to the service in 2022 was 3021 and in 2023 was 3125. Of these new enquiries, NAS receives many enquiries relating to financial issues.



## Executive Summary

This report has been developed by the National Advocacy Service for People with Disabilities (NAS). NAS has a particular remit for adults with disabilities who communicate differently, are inappropriately accommodated, are in residential services, and/or are isolated with limited informal or natural supports.

The report highlights the systemic barriers people with disabilities across Ireland face in accessing their own finances. The findings detailed throughout reveal that discrimination on the grounds of disability is a concern in current banking practice and that people with disabilities face multiple obstacles with basic banking tasks that often prevent them from exercising their autonomy to manage their own finances. Equally, the move towards digitalisation in the banking sector has meant that online platforms, complex authentication requirements, a lack of accessible information, such as easy-to-read formats, and automated customer support can all contribute to excluding some people with disabilities from accessing their finances. NAS has also found in its work that the financial sector tends to be overly focused on people with disabilities as ‘vulnerable’ customers rather than citizens with rights.

The advocacy cases throughout reveal the extent of this issue. In some situations, people are completely excluded from accessing their own finances. In other cases, people were provided with a portion of their money but not all, which results in limiting their autonomy and life choices. Some people with disabilities even experience financial abuse from service providers or trusted third parties. The trend of problems emerging is consistent across Ireland and NAS has been contacted by numerous people, their families, and services, all



calling for major change and progress on this issue. All the feedback from professionals contained in this document has come on the foot of research carried out by NAS via a questionnaire with key stakeholders. Some of their feedback has been included to complement the stories and voice of NAS, and the experience of the people we are working with. In addition, the ADMCA now places an onus on all areas of society to treat people with disabilities equally. The report recommends a move away from a paternalistic and medicalised view of people with disabilities to recognising people with disabilities on an equal basis, as rights holders in line with the United Nations Convention on the Rights of People with Disabilities (UNCRPD).

An easy-to-read booklet entitled ‘My Money, My Rights, My Options’ accompanies this report and aims to support people to understand their rights when it comes to their finances.

Denial of financial autonomy and restrictions on people’s own money can cause great distress and anxiety. It is imperative that Financial Services uphold the person’s rights, ensuring fair and equal treatment. Throughout this publication, the experiences of our Advocates show the key role that Independent Advocacy plays in supporting people to realise their human rights.

This paper outlines recommendations for improvements in the following areas based on the lived experience of people with disabilities supported by NAS: **Financial Services Issues, Third Party Control of People’s Finances, Responses to Financial Abuse of People with Disabilities, Managing Finances in Service Settings, and Discrimination and Equality Issues.**



## Key Findings

- People with disabilities are often directed to the ‘vulnerable customer units’ in financial institutions, when opening or accessing banking accounts and products, purely on the basis that they have a disability. Such an approach is discriminatory and based on assumptions and is not rooted in a rights-based approach to banking.
- People with disabilities are often encouraged to open a joint bank account with a third party to help them to manage their money. This may be recommended without it being fully explained to the person or considering their wishes fully. This could be construed as discrimination on the grounds of disability.
- People with disabilities are frequently being asked to ‘prove’ that they have capacity to manage their money in order to be permitted to open a bank account or manage their money.
- Sometimes people with disabilities are not afforded access to their bank statements or are prohibited from closing their bank account because they have a disability.
- There are times when Carer’s Allowance or Disability Allowance can be viewed as a source of income for third parties and as a result people can sometimes face significant duress by third parties in relation to their finances.
- In some cases, control over a person’s money by third parties is facilitated, despite it not being legitimate (where there is no Enduring Power of Attorney or Decision Support arrangement in place). This stems from false beliefs about the assumed authority and rights of Next of Kin, yet there is no legal basis in Ireland for Next of Kin decision-making.
- NAS has witnessed many instances where savings have been removed from people’s bank accounts to unknown locations by third parties without any paperwork or appropriate accountability to support this decision.
- People with disabilities can face issues with agent arrangements for Social Welfare Payments, where they are unhappy with arrangements, are not benefiting from the money directly and so on.
- Digital exclusion from essential Financial Services for people with disabilities can occur due to complex authentication requirements, inaccessible information, and online automated customer support systems.

# Key Considerations To Help People With Disabilities Overcome Barriers To Accessing Their Money

- There must be a human rights-based approach to banking in accordance with the UNCRPD/Equal Status Act. This means moving away from a paternalistic and/or medicalised view of people with disabilities in the finance sector to recognising people with disabilities on an equal basis, as rights holders.
- NAS has identified an over focus on people with disabilities as ‘Vulnerable Customers’. The Financial Services sector needs to adopt a human rights-based approach to banking as an alternative.
- There must be a clear distinction between safeguarding issues (abuse issues) and rights issues.
- This report finds there is a need for robust monitoring systems in services supporting people with disabilities and Financial Services to ensure a standardised human rights-based approach to enhance best outcomes for the person involved.
- There is a fundamental need to challenge assumptions and approaches broadly to how people with disabilities are supported.
- Everyday supports people may have, and are happy with, should not change and become overly legal as a result of the ADMCA.
- Care must be taken with specialised financial products such as carer’s cards and other such similar banking products to ensure that they do not unintentionally restrict people’s rights.
- Digital banking systems should be co-designed with people with disabilities, offering additional supports or exemptions where necessary to ensure accessibility.
- NAS recommends targeted training initiatives for bank staff as they develop their understanding of the new ADMCA legislation and how it translates into service provision and interaction with customers.
- Services similar to Dosh (Financial Advocacy Service) in the UK, which supports financial education and capacity building alongside financial advocacy for people with disabilities, should be replicated in Ireland.

# Theme-Based Considerations

Further to the overarching key findings and key considerations as detailed above, the report highlights the depth and breadth of barriers that exist for people with disabilities in Ireland accessing their finances. This is evidenced by the stories and voices of the people who request support from NAS. Report findings have therefore been broken down into five further key sub-themes below, summarising the key issues and findings in more specific detail.

## 1. Financial Services Issues

Whilst clear willingness exists within the Financial Services sector to respond to identified challenges, there are still some difficulties that prevail which greatly impact people with disabilities.

- a. There is a lack of familiarity with the guiding principles of the ADMCA amongst frontline banking staff. This can lead to a barrier for some people with disabilities in opening, accessing, and closing bank accounts. Further **training to all staff in Financial Services is required to build familiarity with the guiding principles of ADMCA** and see the principles fully incorporated into day-to-day banking practices.
- b. There are insufficient levels of engagement and consultation with people with disabilities, particularly when there are changes to website interfaces and apps, which can lead to digital exclusion. **Regular consultations with people with disabilities in the design and development of new interfaces and apps is key to achieving greater levels of accessibility of banking interfaces.**
- c. Accessible information on Financial Services and products is still hard to come by and phone services are not always suitable for every person with a disability. This can make it difficult for people to fully understand the services they are being offered. **Regular reviews of accessibility by Financial Services to look at literature, websites and phone lines will support optimisation of access for people with disabilities.**

- d. Some people with disabilities are precluded from the basic right to open a bank account due to a lack of acceptable ID format. Financial Service providers often only accept a passport or driving licence. **A solution is required to identify a range of identification formats** within the Financial Services sector that will satisfy legislative requirements that considers that not all people with disabilities have traditional forms of identification.
- e. Language used to refer to people with disabilities in financial institutions can sometimes be deficit-led and paternalistic e.g. ‘vulnerable customers’. This is not in keeping with the human rights-based approach outlined in the UNCRPD or ADMCA. **A more progressive, rights-based approach to the language used by Financial Services in how they refer to people with disabilities is required.**



## 2. Third Party Control Of Finances

NAS and many of the people with disabilities who contributed to this social policy paper noted the excellent support they received from many third parties like staff, family, and friends, particularly in helping them to manage and access their finances. Notwithstanding this there were also many examples of third parties controlling people's money and, in some instances, financially abusing people. This took place through actions like not releasing people's full funds to them, restricting access, or denying them the right to spend their money as they wished. NAS notes the following key findings:

- a. There needs to be a **stronger focus in general on supporting people with disabilities who need it to understand their rights in relation to finances and to build their financial capacity**. More initiatives across the Health and Social Care Sector would greatly benefit people to build capacity on a wide range of areas like budgeting, saving, use of cash, online purchasing, use of ATM machines and online banking among others.
- b. **Organisations that support people with disabilities should commit to raising awareness about people's financial rights** to staff, parents, and other supporters and/or key stakeholders to continually promote the rights of people with disabilities to manage and be in control of their own money.
- c. While for some people the use of social welfare agents can prove very effective, NAS has seen instances where there are complex issues with such arrangements. **The Department of Social Protection should consider more frequent and robust reviews of agent arrangements at regular intervals to increase overall accountability levels with nominated agents**.
- d. **The Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (children and adults) with Disabilities Regulations 2013) are overdue to be updated** to align them with the UNCRPD and ADMCA. Regulatory bodies need to be enabled to more robustly review financial arrangements that are established between people living in services and third parties.

### 3. Responses To Financial Abuse Of People With Disabilities

In this section, the policy report examines the responses people with disabilities received when reporting financial abuse or alleged financial abuse. NAS found some excellent individual responses, that were person-centred, where the voice of the person was heard, robust support was offered, and a successful outcome was achieved. In contrast, NAS also found great variation in the nature of the responses people received when reporting financial abuse. Some remained in a situation of abuse for prolonged periods. NAS notes the following challenges:

- a. **There is a need to develop clear person-centred legislation to support and underpin the work of Safeguarding and Protection Teams.** Any such legislation must ensure it promotes a person's autonomy to the greatest extent possible.
- b. There is **huge variation in how the role of designated officers for safeguarding operate across the health and social care sector.** A consistent approach is needed to ensure national policy and procedure is being correctly adhered to and implemented and people are receiving the type of support they need and want in response to instances of abuse.
- c. **HSE Safeguarding and Protection Teams are not adequately resourced** to ensure people consistently receive prompt and comprehensive responses and support to instances of abuse.
- d. Independent Advocacy plays a critical role in supporting people who are experiencing financial abuse. Therefore, **Independent Advocacy must continue to be a central feature of all initiatives and reviews** which aim to stop financial abuse. Independent Advocacy should also be encouraged for people who are experiencing financial abuse and require the support or intervention of an Independent Advocate. **Advocacy should be a key priority in the programme for Government** in the coming years.
- e. **A co-ordinated, independent oversight of the current structures and systems pertaining to safeguarding practices in Ireland is required.** Such oversight must be wholly focused on improving people's quality of life and result in meaningful outcomes and positive change for the person experiencing abuse. The new HSE Health Regions (formally Regional Health Areas) structure offers real opportunity to introduce such a new oversight framework.

## 4. Managing Finances In Service Settings

NAS works in all types of service settings across Ireland. NAS has witnessed some excellent practice across disability services in promoting people's financial autonomy and building their financial capacity. As the examples of those illustrated in this report will demonstrate, this is not always the case and yet services have an integral role to play in promoting people's rights. Key findings are as follows:

- a. **Disability services could play a more proactive role in awareness raising campaigns** aimed at providing people with information to help understand their rights in relation to money and to build people's capacity to manage their own money.
- b. **Staff training initiatives** on supporting financial autonomy, in line with people's rights under the UNCRPD and ADMCA should be offered by services to health and social care staff to ensure they are adequately resourced to provide the support people may require.
- c. **Person-Centred plans in services should clearly document how people are being supported to gain financial autonomy** (to the greatest extent possible) and where a person requires support this should be detailed to evidence an approach that is person-led and in line with the principles of the ADMCA.
- d. **The Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities Regulations and the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2022 should be reviewed** to include more robust detail on individual financial arrangements and the obligation on services to maximise financial autonomy and evidence same.
- e. **Services must ensure that individualised financial support plans are put in place for each person.** All supports should be person-centred, and the type of support offered must be the one most suited to every individual's unique needs.

## 5. Discrimination And Equality Issues

It is clear from the experiences of those NAS supports that discrimination and equality issues persist for many people with disabilities in their engagements with the Financial Services sector. Key findings include:

- a. **Ongoing effort and planning is required to ensure that the new Assisted Decision-Making supports, and processes, are communicated to relevant persons, their supporters, and to Financial Services providers and professionals** in an appropriate, consistent and easy-to-comprehend manner.
- b. **Financial institutions must ensure compliance with the Equal Status Act, the ADMCA and the Public Sector Duty** (Irish Human Rights and Equality Commission Act 2014)



## Key Challenges

1. In all case examples throughout this document, intervention and support by NAS Advocates has resulted in positive outcomes for persons with disabilities who required support. Independent Advocacy plays a crucial role in upholding people's rights, ensuring fair and equal treatment and access to Financial Services.
2. NAS should continue to be seen as an expert organisation and further supported to ensure that it can continue its work in supporting people with disabilities to exercise their financial autonomy.
3. Consultation with a range of key stakeholders affirmed the significant challenges that people with disabilities are experiencing on a broad scale in relation to access to money in Ireland. This includes lack of accessible Financial Services, lack of understanding of some Financial Services staff and a lack of awareness and application of the principles of the ADMCA in the delivery of many Financial Services.
4. There is currently a paradigm shift happening in Ireland regarding the presumption of capacity and the understanding that all people should be empowered to make their own choices. Whilst NAS has always worked from this human rights-based approach, the ADMCA now places an onus on all of society to view people with disabilities as equal citizens. This should therefore be the context of any decision or support offered to a person with disabilities in relation to their money moving forward.
5. People with disabilities continue to regularly be referred to as 'vulnerable'. This is not in keeping with a social model of disability. The social model recognises a person is made vulnerable by the systems, structures, attitudes and sometimes people around them, rather than the medical model where people are viewed as being inherently 'vulnerable'. This medical view tends to lend itself to a paternalistic approach to people, where they need to be protected, rather than supported. It can also lead to assumptions that people with disabilities cannot do certain things. Changing such discourse is key to removing barriers to create equality and promote independence, choice, and control regarding people's money.

# Contextualising Finance Issues For People With Disabilities In Ireland

Before exploring the challenges that people with disabilities in Ireland face in accessing and managing their own money, it is important to understand the historical context in which such problems arise. Rarely do rights infringements exist in a vacuum, rather they can be traced back to how society has viewed or treated groups of people over time. As a cohort, people with disabilities in Ireland have historically experienced ‘othering’. This ‘othering’ treatment generally involved a common dynamic within relationships where people with disabilities were subordinate to other citizens, which generally resulted in the exclusion, marginalisation, infantilisation and loss of opportunities for people. This history of discriminatory practices informed the discourse in Irish society that people with disabilities were somehow inferior to people without disabilities or that they did not possess the same capabilities and ought to be the recipients of ‘charity’.

People with disabilities in Ireland were very often historically placed in large, generally remote institutions, and were kept separate from society, with daily tasks done ‘for them’ rather than ‘with them’. This had the effect of further compounding the concept that people with disabilities were ‘different’. The *Time to Move on from Congregated Settings Report; A Strategy for Community Inclusion (June 2011)* outlined a national plan and associated change programmes for moving people from congregated settings to the community in line with Government Policy. A seven-year timeframe was planned for full implementation of the report’s recommendations. Yet, based on inspection of designated centres for people with disabilities, HIQA reported that 2,279 people were still resident in congregated settings at the end of 2022. Progress has therefore been slow in seeing the implementation of the report.

Many people with disabilities in Ireland are supported by family carers. It is important to acknowledge that many parents and family members end up fulfilling roles and responsibilities in supporting adults with disabilities, particularly those living at home, often with little support themselves. A report by Family Carers Ireland – *Ireland state of caring 2022* – presents an overview of high-level national findings from a snapshot survey of what caring is like in 2022. The report set out that 68% of carers they surveyed experience

financial distress, 13% of carers are in arrears with their rent or mortgage and 16% are in arrears with utility bills. By comparison, 7% of the general population in Ireland were in arrears with their rent or mortgage payments and 8% in arrears with utility bills in 2020. This highlights that whilst people with disabilities face multiple challenges in terms of exercising their financial autonomy, the issue can be further compounded when those supporting them are also themselves facing significant financial and other challenges. These challenges have been further exacerbated by cost-of-living increases and have led to many family carers facing unprecedented levels of financial stress and worry. The report further highlights that 2 in 3 family carers (68%) surveyed were unaware of the ADMCA. This points to the need for additional supports to be put in place as a priority to help carers to meet their obligations under the Act and to understand the key change it seeks to secure.

The prevailing attitude and practice in Ireland of ‘doing for’ people with disabilities outlined previously, has led to broad-based assumptions that many people with disabilities are incapable of managing their own affairs, or of making their own decisions. This is further amplified for those with communication differences, as people assumed that if you could not verbally indicate your choices, this meant you were incapable of making your own decisions. As a result, many people involved in supporting people with disabilities or in the provision of services over the years believed that they should work in the ‘best interest’ of the person and that the views or desires of the person with a disability were secondary. As a result, people with disabilities became accustomed to having decisions made for them, and it became commonplace for people with disabilities to be absent in decision-making about their own lives. These concepts were further compounded by legislation like the Lunacy Regulation (Ireland) Act 1871, which labelled people with disabilities as imbeciles and lunatics, until it was repealed in 2023 upon enactment of the ADMCA. All this influenced how people who worked with and supported people with disabilities approached their work under the premise of a ‘best interest’ standard. Decisions taken in the care of people with disabilities was what they (the carer or decision-maker) felt was the safest, least risky or what they believed to be the best option for the person. Little focus was placed on the person themselves or their own wishes and preferences. This conceptualisation of how we view people with disabilities has changed and evolved over time.

*“The biomedical model focused on medical care of the ‘patient’ who needed treatment, the charitable model depicted people with disabilities as victims of circumstances who were deserving of pity, which endorsed a paternalistic view of individuals and furthered the need for them to be ‘protected’, ‘minded’ and ‘taken care of’ and to have decisions made on their behalf. The social model distinguished disability then as a social creation, a relationship between people with impairment and a disabling society, which removed barriers to accessibility and gave credence to the idea that ‘normal’ is a societal construction.” (2021)<sup>3</sup>*

*- Joanne Condon, “The Assisted Decision-Making (Capacity) Act 2015: Personal and Professional Reflections” in “Advocacy and the Assisted Decision-Making (Capacity) Act 2015” (Donnelly, M and Gleeson, C.).*

The Commission on the Status of People with Disabilities was established on the 29th of November 1993 by the Minister of Equality and Law Reform. It identified that there was a need to move from a medical model to a social model and was a step in the right direction. The commission identified people with disabilities are ‘marginalised’, ‘second class citizens’ and ‘people with disabilities and their families made it clear that they want equality, that they want to move from a reliance on charity towards establishing basic rights. They want, and are entitled to, equality and full participation as citizens.’ This document proposed legislative and policy changes to meet the needs of people with disabilities and embarked on removing the barriers which stand in the way of people with disabilities who want to live full and fulfilled lives. In 2005, the Disability Act 2005 was passed and stated that public bodies and government services must significantly improve their services, access, and transport with a particular emphasis on ensuring people with disabilities are participating in society. In 2007, Ireland signed the UNCRPD, which was ratified in 2018.

Most recently, Ireland has seen full enactment of the ADMCA, which has further highlighted the need for a paradigm shift in Irish society. It signifies a move away from the historical pattern of decision-making ‘for’ people with disabilities and viewing people with disabilities as needing protection to an approach which recognises them as equal citizens, with equal rights capable of making their own decisions. Additionally, the Decision Support Service, which is a service established under the ADMCA, provides an essential service for people who face difficulties and need support exercising their decision-making capacity. The Decision Support Service has also established a Code of Practice for Financial

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3 Condon, J (2021) “Advocacy and the Assisted Decision-Making (Capacity) Act 2015”

Service Providers on how to engage with and advise those who are ‘relevant persons’ under the ADMCA.

A person-centred approach, rooted in a human rights-based philosophy, is needed to ensure that people with disabilities have equal recognition before the law and are encouraged and supported to make decisions about their own lives. This is a core human right, which all citizens in Ireland enjoy and it should be no different for people with disabilities. This paper will demonstrate that the spirit of the ADMCA and its guiding principles are often misunderstood, or not fully enacted for the very people they are intended to support. Right across the sphere of access to finance a paternalistic attitude towards people with disabilities prevails, as evidenced in the ‘best interest’ approach, where the person is not viewed as having equal rights. This paper will also outline examples of progressive and innovative practice and initiatives that seek to realise the principles of the ADMCA in people’s lives.

Finally, it is intended that this document will provide insight into the experiences of those who are supported by NAS regarding finance-related issues. We hope that it will begin a discourse on how people with disabilities can be better supported to access and manage their money as equal citizens. Key to this are the challenges and considerations we capture. The value of being able to access your own money and to be able to exercise autonomy over one’s own money greatly impacts on quality of life and meaningful decision-making. We hope this helps to ensure that people with disabilities obtain access to their own finances and are facilitated to gain increased levels of financial autonomy in general. Key to this change being achieved is the “promotion of strengths-based language, attitudes, cultures and processes that focus on strengths, promote ability, build capacity and empower individuals to exercise choice and autonomy”<sup>4</sup>.



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4 ibid

# Financial Mechanisms And Supports That Exist In Ireland For People With A Disability

Whilst the below is not an exhaustive list, it is important to note the most common financial arrangement options that currently exist for people with disabilities in Ireland. Each of these mechanisms/options have pros and cons and must be examined to consider people's unique needs, wishes and requirements. People must always be supported to make informed decisions about which option they may choose to avail of, in so far as possible, and part of making any informed decision is having information and weighing up the pros and cons. It is the experience of NAS, that people with disabilities are sometimes encouraged to enter one or other of these arrangements, without much thought as to how it may impact their autonomy or what drawbacks may exist for them. It is evident through NAS casework that there are instances where people receive no support to understand and manage their own money, and instead, people are sometimes encouraged to enter arrangements that deny them access to their money, removing their autonomy to spend their money as they would wish and, in some cases, to have no access to their finances at all. Case examples throughout this document will illustrate the experiences of the people that NAS supports.

## 1. People managing their own finances

**Definition:** This is a person having access to all their own money, access to appropriate banking/financial institutions' everyday accounts and being enabled to spend their money as they see fit.

**Positives:** A person can have autonomy over their own choices, which will greatly impact upon their quality-of-life. They will have the freedom to be treated with respect and as equal members of society with the same access to their own finances as every other citizen in Ireland.

**Challenges:** People may require support and capacity building to reach the point where they are confident to manage their money or potentially receive assistance with the digital elements of accessing their own finances through a financial institution. Such support is not always readily available to access. People may sometimes confuse the need to be supported to build financial skills with lacking capacity to manage money, which are not the same thing.

## 2. Wardship (a committee is appointed to assist in the management of the person's finances)<sup>5</sup>

**Definition:** Wardship is a system whereby a person who was taken as unable to make decisions for themselves on the basis of medical evidence is deemed to lack capacity and deemed incapable of managing their own affairs. The court appoints a committee to make decisions over what a person can/cannot spend their money on. Since 26th April 2023, applications for adults to become a Ward of Court can no longer be made following a change in legislation. In Ireland, approximately 3000 people are current Wards of Court. Over the next three years, adult Wards of Court will have their cases reviewed by the court and will move over to a new Decision Support arrangement in line with the ADMCA, if necessary.

**Positives:** In rare circumstances where a person is genuinely unable to manage their own finances in any way, the committee provides practical basic support to the person ensuring their needs are met by managing their money on their behalf and paying essential bills, etc.

**Challenges:** This arrangement removes all autonomy from the person to have control over their own money and their own life. It is a substitute decision-making model and is not in keeping with a human rights-based approach or the UNCRPD and lends itself to an outdated and paternalistic 'best interest' approach.

## 3. Enduring Power of Attorney

**Definition:** An Enduring Power of Attorney is a legal device that can be set up by a person (the donor) authorising another person to look after their financial or personal affairs if they no longer can do so themselves at a future point in time. Many people use an Enduring Power of Attorney to plan for their future.

**Positives:** The person has chosen their Enduring Power of Attorney when they had capacity to do so. Additionally, under the new ADMCA, an Enduring Power of Attorney is registered and has a clear process of complaint should an issue be identified.

**Challenges:** The arrangement may have been agreed at the time of the person having capacity, but there is no mechanism to verify if the person is still the right person to help make those decisions. For example, the Enduring Power of Attorney may not have been reviewed in a long time to reflect a change in a person's relationships.

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<sup>5</sup> Wardship is being removed in Ireland and no new arrangements are being entered. It is anticipated that all wardship arrangements will be gone by 2026.

Finally, it is difficult to know if the decisions being taken are in keeping with the person's will and preference, unless they are clearly set out or documented.

## Example from Australia



NAS is aware of examples in an Australian context where people appointed themselves to act as Power of Attorney, with the consent of the person with a disability. However, the person with a disability, at times, did not understand the legal ramifications of the appointment and in some circumstances, this appointment led to abuse of power by the Power of Attorney to the detriment of the person with a disability. Examples included refusing access to funds, only taking out money for activities they deemed appropriate, using funds for themselves, all to the detriment of the person with a disability.

## 4. Decision supporters (as per the Decision Support Service)

**Definition:** A newly established system of supported decision-making now exists in Ireland. There are three different tiers of support, dependent upon people's level of need for support. Decision-making arrangements are entered into by agreement from the person (in the case of a Decision-Making Assistant (Tier 1) and a Co-Decision Maker (Tier 2) or when the court deems that the person requires a greater level of support, they can be appointed a Decision-Making Representative (Tier 3). The Decision-Making Order can specify that the Decision-Making Representative will assist the person with financial decisions.

**Positives:** The introduction of a tiered system empowers those who may need specific assistance to make their own decisions, but who do not need overarching decision-making. Decisions are still led by the person themselves, with their will and preference being kept front and centre.

**Challenges:** The spirit of the ADMCA may not be used in the way it was intended. Instead of presuming a person is capable of making their own decisions, NAS has seen some early interpretations and application of the ADMCA, which have resulted in far-reaching Decision-Making Orders that appear to overstep the mark. NAS has also seen incorrect interpretation of the ADMCA where people's first step is to go straight to court to seek a formal arrangement, rather than make a meaningful effort to exhaust all options to first support the person to make their own decisions.

## 5. HSE patients' Private Property Accounts (PPP Accounts)

**Definition:** PPP accounts are held by the HSE on behalf of some people who are in long-term residential care, including Mental Health, Disability, Older Person's Services, amongst others. The HSE must ensure that the operation of PPP accounts is in accordance with all legislation and regulations. The HSE operates PPP accounts under the authorisation of the Health (Repayment Scheme) Act 2006. People will have access to these funds as required and the money remains their property. This option also affords people the opportunity to act as Agent for the collection of their Disability Allowance. In this instance, the allowance is lodged directly to their PPP account. Arrangements can be put in place for the deduction of Inpatient Charges from their account. Excess PPP funds are invested in a central investment fund.

**Positives:** PPP accounts can be a positive option for some people who may be unable to manage their own finances, as there are rigorous controls over the accounts. They are regularly audited by the HSE and Comptroller and Auditor-general, which gives a level of security over the money. There is also a duty for the HSE to safeguard the funds for the direct benefit of the person and the person alone. Their use is governed by the detail set out in the PPP Guidelines.

**Challenges:** There can be a delay and/or difficulty in people accessing their own money. Many people feel the need to request access to their own money via a third party and they do not have everyday access to view how much money they have at any given moment. They therefore may have less autonomy than with a current bank account. Local discretion on what is deemed a reasonable use of a person's funds may vary (where a person is unable to provide clear instruction on same). The PPP Policy sets out that the direction of the Circuit Court be sought in all cases where the HSE uses in excess of €5000 in funds for the benefit of a person within a calendar year, bar exceptional circumstances.

## 6. Supported banking

**Definition:** This is where a service provider assists a person to open a bank account and can support them in accessing their bank account.

**Positives:** Supported banking can be positive if the person in the organisation provides good support to the person and this is in keeping with the person's own will and preference. This option can work well to support a person to maximise their financial autonomy and exercise their rights. It can be positive where it is in keeping with the wishes of the person to have such an account and support.

**Challenges:** The service and/or staff member assigned to provide support have complete oversight over the person's banking and finances. If the relationship or trust breaks down between the person and the staff member, the person's access to banking may be disrupted. Equally, where a staff member leaves a service, in some instances, NAS has witnessed that institutions have frozen the person's bank account, preventing them from accessing their funds for prolonged periods. Finally, it can be fraught with risk if there are no control measures or appropriate oversight mechanisms in place. A person may also struggle with the lack of privacy such an option creates.

## 7. Third party agent to act on a persons behalf for welfare payments

**Definition:** This is an arrangement whereby a person's Disability Allowance is either collected by a third party or is paid directly into a third-party bank account in agreement with the Department of Social Protection. This is covered by the Social Welfare (Consolidated Claims, Payments, and Control) Regulations 2007. There are two types of agents, Type 1 (collects payments on behalf of a person who is unable to do so due to illness or loss of mobility) and Type 2 (where a person is deemed unable to manage their own financial affairs and an agent collects and acts of behalf of the person).

**Positives:** This arrangement can be beneficial for some people who cannot manage their own financial affairs or who require assistance if the nominated agent adheres appropriately to their obligations and responsibilities as set out by the Department. There is a fiduciary responsibility on the Department over such arrangements. Additionally, a person may cancel or revoke an agent arrangement at any time and appoint another.

**Challenges:** NAS comes across many instances of people with disabilities being unaware of the specifics of agent arrangements in place for them and may never have agreed to having a nominated person in place. In many cases, the full payment is not given to the person, and instead they are merely given 'pocket money' or an 'allowance' from their own money by the agent. In other cases, people have capacity to manage their own finances, but are fearful of negatively impacting the relationship they have with the agent (who are often relatives) by raising an issue. Often, this can result in a person having no access at all to their own money, limiting their life choices and decisions. Often, without the support of an Independent Advocate or a natural support, a person may not know how to report such concerns to the Department of Social Protection to investigate the matter or how to go about amending their agent arrangements.

## 8. Dual banking arrangement where a relative is a 'signatory' to the account (in effect has an ATM card with full access to the bank account funds)

**Definition:** Dual banking is where the bank encourages the person with a disability to have a co-signatory on a bank account.

**Positives:** The person may wish for this to happen and are happy with their designated person having access to the account with the intent of supporting their financial decisions.

**Challenges:** There is complete oversight by a third party on what the person can and cannot spend their money on. If there is a breakdown in the relationship and the person no longer wishes for the co-signatory, this can be difficult for the person with a disability to get the third party removed from their account and manage the potential negative fall out of the relationship.

### Example from Australia



A number of people with disabilities who required the support of an advocate in Australia experienced difficulties with dual banking arrangements. It was sometimes a requirement for a parent or sibling to attend the bank with the person with a disability to access their account and the bank would then not deal directly with the individual (irrespective of capacity) but only the parent or sibling. "It was very restrictive in a lot of cases and completely revoked the person's autonomy." - Harry Rutner, Australian Disability Advocate and Human Rights Solicitor

## 9. Joint bank accounts

**Definition:** A joint bank account is an account that is shared by two or more individuals. All account holders have equal access to any funds that are in the account.

**Positives:** Some people state that having a person they trust with equal access to their account helps them to manage their finances and ensure essential bills are paid on time.

**Challenges:** Often, the legal ramifications of entering a joint bank account arrangement is not explained to the person with a disability. The person with a disability is often unaware that the named individuals on the joint bank account will have equal access to the funds in the account. In addition, in the case of substantial money being placed into the joint account, the third party has a complete legal right to access all finances, with no legal recourse if they removed all funds at any given time and without the person's consent. There is also the issue of resulting trusts. Funds that are built up are often how the person with a disability is convinced not to use or spend their money. The person exploiting them can build up a trust for themselves; this is particularly true when the person is elderly, as once they die, the third party can legally withdraw all funds.

## 10. Specialised banking products for customers who require additional support

**Definition:** Several banking institutions have developed banking products for customers who may require additional support with banking. These include products like person-in-care accounts, basic bank accounts and vulnerable persons accounts.

**Positives:** Some people report that such products work well for them, allowing them the type of support they wish to have to manage their money.

**Challenges:** NAS has seen instances of people being immediately directed to these banking products by financial institutions purely because they have a disability. There is no presumption of capacity in these instances and no recognition that a person with a disability may be perfectly capable of managing their money in a traditional current account arrangement. This is discrimination on the grounds of disability. Some such accounts can limit a person's daily spending/withdrawal limit, giving a third-party access to their account through a person-in-care account and ultimately can, in some situations, result in the person being disempowered or having their money controlled by a third party, without legitimate authority to do so. There needs to be adequate safeguards in place to protect a person's autonomy when such products are used to ensure that the products are not vehicles through which others can exert undue control over a person's financial affairs.



## Case Study

### Context

Janet rang the NAS National Phone Line to say that she had poor mobility and significant mental health difficulties. As a result, she was unable to leave the family home. Janet's bank was leaving the Irish Market and Janet was struggling to change her bank account to another bank as she did not have a driving licence and had never owned a passport.

Janet's existing bank account had been queued for closure in January 2023. She understood that any direct debits, standing orders and payments, including Social Welfare and Disability Allowance, would not be paid into her account, and would be returned after that date. She was finding the switch to a new bank very stressful, and it was impacting her mental health as she had no natural supports. Janet also wanted to obtain a Public Services Card which would help her to access online services. She had previously contacted the Department of Social Protection to request a Public Services Card meeting online on the grounds of reasonable accommodation, but this request was declined.

### Actions by Advocate

Janet and her Advocate agreed on a plan to address the issues and her Advocate contacted the Department of Social Protection to inform them of Janet's access needs and inability to leave her home. The Advocate discussed the rights of a disabled person to have reasonable accommodation when requesting official documentation from a Public Body and asked that the Department support Janet accordingly.

The Department responded that the SAFE registration process which they use to authenticate and then issue customers with a Public Services Card is usually carried out in the Department's public offices. However, local offices can facilitate appointments where customers find it difficult to attend the office as each Intreo office is equipped with a mobile unit. Decisions on the mobile service are made by local management on a case-by-case basis.

The Advocate supported Janet to contact her local Intreo office to request a home appointment. Janet was supported by her Advocate to write out her request prior to making the phone call and to anticipate the Intreo Local

Manager's questions in advance. Intreo visited Janet in her home, and she was issued with a Public Services Card in thirty minutes.

The Advocate discussed the steps to obtain an Irish passport with Janet who stated that she would be unable to attend the Garda station in person for a formal identification process. The Advocate contacted the Garda station on Janet's behalf and discussed the context of her request. Gardaí visited Janet's home to confirm her identity. Janet processed her passport application online and was delighted to receive it some weeks later.

The Advocate advised Janet on the role of the 'Vulnerable Customer's Unit' in financial institutions as she had been unaware of enhanced supports to customers in certain circumstances. Her local bank branch was inaccessible and did not respond to requests to help her open an account. The Advocate sent Janet the contact details for 'Vulnerable Customer's Units' in several banks. With the support of her Advocate, Janet contacted a bank of her choosing and discussed her requirement to switch her current bank account. At this point, Janet had the necessary identification to open her new current account. All of this was completed online without Janet having to attend a branch in person and the bank staff understood that Janet was nervous in dealing with them and provided her with support.

## Outcome

Janet was able to open a bank account, transfer all her direct debits and receive her social welfare payments into her new account. She was grateful to NAS for their support and knows that she can ask for help at any point in the future should new issues arise.



# Challenges Experienced By People With Disabilities In Their Finances

## 1. Financial Services Issues

NAS' vision is to work towards a society that ensures the full participation of all persons with disabilities. We recognise the capacity of persons with disabilities to make their own decisions equally with others, in accordance with the UNCRPD<sup>6</sup>. This is further supported by the guiding principles of the ADMCA<sup>7</sup> which operates on the basis that every person should be presumed to have capacity and be able to make their own choices.<sup>8</sup>

Our choices influence all areas of our life and access to our finances impacts our daily living in a significant way. It is important that every person has as much financial autonomy as possible. Having accessible banking services is a key component to ensuring this autonomy and equal access for each citizen in Ireland.

People with disabilities need access to banking facilities and services as required to meet their financial needs in the same way as every other citizen. Banking services provide us with access to our monies when required, enable us to save for planned events/purchases, which in turn enhances our quality-of-life. The impact of not being able to access banking services not only limits access to finances when required but limits choices. Several barriers to supporting people with banking have been identified by NAS. They are as follows:

- Difficulty for people with disabilities to access and open their own bank account.
- Some people with disabilities being asked to prove that they have capacity to open a bank account.

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6 United Nations Convention on the Rights of Persons with Disabilities is an international human rights treaty that aims to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all disabled persons. Ratified by Ireland in 2018.

7 The Assisted Decision-Making (Capacity) Act 2015 is a law that reforms Ireland's capacity legislation and supports decision-making.

8 *ibid*

- Increased digitalisation of the financial sector, leading to digital exclusion for some people with disabilities.
- Some people with disabilities left unable to open a bank account due to lack of accepted documentation and identifications.
- Some people with disabilities left unable to close bank accounts.
- Some people with disabilities left unable to access statements for their bank accounts due to concerns about capacity.
- People have had their bank accounts frozen at short notice for various reasons, leaving them no access to money.
- Difficulties for people with disabilities who only have a 'basic bank account', which places a limit on their daily withdrawal alongside often not allowing them to accumulate savings on the account.
- Difficulties with the type of language used by financial institutions which leads to inaccessible information about conditions of the bank account and terms and conditions, including a lack of explanation about the account contract terms.

## Case Example:

One clear example which encapsulates these difficulties was Tom, who had a physical disability, but lived an independent life. When he went to his local branch to open a bank account, he describes his experience before he could even discuss banking options.

***“I was led away and asked to open a vulnerable person’s account at my local bank, which was something I have never needed or requested. It was humiliating for me that people would assume I am somehow vulnerable.”***

- Tom, who was supported by NAS.

## Example from Australia



People with a visual impairment were unable to access their account without physically going into the bank as the telephone line offered by the bank was inaccessible and they were unable to use internet banking due to their disability. The telephone lines for some banks do not have an option to speak to an operator and require you to go through the automated system as the only option for support.

## Positive Developments in The Financial Sector

It is important to acknowledge the many progressive developments that have also occurred within the financial sector. These include:

- The Irish Banking Culture Board has liaised with several banking institutions and launched the 'basic bank account' with the intention of making the process of opening a bank account less cumbersome.
- The Irish Banking Culture Board are engaging people with disabilities through regional events to hear their experiences to inform practice in their member banks. These consultations are ongoing in 2024.
- Banks have dedicated staff who have been trained in disability awareness to liaise more effectively with customers with disabilities.
- Customers who require additional time with banking queries can produce a JAM card\* which in turn informs staff that the customer requires extra time with their interaction.
- Some banks have developed specialised banking products that work well for some customers who may require extra support.

- NAS has seen excellent willingness on the part of the Irish Banking Sector to engage in dialogue and to collaborate to generate solutions to the barriers identified for people with disabilities.
- The Central Bank review of the Consumer Protection Code 2012 in 2023, with regular engagement updates being provided<sup>9</sup> and a consultation paper on the consumer protection code in March 2024<sup>10</sup>
- The Consumer Advisory Group of the Central Bank of Ireland, invited NAS to present on the experiences of those we support in accessing Financial Services. This demonstrates the openness and willingness to listen to the voices and experiences of people with disabilities to bring about change.
- Creation of easy-to-read guides for tasks and common activities with banks, produced by the The Irish Banking Culture Board.

The mere fact that financial institutions are open to the creation and review of Financial Services to ensure they are accessible shows a sector that is keen to respond and adapt to people's needs. As evidenced, there have been many positive and inclusive developments, but they are not always readily known about or widely available across the financial sector. It often requires the support and intervention of an Independent Advocate to enable a person to understand and then access such mechanisms.

***\*A JAM card is a tool which allows people with a hidden disability or communication barrier to tell others that they need extra time and understanding in a private and easy way. Smartphone users can download the JAM Card app which allows users to select different screen display options including 'I have autism', 'I have a condition' and 'I have a brain injury'.***

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9 Consumer Protection Code Review Discussion Paper – Engagement update July 2023 can be found here: <https://www.centralbank.ie/docs/default-source/regulation/consumer-protection/other-codes-of-conduct/consumer-protection-code-review/consumer-protection-code-review---discussion-paper---engagement-update.pdf>

10 Consultation paper on the consumer protection code March 2024 can be found here: [https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp158/cp158-consultation-paper-consumer-protection-code.pdf?sfvrsn=45d631a\\_5](https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp158/cp158-consultation-paper-consumer-protection-code.pdf?sfvrsn=45d631a_5)

The following outlines in more detail some of the issues that NAS supports people with:

## 1.1 Difficulty With Opening And Accessing Bank Accounts

*“Financial institutions may present barriers for people with disabilities opening a bank account. For example, service providers report increased difficulty in being able to open accounts in resident’s names.”*

- Chief Inspector of Social Services, HIQA.  
(Direct quote from stakeholder engagement questionnaire)

A basic function of managing one’s own finances is access to appropriate and easily available banking services. Since the introduction of the ADMCA, NAS has seen an increase in local banks requesting people who present with either a disability, or those who have an address at a known disability facility, to prove their capacity before they are permitted to open a bank account. This disempowers people with disabilities and goes against the principles of the ADMCA and UNCRPD. Such barriers then often necessitate the involvement of NAS Advocates to engage local bank branches on a person’s rights, to overcome the barriers. Without the support of an Independent Advocate, a person could be denied the opportunity to open a bank account, purely on the basis that they have a disability. Such practices require additional review by financial institutions, and increased training of bank staff on the ADMCA and the associated requirement to presume capacity and treat people as equal citizens in line with the UNCRPD.

### Example from Australia



There have been many instances where banks refused to speak to or engage with a person with a disability (regardless of capacity) in relation to their banking (opening, using, or closing their account) without a ‘guardian’ present (that may be a support worker, parent, etc.

(Direct quote from stakeholder engagement)

## 1.2 Increased Digitalisation Of Banking

*“I felt my financial autonomy was gone as I had to rely on staff for the first time in my life around accessing my online bank account.”*

- Ciara, a person with disabilities supported by NAS.

In recent years, it has become commonplace for banking institutions to move their services online. Whilst such advances may be useful to the public in accessing their accounts out of hours, it has proved to be an additional obstacle for some people as identified in a recent report commissioned by the South Leinster Citizens Information Service, South Leinster Money Advice and Budgeting Service and the County Wicklow Older People’s Council.<sup>11</sup> Moreover, for some people with disabilities, it is a barrier to access as they may need to navigate increasingly complex authentication and security measures with short time limits.

For some people with disabilities, it can be the case that they are not familiar with accessing services using technology and they may not have access to a computer, tablet, phone, or internet, which further excludes them from the banking world. One such example is Ciara who was supported by NAS:



<sup>11</sup> A Review of Older People’s Capacity to Access Financial Services Online and to Independently Conduct their own Financial Affairs (2022)



## Case Study

### Context

Ciara has cerebral palsy and requires additional time to manage and use technological devices. Ciara sought the support of a NAS Advocate as she was unable to access her online banking due to the introduction of increased online security measures. These increased security measures timed out before Ciara was able to enter the required codes. Up to the introduction of these new security measures, Ciara independently accessed her own account and was distressed at losing autonomy in this important area of her life. She now needed to ask staff to support her when accessing her banking and did not want to have to rely on this option long term. Ciara informed the Advocate that she felt her financial autonomy was gone as she had to rely on staff for the first time in her life around money matters.

### Actions by Advocate

The Advocate and Ciara agreed on a plan to make Ciara's online banking accessible. The Advocate wrote to Ciara's local Branch Manager and at Ciara's request called in to the branch in person to discuss Ciara's issue. The Bank Manager agreed to investigate the issue but neither Ciara nor her Advocate heard back.

With Ciara's agreement, the Advocate escalated the issue to the bank's internal complaints department. At the same time, the Advocate wrote to the Banking and Payments Federation of Ireland who put them in contact with a security specialist within the bank. After liaising with the security specialist, it was agreed that an SCA\* (Strong Customer Authentication) Exemption was required. This SCA exemption was explained to Ciara, who in turn, wished to apply for it.

### Outcome

Since this exemption, Ciara has now returned to independently accessing her online banking and is once again in control of managing her financial affairs. While Ciara chose this option, banks can implement adequate alternative measures to ensure the safety of people's accounts where double authentication is removed, such as biometrics.

Whilst this case example shows a positive outcome because of Independent Advocacy involvement, it highlights the types of challenges that people can face. Ciara was previously able to access her own finances and evidently the increased security measures did not take account of Ciara or others with similar requirements. It also points to exemptions as an alternative solution. However, neither Ciara nor the Bank Manager were aware of this exemption option, which delayed her access to her own money for some time.

Clearly better information and communication around such options is required and increased awareness among staff could have better resolved this issue in a timelier manner. *\*(note re SCA exemption that alternative security measures such as fingerprint/facial recognition can be put in place according to banks to maintain account security)*

*“I feel that I have my financial autonomy back and I feel myself again. I didn’t realise how important it was to me to look after my own money.”*

- Ciara, a person with disabilities who was supported by NAS.

This increased digitalisation and its impact on people with disabilities stretches right across the banking sector.

Renee Summers, Senior Medical Social Worker at the National Rehabilitation Hospital, notes that the people with disabilities she works with and supports experience barriers such as:

*“Difficulty navigating online banking, difficulty accessing ATMs, bank accounts being frozen if admitted to hospital and many barriers then trying to re-access money.”*

(Direct quote from stakeholder engagement)

This experience is echoed by Chief Inspector of Social Services within HIQA, who observes that:

*“Many people with disabilities find it hard to navigate online banking services, there can be difficulty accessing financial institutions for wheelchair users, and at times, there is a lack of accessible information. For example, only 3% of Banks’ cash machines are audio-enabled.”*

(Direct quote from stakeholder engagement)

Finally, the online chatbots and automated customer supports that have become commonplace in modern banking are often very challenging for people with disabilities to use and access. This is further compounded by a frequent lack of easy-to-read or plain English information to support people with disabilities in understanding processes and procedures.

## Example from Australia



Advocates in Australia saw the issue above compounded if the person was from a culturally or linguistically diverse background as the language used was often a barrier for people to understand.

All financial institutions in Ireland must evidently work to ensure any digital advancements are fully accessible to all and should review such practices to ensure digital exclusion is not experienced by any person who wishes to access their services.

## Example of Accessible Information

The Irish Banking Culture Board have introduced some excellent easy-to-read documents<sup>12</sup>, specifically designed to “support and empower people with financial independence and to facilitate positive engagement with the banking sector” and these easy-to-read guides for some basic banking tasks are very welcome.

### 1.3 Co-signatory On Bank Accounts And Joint Bank Accounts

NAS has seen the practice of co-signatories on bank accounts being encouraged by local branch staff when the person is identified as having a disability. This is particularly prevalent when they are accompanied by a relative, including parents. It has been noted in NAS advocacy work, that the person the bank account is being opened for is often not consulted or asked if it is their wish to have a co-signatory on their account. In NAS’ experience, this can be disempowering for the person and is not in keeping with a human rights-based approach to banking as called for by the UNCRPD and the ADMCA. This human rights-based approach is set out in the Decision Support Service’s Code of Practice for Financial Service providers. The code notes that all Financial Service providers should “make every practicable effort to inform and support a relevant person to make the decision in question, even if [Financial Service provider] has concerns about their capacity to make the decision.” (2021, p10)<sup>13</sup>. Mark’s experience illustrates the challenges that exist when such an approach is not adopted.

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12 These easy-to-read guides can be found here:  
<https://www.irishbankingcultureboard.ie/financial-inclusion/>

13 Decision Support Service: Code of Practice for Financial Service Providers (2021)

## Case Example:

*“My mam brought me into the bank to open my bank account. She went into the room with the bank person and when they came out, they asked me to sign forms and I did it. I didn’t know that meant my mam would also be able to see my money and what I was spending it on, and nobody ever told me this.”*

- Mark, a person with a disability supported by NAS.

Most adults could never conceive of a set up where a parent would have such access and potential control over one’s financial affairs, yet this is often legitimised for people with a disability due to prevailing paternalistic cultures and practices.

Turning to joint bank accounts, as part of our key stakeholder feedback collation to inform this paper, the following was noted by the Director of a large disability service provider for individuals with an intellectual disability, who said:

*“There is also the issue of people with disabilities who hold joint bank accounts with siblings. Engagement with people with disabilities, families and the disability sector are required to consider how best to approach such situations particularly with a view to reviewing evidence as to whether the decision for holding a joint bank account was capacity-based and whether a supported decision-making process was employed.”*

(Direct quote from stakeholder engagement)



## Example from Australia

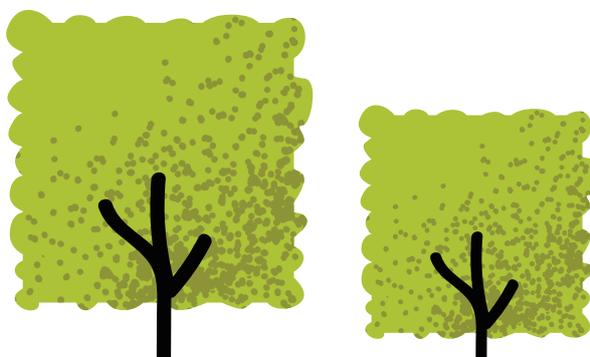


Similar issues have been identified in an Australian context for people with disabilities where the person with a disability disagreed with the financial decisions of their parent. This often led to a breakdown in relationships which meant that the person experienced greater barriers to accessing their own funds (especially if the authorisation of that parent or sibling was required to access the account at the bank).

(Direct quote from stakeholder engagement)

Often people with disabilities enter joint bank account arrangements without fully understanding the implications of doing so. These accounts can lead to issues regarding resulting trusts and entitlement to the account value and so on. Such factors are essential to consider when making an informed decision about opening a joint bank account, yet in NAS' experience people are rarely, if ever, supported to understand this.

Once again, this brings into sharp focus the importance of ensuring person-centred decision-making in banking and for the will and preference of the person to be kept front and centre. It demonstrates poor practice by not safeguarding against the potential pitfalls for people who have been put in this type of arrangement without informed consent. This can have significant consequences for the person and their assets. NAS has seen through its advocacy work that with a joint account the other named individual has unfettered access to the person with disabilities' finances. If money is built up over time, this means the named person can access this money at any time and use it as they see fit. This creates a scenario where no legal recourse may be available to recuperate money, as they would have had equal access, despite the only money being lodged into the account being a payment received by the person with disabilities.



## 1.4 Difficulties With Forms Of Identification For People With Disabilities In The Financial Sector

The identification requirements to open a bank account often pose a barrier to people with disabilities, sometimes from the very outset of their journey as a consumer of financial products. Many people with disabilities have never had reason or opportunity to obtain photo identification, such as a driving licence or a passport. A driving licence and a passport are generally the required ID formats for banks due to their compliance requirements, e.g., Financing of Terrorism and Anti-Money Laundering. Yet, this is something some people with disabilities simply do not have access to. Whilst an advocacy intervention will generally help to overcome this issue through engagement with the local branch, it creates barriers for some consumers that must be addressed. This experience is echoed by a Director of a service for people with intellectual disabilities based in Leinster who stated:

*“... organisations who support people with a disability and/or people with disabilities themselves have depended on the goodwill of individual bank managers to support banking applications or requests, which is neither appropriate nor rights-based. It is obviously, also, subject to significant individual variation and hence varied experiences encountered by people with disabilities. People don’t know what to expect. For example, some banking institutions will accept the Public Services Card as identification, but others won’t. This haphazard approach isn’t sustainable, nor standards-based.”*

(Direct quote from stakeholder engagement)

Financial institutions and those who regulate them should review the issue of valid identification to ensure consistency and a rights-based approach in the provision of Financial Services to people with disabilities. A consensus on acceptable ID formats for people with disabilities nationally across the financial sector is critical in ensuring equal access for all and overcoming the barriers identified above.

## 1.5 Basic Bank Account

Some banks will support a person to open a ‘basic bank account’, which as described by the Banking and Payments Federation of Ireland, is a bank account that provides the account holder with day-to-day banking services, stipulated as a requirement under EU law (The European Union (Payment Accounts) Regulations 2016)<sup>14</sup>. However, in NAS’ experience these accounts can be restrictive and often inadequate for a person’s individual needs.

In certain financial institutions, limits on the amount of money kept in the accounts and on the amount of money withdrawn at any one time don’t allow for any savings to be accumulated. NAS is familiar with instances of basic bank accounts being closed due to the bank having concerns about a person’s capacity. This can significantly impact a person with disabilities’ quality of life, choices and autonomy, and can lead to immediate restrictions on access to their own money without ample warning to put contingency plans in place.

*“We had one resident who lived in our service who was encouraged to open a basic bank account. It wasn’t what she wanted, but she felt she had no other option. Several months had passed by and when attending the local branch to access her own money, the Bank Manager (who was new) questioned her capacity and put a freeze on the account, which is when we contacted NAS. The person suddenly had no access to their bank account for a period, which limited her life choices.”*

- Person in Charge, large disability service provider in Munster.  
(Direct quote from stakeholder engagement)

NAS advocacy intervention on the above issue resulted in training and engagement to support enhanced understanding with the local branch manager. This culminated in the unfreezing of the bank account and subsequent upgrade to a regular account. Whilst the matter was ultimately resolved with advocacy intervention, the person had to endure significant distress and difficulties opening a general current account and accessing their account once a freeze was put on it.

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14 Banking and Payments Federation of Ireland, A guide to basic bank accounts

## 1.6 Use Of Language In Banking

Very often the language we use informs our views and behaviours. This is no different in the banking sector and a contributory factor to the barriers that people with disabilities can experience is the ongoing practice of identifying people with disabilities as ‘vulnerable’ and signposting people to a special department that is assigned to deal with people with disabilities. Evidently, the creation of vulnerable customer units was a genuine effort on the part of banks to provide additional supports to customers who may require it. However, the approach of labelling a person as ‘vulnerable’ can inform the concept and approach that we need to protect the person. It instinctively encourages financial institutions to move away from positive risk taking and from viewing the person as having capacity. Equally, it shifts the response away from a social model of disability in which a person may be made vulnerable by their circumstances, surroundings and by systems by not viewing them as an equal citizen with equal rights. This approach goes against the guiding principles of the ADMCA and is not in line with the UNCRPD. A human rights-based approach to banking that puts into practice the key principles of the ADMCA is essential right across the financial service industry. This point by NAS has been echoed by others consulted:

*“There is a need for a cultural shift away from assumptions of ‘vulnerability’ or that having an intellectual disability places a question mark over the decision-making capacity of the person. The Assisted Decision-Making legislation requires moving on from these assumptions and requires all sectors of society to support people to make their own decisions.”*

- Helena Connors, Research and Policy Officer, National Federation of Voluntary Bodies (FEDVOL).  
(Direct quote from stakeholder engagement)

A shift in approach is needed to reframe the language used across the financial sector to move away from paternalistic terms that may negatively influence customer interactions and procedures. This linguistic reframe must focus on people with disabilities, not as potential vulnerable customers, but rather as citizens with equal rights, who may require additional support with banking. A paradigm shift like this could go a long way in encouraging financial institutions to become more inclusive and ensure that people with disabilities receive the support they need without feeling labelled, ‘othered’ or discriminated against.



The consultation paper on the Consumer Protection Code notes “Persons with disabilities are not by their nature vulnerable. It is the circumstances that they may find themselves in, which in some cases may result from others not acting with an appropriate degree of care, that can make them vulnerable. For example, the way in which information is provided can make persons with a disability who are otherwise wholly competent and capable of conducting their own affairs, vulnerable to not having or being able to access the full information needed to inform their choices.” Therefore, it is imperative that the language used is not deficits-based and accessibility remains a continued priority for financial institutions.<sup>15</sup>

## NAS Engagement With The Banking Sector

It is important to note that as of late 2023, the Financial Services sector, including banks, key stakeholders and those tasked with supporting and providing regulatory and general oversight have engaged with NAS and others to discuss and review these issues. There is ongoing positive engagement on all of the issues detailed above and the financial sector has been very open to exploring the nuances of the issues and to seeking and providing solutions. As previously mentioned, NAS had the opportunity to present to the Consumer Advisory Group of the Central Bank in September 2023 to discuss the challenges and experiences of those NAS supports in interacting with the Financial Services sector. NAS also participated in a Banking Roundtable event, hosted by the HSE Human Rights and Equality Policy Office in October 2023 and again in December 2023. NAS welcomed the opportunity to again highlight the issues that those we support are experiencing. This forum provided an excellent opportunity for a solution-focused discussion on how barriers and issues might be overcome.

The issues detailed point to the ongoing important need for access to Independent Advocacy to ensure that people have the support they may

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<sup>15</sup> Consultation paper on the consumer protection code (2024)

require to overcome such barriers. NAS has begun the conversation with key stakeholders right across the Financial Services sector at a national level and continues to advocate for solutions on behalf of people with disabilities at a broad systemic level.

### Positive Development by The Irish Banking Culture Board ①

In 2013, The Irish Banking Culture Board, in conjunction with Inclusion Ireland, hosted four “listening events” to ensure the opportunity was given for people with an intellectual disability to inform the banks of their experiences with banks and to note their banking needs. This session was further enhanced by clear discussion of the findings of these events with the wider The Irish Banking Culture Board and member banks to review services and supports that were on offer.

### Positive Development by The Irish Banking Culture Board ②

Following on from the listening events noted above, The Irish Banking Culture Board held a financial inclusion event in March 2024 for people with an intellectual disability and other stakeholders. This event was held as a follow-up to the listening session, to provide feedback and to hear from those who have an intellectual disability who had accessed any of the enhanced services following the original sessions.<sup>16</sup>

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<sup>16</sup> Details of these “listening” events can be found here: <https://www.irishbankingcultureboard.ie/irish-banking-culture-board-partners-with-inclusion-ireland-to-progress-financial-inclusion/>

## Challenges And Considerations

Ongoing improvement in information provision is necessary across the banking sector as it varies from institution to institution and even from branch to branch. There are some excellent examples of well-trained bank staff who are supportive of people with disabilities and encourage and support their autonomy and decision-making abilities at every opportunity. Conversely, there are also examples, as detailed, that are exclusionary and hugely problematic for people with disabilities. Overall, there have been few national forums for solution-focused engagement between people with disabilities, key stakeholders, and the banking sector to bring about large-scale change. It is encouraging that 2023 has seen several developments emerge to increase opportunity for such engagement.

NAS identifies the following challenges and considerations:

1. Financial Services should continue to upskill and train staff on key developments within the disability sector relevant to the provision of Financial Services. Specific human rights training, coupled with an increased knowledge of the ADMCA and its guiding principles amongst staff is essential to ensuring people receive the right type of support.
2. Financial Services must remain committed to the provision of accessible products for people with disabilities.
3. Financial Services must commit to ongoing consultation with people with disabilities in the design of new apps and digital developments to ensure they are fully accessible. Consultation is also essential when user interfaces change on digital products to ensure that people with disabilities have sufficient advance notice that a change is coming and can prepare. Such a measure will protect against the risk of digital exclusion.
4. Financial Services must remain committed to providing accessible means of communication. Easy-to-read documentation on all Financial Services products should be readily available. Websites should be accessible (font, colours, audio capacity) and a review of phone lines should be undertaken to ensure availability of fully accessible banking support lines (to ensure access for people with vision and hearing impairments).
5. A general agreement over an acceptable ID format is important to ensure equal access for people with disabilities to banking. The current typical mandatory ID format of a passport or driving licence can exclude people with disabilities who may not typically have such ID types.
6. Financial Services should commit to the use of strengths-based language that emphasises support of people with disabilities and move away from

the use of deficit-based, paternalistic terminology such as ‘vulnerable’ customers, to a human rights-based approach that emphasises people with disabilities as equal citizens and rights holders. Financial institutions could be at the forefront of a wider societal paradigm shift to influence how people with disabilities are supported.

*“In Safeguarding Ireland’s experience, there is a dearth of information on the experiences of specific groups/cohort’s use of Financial Services and accordingly industry, regulators and government may be unaware of the issues and problems facing people who may have additional challenges in engaging as consumers of banks and financial institutions.”*

- AnnMarie O’Connor and Patricia Rickard-Clarke on behalf of Safeguarding Ireland.  
(Direct quote from stakeholder engagement)



## 2. Third Party Control Of People's Finances

*“People with disabilities with access to their own money are not only more likely to interact with others in the community, they also have an optimum opportunity to have socially valued roles. Additionally, having access to one’s own money can positively influence and drive opportunity, as it affords choice and decision-making.”*

- (Friedman, 2017)<sup>17</sup>

Bearing the above academic quote in mind along with the experiences of those NAS supports, it is important to review how people with disabilities should be supported to have access to their own money. NAS recognises that parents who have been familiar with supporting a child with a disability to manage their money may not all automatically make the transition to supporting them to have financial autonomy as they become an adult. Some parents of people with disabilities were familiar with an era in Ireland where people’s money was managed on their behalf, rather than a focus on supporting a person’s own financial autonomy. Supporting a cultural change in this respect involves educating and engaging with families, who are often very happy to help their adult child make this transition from dependency to support.

NAS acknowledges the significant role that family carers of adults with disabilities often play. Many times, family carers fully support an individual to manage their own finances where it is required. A family member may provide support to an individual to withdraw their Disability Allowance, support day-to-day banking or may support a person to save money. The key with family support is that the person must be consenting and fully happy with the arrangement (where this is possible). Without the explicit consent of the person and where a person may not wish to avail of family support, that preference must always be respected.

Access to one’s own finances is fundamental to exercising choice, social opportunities, as well as community involvement. Access to one’s own

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<sup>17</sup> Friedman, C. (2017). “People with disabilities’ access to their own money” International Journal on Disability and Human Development

money is also an important indicator when measuring a person's quality of life. Financial abuse occurs when an individual is denied access to their own money and decisions are made about their money for them by parties other than themselves. Within this section, NAS will highlight instances where this has occurred. Whilst sometimes people's motivation may come from a place of desired support to the person with disabilities, it is still fundamentally wrong to remove a person's right to their own money. This is not in-keeping with the person's will and preference, their right to make unwise decisions, nor within the UNCRPD or the ADMCA, both of which recognise a person with a disability as an equal member of society with the same rights as every other citizen.

## **2.1 Third Party Control Over People With Disabilities' Own Money**

NAS supports many people who are experiencing third party control of finances. Examples of issues we encounter include third parties taking control of an individual's money, threats or coercive behaviour regarding assets or wills, abuse of Power of Attorney roles, unauthorised use of bank cards or financial documents, issues with agency agreements and joint bank account arrangements that can sometimes impede an individual's access to their own personal account. Control over a person's money may not always have malicious intent, but nonetheless it disempowers a person and breaches their rights. Sometimes, family see their support as essential to their adult child, who may be transitioning from childhood to adulthood. However, the reality, is that much like every adult, adults with disabilities often do not want another person to control their finances, nor do they often want to be answerable for how they choose to spend it. This difficulty is perfectly captured by the following quote:

*“It is often hard for us as a service provider to remind family members of the rights of their adult child to access their own money and to exercise complete choice over how they spend it. For many family members it can be the last bastion of support to their adult child, and they feel they are protecting them. The reality, however, is that much like you or I or any other citizen we can spend money how we see fit, even if to others some choices may be unwise. So, this should be a fundamental right’ to access your own money and to use it to your choosing and we need to help families with understanding this.”*

- Senior Manager at a national organisation providing residential support to people with disabilities.

(Direct quote from stakeholder engagement)

## Example from Australia



The legal profession often experienced issues with parents wanting to sit in on legal advice sessions with their adult child with a disability in relation to monetary matters. Often the person with the disability did not want their parent sitting in and this would involve an uncomfortable conversation with parents. This also involved educating parents about the rights of people with disabilities.

(Direct quote from stakeholder engagement)

The above examples highlight the need for education amongst some parent carers of adults with disabilities as many parents/families have been left with these roles/responsibilities in respect of adults with disabilities, particularly those living at home, with little support themselves. Given the results of Family Carer’s Ireland survey previously mentioned above, regarding the lack of familiarity by family carers with the new ADMCA, families may require support to understand the new landscape of the legal requirement of all members of society to recognise people’s right to the presumption of capacity and to be supported to maximise these rights. Therefore, educational campaigns

should be rolled out and backed by organisations that support people with disabilities and their families to understand new legislative developments and their resulting obligations. NAS' easy-to-read booklet, 'My Money, My Rights, My Options' will be an excellent resource for families to support their adult child to know and exercise their rights. This should be done in the context of supporting the person to exercise their rights and to ensure it doesn't fracture the relationship, which is often a fear people have when addressing this issue.

*"To be honest, I am sending the referral into NAS as I don't want to fracture the relationship the person has with their parents but I also want him to be able to access all his own money so he can choose what activities he wants to attend. Currently this is being dictated by his parents as they control his money and give him pocket money every week."*

- Care Worker, who referred a person to NAS.

## 2.2 Person's Money Paid Directly To A Third Party

Advocates are aware of many instances of people's money being paid directly to their parent/main carer or a nominated person. Very often in such instances, the individual has never been supported to build their capacity to manage their own money. It is also common that a person's lack of opportunity to even build their financial capacity and skills can be easily mistaken as them lacking capacity to manage their money at all. NAS Advocates have supported many people with disabilities whose money is collected by a third party. People with disabilities are frequently reluctant to raise their own wishes to cease such arrangements for fear of upsetting the relationship with the third party. As a result, they often have little or no understanding of even basic information regarding their own finances. This lack of awareness stretches to include:

- The type of payment they are in receipt of
- How much money they are in receipt of
- Their bank account balance
- Whether or not they possess any savings
- Withdrawals from their account by others
- Any additional payments made to the person (for example Christmas double payment)

Often the person has no oversight of bank statements pertaining to their accounts. In several NAS cases, the advocacy plan entailed building an individual's capacity to learn more about their money and to showcase this to the third party collecting/managing the money on the person's behalf. This is done with a view to gaining more input and to enable the person to gain eventual control of their own finances. This work resulted from the individuals themselves expressing a desire to have more access to their own money. This is perfectly encapsulated by John who noted the following when looking for assistance from NAS:

*"I want help to use my money and I want to buy clothes that I want, not what my mam buys for me."*

- John, a person who NAS supported.

As evidenced from the above example, John was simply an adult who wanted assistance to get access to his own money so that he could purchase clothing of his liking. He was prevented from doing so because he did not have access to his own money. Instead, John was provided with 'pocket money' by his parent. Additionally, his parent would purchase an item of clothing of their choosing when they felt he needed some. Such instances are common in NAS case work.

NAS works at the pace of individuals to develop an understanding and confidence around finances. A sensitive advocacy approach is often essential to ensure that whilst supporting a person to achieve their goal of financial independence, their familial relationships are not negatively impacted. It is often common for individuals to change their mind and decide not to pursue financial independence for fear of disrupting the relationship, causing upset or conflict. Independent Advocacy is person-led, and such instances are challenging to navigate when a person no longer wishes for an Advocate to pursue the outcome of gaining financial independence. Such decisions often emerge for those who are residing with or are directly supported by family. In instances of clear financial abuse, the person may sometimes choose to seek the support of a safeguarding social worker and/or Gardaí. In all instances, the impact on the person is significant. Joan's example below highlights the impact of such difficulties.



## Case Study

### Context

Joan lived with her family and attended a day service. She received €20 allowance each week for attending the day service and valued this money as it allowed her to have lunch in a local restaurant once a week.

Staff in her day service discussed with Joan that she could eat out more often by using her Disability Allowance, however Joan was not sure where this money went or how much she was even receiving.

### Actions by Advocate

The Advocate worked with Joan to agree a plan to meet with her family to learn more about her money. In preparation for this meeting the Advocate supported Joan to learn more about what she was entitled to.

As Joan loved music, the Advocate and Joan called a meeting to initially discuss Joan's goal of saving money from her Disability Allowance to enable her to attend a concert. The Advocate was aware that initially it would be easier for Joan to have something to work towards. Joan asked the Advocate not to address the issue of financial control with her family in order to maintain her relationship with her family as this was important to her.

While the meeting started off with Joan and the Advocate working towards Joan's wish to save for a concert ticket, as the meeting progressed family expressed dissatisfaction at exploring this issue citing the cost of supporting Joan at home, saying there were unseen costs.

### Outcome

Joan informed the Advocate that she did not want to upset her family and no longer wanted to pursue this option. The Advocate respected Joan's wish not to progress the issue and assured her she could come back to NAS at any point in the future if she needed support. This example demonstrates the level of resistance and pressure that people often face in trying to exercise their financial autonomy.



As evidenced from the above example, despite Joan having advocacy support and a tactful and well thought out approach by the Advocate, her basic desire to attend a concert was restricted. This was as a direct result of family control of finances, the arrangement for her money to be paid directly to them and Joan's desire to ensure she did not negatively impact her familial relationships. This example, and the countless others that NAS has come across, demonstrates an increased need to work on financial autonomy for people with disabilities.

It also emphasises the need for a skilled and tactful approach by safeguarding social workers involved in such cases to support a person to gain autonomy, all the while protecting the relationships that are of key importance to the person.

### 2.3 Third Party Agents For Social Welfare Payments

While some people are agreeable to appointing an agent to collect their social welfare payment, many others are dissatisfied with such arrangements or are unaware of their rights to collect it themselves. In such circumstances it is often family members who will collect their Disability Allowance on their behalf. Such arrangements are not always robustly reviewed by the Department on an ongoing basis to ensure arrangements remain aligned with the person's will and preference.

*“Notwithstanding the nature of supports required by the person – e.g. agent or otherwise – the challenge is to ensure that true autonomy and ownership of the person's assets/finances remains with the person. Where this principle, in line with ADMCA, is not embedded in policy or practice, there may be a risk of alienating or excluding the person from their own assets and introducing a paternalistic approach, which may not have been requested or required.”*

- Colm Lehane, Clara Learning Limited.  
(Direct quote from stakeholder engagement)

Whilst there is an acknowledged fiduciary relationship that exists between the recipient of disability or social welfare allowance and the agent, there is no actual template in place or specific requirement as to how to appropriately account for the spend/accumulation of a person's finances. The Department of Social Protection state, *‘If an agent is appointed to collect the money, it is still your money and there is a legal duty on the agent to use it on your*

*behalf and for your benefit. The Department of Social Protection may end the agency arrangement at any time where it has reason to believe that the arrangement is not working satisfactorily' while Citizen's Information Services advise 'to put the arrangement in writing so that both you and the agent are clear about what is intended and what powers the agent has.'* Given the responsibilities that arise for people in agency situations generally, there appears to be a gap in policy for providing clearer oversight and potentially regular spot-checks of these arrangements by the Department of Social Protection. NAS has had some very positive engagement with the Department of Social Protection in relation to individual cases that have led to investigations and positive outcomes for those we support. NAS would like to see a detailed exploration of mechanisms by the Department of Social Protection for more regular review of agency arrangements.

On reviewing the draft of the NAS Social Policy document, the Manager of the Safeguarding Unit in the Department of Social Protection noted, *"The Department is reviewing its legislation and procedures for (third party) agents acting on a person's behalf for receipt of welfare payments."*

## Challenges And Considerations

As evidenced by the body of information in this section, much work is required to ensure that people with disabilities' human rights are being respected and encouraged with regards to financial autonomy. NAS has countless positive experiences of families who have encouraged and supported people with disabilities and who have an excellent understanding of the new legislative requirements in Ireland. However, the ongoing issues that many people with disabilities experience as outlined, points to a broader need for education, awareness, and regulatory powers to investigate and review any circumstances wherein a person is not collecting or receiving their own money for their benefit and spending it in accordance with their wishes and individual choices.

1. The Council of Europe Disability Strategy<sup>18</sup> highlights the importance of strategies which will raise the awareness of the skills and capabilities of persons with disabilities. A particularly effective way to raise awareness on the issues identified is to highlight the rights of the person. NAS' easy-to-read booklet outlines a person's rights in relation to their own money. This should be widely used to support people with disabilities to better understand their rights and to begin a discourse with others

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<sup>18</sup> 'Awareness raising on the rights of persons with disabilities contribution to the Council of Europe Strategy on the Rights of Persons with Disabilities (2017)

on a strengths-based approach to supporting people with disabilities to access and manage their finances. It is essential that services who support people with disabilities help to build people's capacity on concepts such as budgeting, saving, cash, online purchasing, the consequences of financial decisions, ATM Machines, online banking, meeting local banking staff, amongst others.

2. Organisations that support people with disabilities should commit to raising awareness about people's rights regarding their finances, in keeping with the guiding principles of the ADMCA. Awareness campaigns should also focus on the provision of information to staff/parents/supporters to promote the right of people with disabilities to access their own money, and the need to allow people to make their own financial decisions, even if it appears unwise to those around them. Such educational programmes should include a focus on positive risk taking, promotion of financial capacity and skills, amongst others.
3. The Department of Social Protection should consider reviewing the use of agents for people with disabilities and consider implementing a more robust accountability framework.
4. In line with the guiding principles of the ADMCA, a review of regulations should occur and if amended should be done to facilitate and enable regulatory bodies to more robustly review financial arrangements that are established between a person and a third party.

## Australian initiative:



In Australia, a short course was developed for school students with disabilities on their financial rights and how to use money. The course ran for one hour a week over the course of a school term (10 weeks). The materials were in easy-to-read format and plain English, which resulted in people with disabilities increasing their use of bank accounts as they became adults.

(Direct quote from stakeholder engagement)

### 3. Responses To Financial Abuse

*“There remains a lack of awareness amongst the general public, within institutions and agencies, and across health and social care professionals and services, as to what constitutes abuse... “A culture that is dismissive of certain forms of abuse and that trivialises others, and that also plays down the human rights of many... persists in Ireland.”*

- (Dr Browne, 2022)<sup>19</sup>

In a comprehensive review of the safeguarding landscape in Ireland, Dr Michael Browne noted that the cultural prevalence of viewing certain abuses of human rights as trivial, needs to be challenged (ibid). This reality is also very evident in NAS advocacy work.

There are several different types of abuse including physical, sexual, psychological, financial, material, neglect and acts of omission, discriminatory and institutional abuse. A person may experience more than one form of abuse at any one time. Abuse can happen at any time in any setting. Older people and persons with a disability experience abuse, even in settings that are intended to be places of safety and support. Within the HSE Social Care Division, the Safeguarding Vulnerable Adults at Risk of Abuse – National Policy and Procedures 2014, was implemented to safeguard and protect people who access Disability Services and Older Persons’ Services from abuse and neglect. The Policy also saw the introduction of HSE Safeguarding and Protection Teams in each area of the HSE to support the implementation of that Policy. Safeguarding from abuse is a societal responsibility. Responsibility for safeguarding people from abuse rests with all service providers and personnel.

This section will look at responses to financial abuse including the response from the various HSE Safeguarding and Protection Teams to reports of financial abuse. The National Safeguarding Office, in their 2022 annual report, noted that the third highest category of abuse reported across their teams was financial abuse, with the reporting of this alleged abuse substantially increasing with age (National Safeguarding Office, 2022)<sup>20</sup>.

19 Browne, M. (2022) ‘Identifying risks, sharing responsibilities. The case for a comprehensive approach to safeguarding vulnerable adults’

20 National Safeguarding Office Annual Report (2022)

The definition of financial abuse or material abuse includes: “theft, fraud, exploitation, pressure in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.” This is defined in national policy<sup>21</sup>. Despite this universal definition, there continues to be some variations as to its interpretation and implementation across the various HSE Safeguarding and protection teams across Ireland.

### 3.1 Varying Responses To Financial Safeguarding Concerns Across Community Healthcare Organisations

As this discussion paper has already noted, many people with a disability do not have access to their own money with family, friends or carers collecting and managing their finances and making decisions around spending a person’s money for them. The UNCRPD states that disability rights are human rights, and therefore all persons should have the same access to their own finances and be afforded the same opportunity to decide how and when to spend their own money. Without access to their own money, a person is disempowered, may miss out on activities and purchasing goods of their own choosing, and may not live a fulfilled life, as has already been evidenced.

People with disabilities are more at risk of financial abuse if they are reliant on a third party to provide support with their finances. In some instances, a third party may take advantage of their position and access a person’s finances for their own benefit. In other cases, the perpetrator of the financial abuse is a family member or another close contact, and it can be a difficult decision to confront the issue for fear of the repercussions on the relationship.

NAS has supported many people to engage with safeguarding social workers to seek support in relation to financial abuse. NAS has experienced a wide array of differing responses to the support that people have received, from across the different HSE Community Health Organisation areas and teams whilst some people have received comprehensive support to help them overcome financial abuse, others have received poorer levels of support. At times, family control of finances has been legitimised by putting it down to a lack of awareness by the family, with no robust plan put in place to address the root cause and enable a person to regain financial autonomy. NAS has also seen occasions where the person themselves has not been consulted or involved in developing their safeguarding plan; their wishes of how the matter should best be addressed with family have equally not been taken on board.

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21 Safeguarding Vulnerable persons at risk of abuse - National Policy and Procedures (2014)



## Case Study

### Context

Rita contacted NAS looking for support around her finances. She advised she really did not know what money she was getting or how much she was entitled to and wanted the help of an Advocate. It was identified that Rita was in receipt of a Disability Allowance payment. Rita said she had a bank account with her family member, but she had no access to the account and asked the Advocate to help her gain access to it.

### Actions by Advocate

The Advocate contacted the family member on Rita's behalf as she was the joint signatory on the account. In this conversation, Rita said she would like a copy of the bank statements as the only money going into the account was Rita's, but the family member refused. When Rita asked could she access the account, the family member again refused. This was then escalated to the HSE Safeguarding and Protection Team locally who informed Rita that she would likely lose the relationship with the family member and probably would not get anywhere with resolving the issue. As a result, Rita then asked the Advocate not to pursue the issue any further.

### Outcome

This response greatly impacted Rita making her feel even more disempowered and unable to pursue her rights. The Safeguarding and Protection Team focused on the potential loss of relationship, instead of the issue of financial abuse and how the person could best be supported.



At the same time, NAS has also experienced excellent and robust responses by HSE Safeguarding and Protection Teams with similar reporting of financial abuse. In such cases, social workers have skilfully and tactfully worked with the Advocate, the person and the person's family to address the issues, culminating in the person gaining access to their money and obtaining autonomy over their money. Safeguarding social workers play an important role in enabling a person to exercise their rights in this regard and with the support of an Independent Advocate, can alleviate concerns and support a person's autonomy.

Despite this, NAS has observed inconsistencies in practice and responses provided by HSE Safeguarding and Protection Teams, and it is apparent that at times there are discrepancies and regional variations at play. As this paper has shown, the issue of financial abuse which results in the denial of basic human rights and a removal of autonomy over a person's life choices is endemic. It is imperative that HSE Safeguarding and Protection Teams take a more uniform approach in their response to concerns of financial abuse. NAS has observed that a lack of resources, waiting lists and other factors can impact on the response patterns of the HSE Safeguarding and Protection Teams, and this in turn can have a detrimental impact to the person at risk of/or experiencing abuse. It is essential that HSE Safeguarding and Protection Teams are adequately resourced to support all persons who need help without any undue delays. It is also vital that consistent and robust practices are in place across all Safeguarding and Protection Teams to ensure anyone experiencing financial abuse receives a comprehensive response to provide the necessary support and intervention.

### 3.2 Person-Centred Safeguarding Plans

NAS has witnessed many instances where people are unaware of or are not involved in contributing to their own safeguarding plans, which has resulted in poor outcomes. Furthermore, failure to include people in their own safeguarding plan has, in some cases exacerbated the issues a person is facing. The guiding principles of the safeguarding policy speak of the need for services and plans to be grounded in a human rights-based approach (Section 7.3.1)<sup>22</sup>, and equally important, to be person-centred (Section 7.3.2)<sup>23</sup>. The national policy on safeguarding details that *"Person-Centeredness is the principle which places the person as an individual at the heart and centre of any exchange concerning the provision or delivery of a service. It is a dynamic approach that places the person in the centre."* (ibid, p15).

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22 Safeguarding Vulnerable persons at risk of abuse - National Policy and Procedures (2014)

23 ibid

It is crucial that Safeguarding and Protection Teams adhere to following these principles to ensure that in all safeguarding responses, person-centeredness and human rights are the grounding principles informing screening or subsequent responses and plans that may be developed. It is also important to say that there are many people with a disability who are opposed to the idea of “safeguarding” or the idea that there is a need for any specific protections outside of those available to the general public. Therefore, whilst safeguarding measures are in place to provide support to all of us in a time of our lives where we might be the victim of abuse, safeguarding needs to be person-centred and solution-focused. The person must be the driver of change in their circumstances and ensure that all service providers and supports work at their level and pace and in accordance with their wishes.

### 3.3 Designated Safeguarding Officer Role In Services

NAS sees a wide variety of safeguarding practices and responses across designated safeguarding officers in services, which can result in disparate levels of appropriate responses and supports being provided to persons at risk of abuse. NAS has witnessed vastly different training and skill levels amongst designated officers. This can result in uncertainty regarding appropriate responses to abuse, confusion over when reporting should occur and poor co-ordination in putting a robust plan in place to address the concerns at hand. NAS has equally seen some excellent interventions by designated safeguarding officers who are well trained and provide very comprehensive responses and support to people experiencing abuse. It is crucial that all services ensure robust, consistent responses to concerns and reports of abuse. Alan’s experience illustrates this point further:





## Case Study

### Context

Alan has an intellectual disability. He lived in a home that is owned by a family member, who charged Alan rent. The family member also claimed Carer's Allowance, without Alan's consent and without providing any meaningful care to him. The referral to NAS came from a care worker from the day service that Alan attends who noted Alan's inability to make his own choices or to have full access to the house in which he was living. Alan's family member was extremely controlling, demanding money for bills and repairs, monitoring Alan's post and mobile phone use, and frequently attending the property Alan was renting from him, without any notice. The care worker also observed that Alan was becoming increasingly withdrawn, noting allegations of physical abuse by the family member.

Alan reported he could no longer afford basic items because of these demands from the family member seeking ever increasing money towards bills that Alan had no access to verify. Alan expressed immense distress and fear at the situation he found himself in.

Alan raised his concerns through his case worker with the Designated Officer in his service. The Designated Officer consistently requested to meet Alan, with the family member present, and wanted Alan to work on the relationship with his family member. Alan regularly requested to meet the Designated Officer on his own so he could talk about the abuse he was suffering, but the Designated Officer did not listen to Alan's wishes and insisted on the family member being present every time.

### Actions by Advocate

Alan decided to reach out to NAS and his advocate supported Alan to immediately escalate his concerns directly to the HSE Safeguarding and Protection Team. The Advocate helped Alan write a letter to outline his desire to have a safeguarding plan put in place. The Advocate contacted Alan's Designated Officer again to advise them of Alan's will and preference and to ensure that the family member was not included in future meetings and plans.

### Outcome

The case culminated in Alan's family member being removed as a carer after a complaint and subsequent investigation by the Department of Social Protection (following contact by NAS). Alan moved to new social housing and regained control over his own finances and gained autonomy to live a life of his choosing.

As evidenced above, the Designated Officer did not adhere to the core principles of human rights and person-centredness and did not listen to Alan's repeated wishes, which in effect placed him at an even higher level of risk of abuse.

NAS has seen times where due to a person already being connected to a service, safeguarding responses may not be adequate. It can take significant advocacy intervention to secure the involvement of the HSE Safeguarding and Protection Team, irrespective of the seriousness of safeguarding concerns or the complexity of the issues. This can be due to differentiation between community and service reporting pathways in the HSE Safeguarding Policy and corresponding responsibility for who must support the person. Such an approach is not person-centred and can lead to further levels of distress for the person who is effectively falling between the services at times. Greater integration across multi-disciplinary teams and Designated Officers is needed to benefit the person at the centre of alleged abuse. Any resource challenges that inform such practice must be addressed to ensure it does not pose a barrier to people obtaining prompt and robust responses when they are at risk of/or experiencing abuse.

### 3.4 The Role Of Independent Advocacy

The Commission for Social Care Inspection, a UK-based independent inspectorate for social care detailed one of the key building blocks for safeguarding and promoting welfare was advocacy, as reported in the UK national guidance document governing safeguarding. Its research stated "...Commission for Social Care Inspection identified the following building blocks for prevention and early intervention:

People being informed of their rights to be free from abuse and supported to exercise these rights, including **access to advocacy.**"<sup>24</sup>

Further to this, reviews on effective safeguarding outcomes and even prevention note the importance of Independent Advocacy. Examples include Safeguarding Ireland's scoping document on the context and future challenges of Independent Advocacy in Ireland, which detailed the importance of Independent Advocacy in Safeguarding<sup>25</sup>. Furthermore, then CEO of HIQA noted throughout his presentation to the *Roundtable on Advocacy in Safeguarding* the need to enshrine Independent Advocacy as a protected term in any

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24 Prevention in adult safeguarding, UK (2011)

25 Independent Advocacy in Ireland Current Context and Future Challenge A Scoping Document (2018)

potential safeguarding legislation<sup>26</sup>. Additionally, there is a specific section in the national policy dedicated to understanding and promoting Independent Advocacy as a means of ensuring the person's will and preference and human rights are at the centre of any service and safeguarding plans (Section 7.3.4)<sup>27</sup>. There are four areas within HIQA standards that specifically mention advocacy. They underline that a person should be informed of Independent Advocacy, encouraged to use an Independent Advocacy service of their choosing, and ensure the protection of those living in residential services by enabling access to Independent Advocacy services. Additionally, the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2022 were amended to provide improved access to Independent Advocacy services and greater standardisation of complaints processes in long-term residential care facilities for older people. It is clear in the case examples throughout the report, Independent Advocacy plays an integral role in supporting people who are experiencing abuse.

Yet, there is still a need for increased understanding and awareness of the crucial role Independent Advocacy plays in supporting people who are experiencing abuse or at risk of abuse. Advocates can support people to access appropriate supports, ensure a person-centred response to reports of abuse and ensure a person is kept at the centre of and informs planning responses to combat abuse.

NAS endeavours to ensure that a person has access to their own finances. Where a person does not have access to their finances, at their request, NAS supports them to achieve this goal. NAS has witnessed very positive outcomes where the right support is put in place, particularly where an Independent Advocate was in place to support a person to have their will and preference heard by all parties involved. In these cases, the Advocate worked to ensure that the person was placed at the centre of the process and was facilitated to have all the relevant information to enable them to make their own decisions.

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26 Remarks by HIQA CEO, Phelim Quinn, to Safeguarding Ireland Roundtable on Advocacy (2018)

27 Safeguarding Vulnerable Persons at Risk of Abuse - National Policy and Procedures (2014)

## Challenges And Considerations

NAS has identified many good examples of people being supported effectively to combat abuse. There are also many examples of good person-centred safeguarding practice that has involved the assistance of independent advocates. NAS recommends the following:

1. There needs to be a clear legislative framework for responses to abuse (safeguarding) in Ireland. This would provide a firmer basis to investigate instances of financial abuse, and indeed all types of abuse, and would enable a consistent approach across HSE Safeguarding and Protection Teams in various Community Healthcare Organisation areas (or future Regional Health Areas) in responding to instances of financial abuse.
2. There are waiting lists across some HSE Safeguarding and Protection Teams at times. When a person is experiencing financial abuse, they most often will require a prompt response. It is therefore essential that HSE Safeguarding and Protection Teams are adequately resourced to minimise potential for such delays.
3. Numerous national policies (as mentioned throughout this report) reference Independent Advocacy and its important role in preventing abuse and supporting people to receive positive outcomes. NAS continues to operate under significant pressure, with a large demand in services in many counties. The waiting list for the service stood at 238 at the end of November 2023. NAS should continue to be supported to provide its services to those who require it.
4. There is a need for co-ordinated, independent oversight of the current structure and systems pertaining to safeguarding practices in Ireland. Such an oversight structure should robustly review safeguarding plans and responses at regular intervals ensuring they are person-centred, person-led and in line with a person's human rights. Any introduction of such oversight must be wholly focused on improving people's quality of life and result in meaningful outcomes and positive change from the person's perspective, rather than introducing any further controls that may distance the person further from being in control of their own lives. The person's own wishes and voice must be kept front and centre.
5. The oversight structures cited in point 4 above should also have a direct role in overseeing Designated Officers within service settings to ensure national policy and procedure is being implemented on a consistent and uniformed basis and that it is entirely person-centric.



## Case Study

### Context

Joe is in his mid-fifties and has an intellectual disability. Joe had been living with his parents until recently and his family had always managed his finances. They continued to do so when he moved into his new home in the community, which meant Joe had limited access to his own money. This was impacting on his choices and quality of life. Joe was supported by staff in his new home to make a referral to NAS.

### Actions by Advocate

The Advocate met Joe in his home and spent time with him. The Advocate learned that Joe enjoyed sports and speaking about the teams he supported. Joe told his Advocate he was saving for a hat and scarf from his favourite club team.

Joe said he had noticed all the choices other people had when he moved to his new home and that he did not have the same choices because he had very little spending money. This meant he could not afford to go out with friends for a social evening. Joe also told the Advocate that staff in his service bought him tickets for local matches because he could not afford to. The Advocate listened to Joe in detail and understood that Joe's will and preference was to have the same access to his money as the other people he lived with. The Advocate and Joe agreed an advocacy plan to support him to achieve this outcome.

Joe was supported by his Advocate in meetings with his family, during which, the Advocate established that Joe was in receipt of Disability Allowance and a second monthly income from a Trust Fund. Joe's family were appointed as his agent with the Department of Social Protection and collected his Disability Allowance. His family confirmed there was a joint bank account in his name, into which they deposit the balance of his Disability Allowance after his Long Stay charges and pocket money are paid. Joe's family said they bought birthday and Christmas presents for family members on his behalf.

Joe had been unaware of any of this information and had not given his consent to the arrangements his family had put in place. Joe's family explained they did not trust anyone else to look after his money and suggested increasing his pocket money by €5 a week.

During the meeting, the Advocate learned that when Joe was awarded Disability Allowance, his family had not declared the Trust Fund income to the Department of Social Protection (this is a requirement). The Advocate explained to his family that because of this Joe was at potential risk of an overpayment charge from the Department of Social Protection as any benefits in the form of regular payments or a lump sum payment will be assessed as means. The Advocate sign-posted Joe's family to Citizens Information Services and the Operational Guidelines for Means Tested Payments.

Joe's family were unhappy after the meeting and postponed several meetings arranged with Joe and the Advocate. Joe began to demonstrate a good understanding of money management skills and the Advocate suggested that he could be supported by his service provider's Financial Policy to manage his own money. The service provider reviewed their Financial Policy with Joe and his family. Despite this, Joe's family refused to recognise him as an adult with the autonomy, ability and supports available to manage his own finances.

## Outcome

The Advocate supported Joe to contact the Department of Social Protection and make his own preferred arrangement plan for his Disability Allowance payment. After a weekend visit at home, Joe returned with his bank card, pin number, and bank account statement. He was supported by his Service Provider to change the pin number and address on his account. Joe was also supported to seek legal advice on the additional payment. Since then, Joe has continued to develop his money management skills and now pays his own Long Stay charges, and purchases his own tickets for local matches.

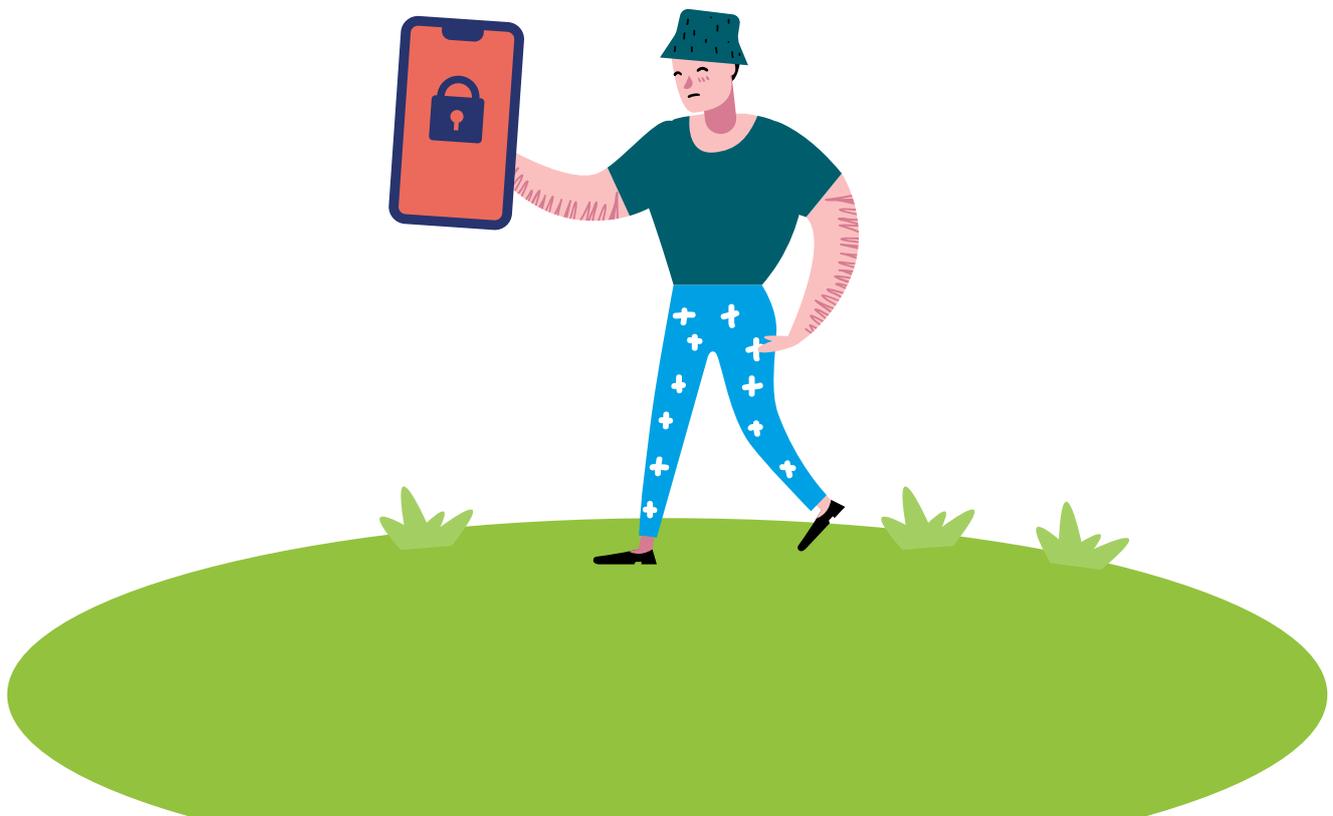


## 4. Managing Finances In Service Settings

Many people with disabilities live in and/or attend residential and day service facilities. Within these settings their experience of how they are supported with their personal finances and/or property is exceptionally varied and for many people is limited at best. This section highlights the issues faced by people with disabilities in these contexts in relation to their personal finances and/or property. These include limited focus on supporting people to build their capacity around rights and money management skills. Additionally, a significant issue across many residential settings arises when families are in control of managing financial and property matters, without any robust oversight by services. In these cases, little is done to ensure that where a person wishes to manage their own money, they are adequately supported to do so. There is a need for more accessible information to support people with disabilities' rights in relation to finances. NAS' new easy-to-read booklet, 'My Money, My Rights, My Options', is aimed at supporting people to better understand their rights.

### 4.1 Services Not Providing Information To The Person

It is NAS' experience that people are not always informed of their rights to access their own money or property. In one such case example, the service was actively working with the person's family to discuss the person's money and rights and entitlements to the family home, without any input from the person themselves. Susan's story captures such an experience:





## Case Study

### Context

Susan is in her mid-fifties and has a mild intellectual disability. She has been in a registered service for decades but is unaware of her financial position or her property rights. The service suspected that she may have some entitlement to the family home, and an amount of money, but had not sought this information from Susan.

### Actions by Advocate

Susan's service contacted NAS to support Susan to make a will. The Advocate raised the issue of finances and property rights with regards to this. The service told the Advocate that although they were communicating with the family, they had not relayed any information to Susan about these conversations. At her request, the Advocate engaged with the service provider, to initiate Susan's inclusion in these discussions.

Following this, the Advocate queried why nothing had been undertaken by the service to support Susan in understanding the wider responsibilities of owning property, her rights, and entitlements, and why this was only being implemented through the intervention of an Advocate.

### Outcome

The service agreed to include Susan in the discussions they were having with her parents and provided some capacity building work so that Susan had as much information as possible to make informed decisions.



It was clear from this case, and other similar cases, that there was no attempt to ensure the person was aware of their rights and entitlements, until a NAS Advocate became involved. This results in people not having control over their own finances and property. This was also previously noted by SAGE (The National Advocacy Service for Older People), who in their discussion paper spoke about “...a gap identified in HIQA Inspection Reports has referred to insufficient support being provided to residents to manage their own financial affairs.”<sup>28</sup> A lack of access to money, autonomy, and support over same will result in a person’s quality of life being significantly impacted<sup>29</sup>.

## International initiative

Dosh is a service provided in the UK which supports people with a learning disability (and their families, social workers, and support staff) to manage their money to enable them to have control and independence to live the life they choose. They also provide specific financial Advocates who can support a person’s will and preference solely around their money. A similar service would be very beneficial in an Irish context.<sup>30</sup>

As evidenced by Susan’s case, services have a requirement to ensure the person is placed at the centre of any discussions involving them, particularly around their own money. Services must commit to practices that support this, ensure people are informed of their money and supported to access the least restrictive options. This should also be complemented by stronger and more robust regulatory oversight.

## 4.2 Increased Regulatory Powers Regarding Finances

For people residing in regulated services, HIQA Standards emphasise the importance and need for people to have financial autonomy. Standard 1.1.2<sup>31</sup>

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28 Managing finances, a discussion document (2023) SAGE

29 Managing finances, a discussion document (2023) SAGE

30 DOSH Financial Advocacy Services, UK

31 HIQA National Standards for Residential Services for Children and Adults with Disabilities (2013)

details the need to ensure that people are supported to take responsibility for their own finances. Standard 3.1.14<sup>32</sup>, 3.1.15<sup>33</sup> and 3.1.19<sup>34</sup> all speak about the need to ensure a person's money is used in accordance with their wishes, even in cases where there is a necessity to help support the management of their money. Nonetheless, there are some challenges to the current regulatory framework, for example, the enactment of the ADMCA which raises points of conflict with specific regulations. The right for a person to access advocacy services is mentioned over four times across different standards. There is a need for more robust regulations to ensure sufficient ability of regulators to address where financial autonomy is not being adequately supported by services. Additionally, regulations have not been reviewed for many years and the future of regulation is likely to change significantly as human rights-based approaches and models supporting people with disabilities progress and change.

### 4.3 Poor Practice In Service Settings Relating To Finances

Most services have policies and procedures that set out how they support people's personal finances and property and the actions they will take to respond to financial abuse. In most cases, such policies rarely take into consideration whether such policies and procedures are appropriate or empowering from the person's perspective. Whilst the intention of the policies may be to honour a person's right to safety and security, they may unintentionally disregard and impact a person's right to make choices or decisions that are considered unwise by others.

NAS has been aware of services saving or ringfencing residents' personal money for future funeral expenses without their knowledge or consent. Other services have intentionally withheld information from the person, not communicating that money is being saved by them for a holiday or rainy-day fund. In other situations, the person was not allowed to have access to all of their money at any given time due to the service's focus on risks and fears. Such approaches generally fail to consider the risk of not affording a person autonomy and control of their finances and the risk this can have to the person's quality of life and human rights. Another more recent development that NAS has seen through its casework is the establishment by some services of a pre-loaded debit card for its residents as illustrated by James's situation:

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32 ibid

33 ibid

34 ibid



## Case Study

### Context

James contacted NAS as he could no longer access all his money as the service had initiated a new system to manage his and all other residents' finances.

### Actions by Advocate

An Advocate met with James, and James explained that he had always had access to his own money and his own bank account. James was happy with this arrangement as he said he could spend whatever he wanted with his own bank card at any given time.

James informed the Advocate that recently the service had planned debit cards for everybody. Not wanting to lose where he lived, and for fear of potential negative repercussions, James agreed to the debit card. He described to the Advocate that his money went into a central account with the service. A weekly allowance was then added onto this card that he could use. If he wanted to use more than his allowance, he could make an application and it would be reviewed and approved. James was upset about this as he said he had never needed to do this before.

The Advocate arranged a meeting with the service at James's request. It became clear in this meeting that not only could the service see all his everyday transactions, but they could also track all transactions made by the residents. The service stated they would never refuse a request, but James would have to make one if he wanted to spend more than his allocation and this was ultimately up to the service to manage.

### Outcome

Eventually, through much advocacy work, the service agreed to remove James from this system that they had established. James was able to reopen his own personal bank account and have control over his own money again to spend it as he wished.



The establishment of this type of system to manage people's money is completely at odds with basic human rights. It removed James's autonomy, forcing him to feel like he was being 'protected' when he did not need to or wish to be and this made him feel marginalised. Independent Advocacy was key to resolving the issue, but the service should never had put such a 'one-size-fits-all' system in place that had such a disempowering impact on people. This point is echoed in the following excerpt from a report undertaken by SAGE:

*“Current Standards and Guidelines for the management of the finances of people living in residential care services may not be sufficiently detailed to cater for the specific support needs of a range of people with different decision-making capacity in relation to financial management ... [As examples] on this matter refers to a ‘one-size-fits-all’ approach in some services to the management of residents’ personal finances with active engagement with residents around money matters remaining underdeveloped.”*

- SAGE, 2023<sup>35</sup>

#### 4.4 Cultural Shift Required In Many Services

A cultural change is still required in many services that recognises, in line with the principles of the ADMCA, that it is everyone's responsibility to support people to maximise their capacity and exhaust all efforts to make their own decisions with the right supports. Ireland has a long way to go to shift cultural norms and for such practices to be fully embedded.

In some cases, the assumed authority of family members or service provider professionals is not for financial gain, but rather to exert power over the person as a form of coercive control. Such situations are often complex as although the person's wishes are for family members to relinquish control, they also don't want to lose their relationship with those involved. In NAS' experience, some such cases are intentional, whilst others are unintentional or due to a lack of awareness of people's rights and ingrained paternalism. In either case, the person becomes a victim of wrongdoing, and such abuses need to be addressed.

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35 Managing finances, a discussion document (2023) SAGE

NAS frequently comes across situations where family members or others disagree with proposals for the person to spend money on items or activities that they don't agree with. This may be on items as simple as a cup of coffee, magazines, clothes, or hobbies. Although services have no authority to enable Next of Kin/third party decision-making for the person, in many circumstances they permit third party control and enable restrictions to be placed on the person. Such restrictions may include things like limiting the number of coffees a person buys per day or how many magazines they are allowed to purchase per week. Such practices are a gross violation of a person's integrity, choice, autonomy and would simply not be tolerated by any person who had the freedom to disallow it. These paternalistic cultures often justify such actions on the grounds of risk management, vulnerability, care, and protection. We must move away from a protectionist system to one that fully supports and empowers people's financial autonomy. This will require the ongoing commitment and strong leadership of service providers.

*"[Services must] ensure that the most appropriate and least intrusive money management arrangement is in place which permits people to maximize their ability to self-determine to the max of their ability and to build capacity on an on-going basis where necessary to the max extent possible."*

- James Gorman, Unit Manager, HSE Fair Deal Finance Unit and PPP Central Unit.  
(Direct quote from stakeholder engagement)

## Challenges And Considerations

In line with the ADMCA and the UNCRPD, it is imperative that all steps are taken to support a person in managing their own finances and spending it how they see fit. This entails creating practical systems that address and support concerns while supporting people with disabilities to access the required information and their own finances and property. There must be awareness around how stakeholder actions and policy decisions may be limiting and restricting a person's rights. Consideration must also be given to how poor practice may limit a person's experience, leading to poorer quality of life. The ADMCA highlights as a key principle the right for people to make unwise decisions. We must avoid the temptation to always put the 'safety and protection' of people above all else. A judgment in the UK Court of Protection by Justice Munby captured this precisely:

*“What good is it making someone safer if it merely makes them miserable?”<sup>36</sup>*

The sector must move to the practice of positive risk management which considers the risks of not supporting a person to manage their own money/ build capacity to manage their own finances and exercise financial autonomy. That considers the risk to the person’s quality of life and the risk of all of the things they will never experience, as well as the risk of it having a huge negative impact on their personhood. NAS recommends the following for improving people’s financial autonomy in service settings:

1. Service providers have an integral role to play in the provision of information to people with disabilities and a key role in building people’s capacity to manage their own money. Services should ensure ongoing and regular communication with people in relation to their rights to manage their own finances. Awareness raising campaigns should be undertaken on a regular basis by services. NAS has produced an easy-to-read booklet, ‘My Money, My Rights, My Options’ which is a resource that can be used by services to support such work.
2. Training initiatives on supporting financial autonomy, in line with people’s rights under the ADMCA should be offered by services to health and social care staff to ensure they are adequately resourced to provide the support people may require. This is essential to ensuring that where a person has never been supported or afforded an opportunity to gain financial autonomy, that it is not mistaken for a person lacking capacity to manage their own money.
3. Person-centred plans should clearly outline how people are supported to gain financial autonomy or where that is not possible, it should clearly document the financial arrangements in place to support them. All efforts to build people’s financial capacity should be documented and regularly reviewed.
4. The Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations should be reviewed to include more robust detail on individual financial arrangements and the obligation on services to maximise financial autonomy and evidence same and to account for a changing landscape of human rights-based support.

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36 Munby J in Re: MM [2007] EWHC 2003 (Fam)

Any such changes must ensure that the arrangement is the least restrictive and that steps are being taken by the service to build the capacity of a person, where required. This would enable a greater focus on personal finances via HIQA inspection to drive change.

5. Services must ensure that individualised financial support plans are put in place for each person. All supports should be person-centred and the type of support offered must be the one most suited to everyone's unique needs.

## Irish Example Of Good Practice:



The Northside Partnership is a registered charity and local development company which runs a free programme for those within their catchment area (Dublin 5) to build capacity and understanding for people around their finances entitled “Money Made Sense”. Furthermore, the Northside Partnership recently (2022) published a framework, in conjunction with the Money Advice and Budgeting Service (MABS) and the Think Thank for Action on Social Change (TASC), on how organisations can design and deliver financial capability initiatives.

A copy of this framework can be found on their website:  
<https://www.northsidepartnership.ie>

**These initiatives should be used as tools and frameworks by services and others.**





## Case Study

### Context

Upon the death of her parent and ensuing breakdown of relationships with her family, Jane was living in unsuitable accommodation with the possibility of imminent homelessness. Jane was unaware of her welfare entitlements and was not linked in with support services.

There were outstanding bills associated with the house and Jane felt that she had been pressurised into transferring the accounts into her name and was consequently in debt. Jane's family attempted to exclude her from obtaining her full share of her parent's Estate. Jane required social welfare, housing, legal, disability and social supports.

Jane's will and preference was to stay in the house, but it was unsuitable to her needs and was later condemned. Jane obtained accommodation in another community, but her wish was to return to her original area.

### Actions by Advocate

Jane contacted NAS and an Advocate supported her in applying for a transfer but in the meantime, Jane had invested in her accommodation and wished to stay in her new home.

The Advocate supported Jane in retracing the outstanding accounts, spoke to service providers and proved that most of the debt was already outstanding prior to her signing the account transfer to her name. The Advocate could also prove that Jane had already moved out of the premises when subsequent debt was generated. Jane and the Advocate succeeded in quashing all the debts and Jane was back credited as she had already started paying the debt.

The Advocate supported Jane in obtaining Legal Aid as it appeared her family wished to lessen her share of the family assets. The Advocate also supported Jane to write to her parent's solicitor which resulted in Jane obtaining her equal share of the Estate.

## Outcome

Jane now receives a Disability Allowance, social welfare supports and has a medical card. Jane was assigned a social worker and is linked in with day services who support her with independent living skills. Jane is living in her new home, decorated to her taste, she has money to spend as she wishes and has no outstanding debt. Jane attends a day service and has made new friends.



## 5. Discrimination And Equality Issues

In Ireland we have various key pieces of legislation relevant to the topic of financial autonomy. These include: The Irish Constitution<sup>37</sup>, The Equality Acts 2000-2018<sup>38</sup>, the Disability Act 2005<sup>39</sup>, the UNCRPD (in particular Article 12 - Equal recognition before the law). Additionally, the ADMCA which commenced in May 2023, enshrines the presumption of capacity. The Decision Support Service has developed a Code of Practice for Financial Service Providers. It is apparent through the work NAS undertakes that many people with disabilities have experienced discriminatory practices by financial institutions when seeking to exercise their rights to access financial products.

### 5.1 Discriminatory Practice By Financial Institutions

Financial institutions require robust implementation plans to ensure full and practical application of the principles of the ADMCA as set out in the Code of Practice provided by the Decision Support Service. A presumption of incapacity and a labelling of vulnerability can result in restricted access for the person to financial products, loss of confidence in managing money, exclusion from decision-making and ultimately restricts access to a person's own money. NAS has supported many people who have been denied access to their account or the right to open an account based purely on their disability. This is despite it being illegal to discriminate on the basis of disability under the Equal Status Act<sup>40</sup>. Discrimination is defined as where a person is treated less favourably than another by virtue of having a disability.

Furthermore, such legislation allows for the use of positive measures to promote equality of opportunity and to cater for additional support needs. Despite this opportunity, there continues to be poor access and widespread availability of such supports. The Irish Human Rights and Equality Commission have highlighted discriminatory practices in private services, including financial institutions, finding that they are 65% more likely to occur against people with disabilities than those without disabilities (2018).<sup>41</sup> The Medical Social Work team in the National Rehabilitation Hospital noted the following:

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37 Bunreacht na hÉireann (The Irish Constitution) (1937)

38 Irish Human Rights and Equality Authority "Equality Laws in Ireland" [Online]

39 The Disability Act (2005)

40 Irish Human Rights and Equality Authority "Equality Laws in Ireland" [Online]

41 Disability and Discrimination in Ireland (2018)

*“Banking staff discriminatorily question their ability to manage their own finances and put a block or ‘flag’ on their account, sometimes freezing their account... for individuals with aphasia/apraxia of speech/difficulty communicating verbally or in writing, their capacity to manage their finances is questioned immediately and they are unable to verbally/in writing give consent to someone else acting on their behalf.”*

- Rennee Summers, Senior Medical Social Worker, National Rehabilitation Hospital.  
(Direct quote from stakeholder engagement)

When this presumption of incapacity happens, it results in a person being labelled as a ‘Vulnerable Customer’. Subsequently, they often find their financial transactions and their choice of financial products can be restricted and offered more limited accounts. These are typically basic bank accounts/vulnerable customer accounts, or they are limited to opening a joint account with someone else. These basic/vulnerable customer accounts usually have a set daily spending limit. These restrictions have been applied in some cases without due consideration for the individual and in disregard to the principles of the ADMCA as required by the Decision Support Service Code of Practice for Financial institutions.

The National Federation of Voluntary Bodies (FEDVOL) reports similar observations:

*“In the experience of National Federation members, some Financial Services accommodate people with intellectual disabilities opening basic bank accounts as stipulated under EU Law, but these accounts are quite restricted. Their experience indicates that Financial Services are generally less supportive of opening deposit or savings accounts.”*

(Direct quote from stakeholder engagement)

NAS has witnessed the impact of these discriminatory practices and inequitable treatment on the people we work with. The following people highlighted the very real consequence of having daily spending limits imposed:

*“The bank would not allow me to increase my daily spending limit of €50 when my rent increased to €65 a week and the bank wanted a letter from my GP.”*

- Susan, a person supported by NAS.

*“Recently I got a membership to go swimming. It took me almost a week of withdrawing money so I could join the Centre. This limits me on what and when I can spend my money.”*

- Calem, a person supported by NAS.

Likewise, many people NAS supports have found themselves with no other option but to open a joint account. This is presumed to be with a person who is deemed to have greater capacity. Yet, ironically the person whose capacity is in question must consent to opening this account.

*“The only choice I had was to open a joint account with my family member.”*

- Jack, a person supported by NAS.

Other examples of poor and discriminatory practice include a case in which the financial institution requested the customer engage an agent for their social welfare payment. This was so that the institution could satisfy themselves regarding consent to make queries or seek financial statements as the person communicated differently. It would have been far more appropriate to focus on learning how the person communicates their will and preference and making reasonable accommodations relevant to the person rather than the institution.

Another person experienced what could be considered a discriminatory practice when a financial institution made the decision to freeze the customer’s current account on the basis that they live with the support of a residential service provider. Despite the advent of the ADMCA, much more work is necessary to apply the spirit of the law in practice.

*“If the person with a disability has a very visible disability, speech challenges or uses an interpreter or assisted technology the banks can be very wary of working with them. Several banks are now asking for GP letters to prove the person’s capacity before they will allow them to make transactions. At times, GPs who don’t even know the person will say that they don’t have capacity, even though the person’s family member, Advocate or service who know the person say they are fully able to make decisions, have a clear understanding and in line with ADMCA can be supported to communicate their decisions.”*

*- Celine O’Connor from the Irish Association of Social Worker Adult Safeguarding and Protection Special Interest Group.*

Finally, it has already been highlighted in Section 1, but the increase in digitalisation by banks is resulting in discrimination for many people with disabilities as products and services are often not tailored to their unique needs. At a minimum, simple informational/educational videos have proven to be excellent at informing all customers and the public of the options available to them.

## Challenges And Considerations

1. Communication was identified as a key concern for stakeholders and members of the public in the Irish Banking Culture Boards’s 2019 consultation report.<sup>42</sup> It is therefore vitally important that the new Assisted Decision-Making supports, and processes, are effectively communicated and explained to both relevant persons, their supporters, to Financial Services providers and professionals in an appropriate and consistent manner.
2. Financial institutions must ensure compliance with the Equal Status Act and the ADMCA. They must also ensure their legal obligations to comply with the Public Sector Duty, contained in Section 42 of the Irish Human Rights and Equality Commission Act 2014 are fulfilled.

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42 Irish Banking Culture Board Public and Stakeholder Consultation Report (2019)

## Conclusion

As detailed throughout this report, NAS recognises the need for a multi-sectoral approach to ensure that the rights of people with disabilities to exercise their financial autonomy are fully realised and supported. There is a distinct need for far more robust financial supports overall for people with disabilities with a sustained focus on access, education, and financial capacity building.

Regular and ongoing communication on the ADMCA principles, the Assisted Decision-Making supports and the Decision Support Service, and processes to all service providers, financial institutions, relevant persons, and their supporters, must be done in an appropriate and consistent manner. Education on how decisions impact or limit a person's quality of life is essential. Additionally, compliance must be consistent; just because a law exists, doesn't mean it is being implemented. There needs to be a clear legislative framework for responses to financial abuse and indeed all forms of abuse (safeguarding) in Ireland.

In line with the ADMCA and the UNCRPD, all steps must be taken to support a person in managing their own finances and spending it how they see fit; underpinning this, is the right for people to make unwise decisions. This entails creating practical systems that address concerns and ongoing training with staff on compliance. Critically, Financial Services must commit to consulting with people with disabilities to ensure fully accessible apps and supports. Person-centred and individualised financial support plans can enable financial autonomy.

Throughout our work, NAS has identified some excellent practice across many community and HSE-funded services on person-centred responses to instances of financial abuse. Despite this, there needs to be a far clearer accountability framework for how responses to abuse are monitored in Ireland, to ensure responses are consistent, timely, person-centred, effective and person-led. This can only be done with adequate resourcing, including adequate resourcing of Independent Advocacy services that work to prevent abuse and support people to receive support and positive outcomes.

There is a need to review regulations to ensure compliance with best practice, a changing society, and human rights laws. Additionally, there is a broader need for education and awareness building across all sectors, including information to staff, parents and supporters to promote and understand the

rights of people with disabilities to access their own money. In tandem, the development of key money management skills for people with disabilities is central to promoting increased financial autonomy.

This document exemplifies the crucial role NAS Advocates play in supporting those who have been denied access to their finances, or who are experiencing other barriers in gaining financial autonomy. While we recognise these positive outcomes, it is equally important to work towards bespoke financial systems and resources, which can build on a person's capacity and maximise their potential, be it independently or with support systems.

Strengths-based language can facilitate the move away from deficit-based, paternalistic terminology. This is essential to realising people with disabilities as equal citizens and rights holders.

As evidenced throughout this report, people with disabilities regularly experience excessive barriers to accessing and managing their finances. This can impact greatly on their quality of life, particularly when it comes to engaging socially and integrating within their community. Denial of access and/or decision-making over finances, minimises independent functioning and money management skills. Crucially, when people with disabilities can independently access their own funds or are supported to have greater autonomy to choose how they spend their own money, it creates greater economic self-determination and reduces the potential of financial exploitation, all of which leads to individual empowerment.

We believe that considerable advances can be made in supporting people with disabilities in Ireland to increase their financial autonomy and that change is possible with continued collaboration, open dialogue, and a commitment to enhance the accessibility of our systems and the promotion of social inclusion for all.

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