# Equal Recognition before the Law: Balancing autonomy and protection in support for the exercise of legal capacity

## Describing notes for Powerpoint Presentation The Conversation: Supported Decision Making Hui

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General notes about this presentation

* There is a new page for each slide and each page is headed with the slide number – there are 10 slides.
* Images and graphics are described under ‘Picture’.
* Where a standard background is used it is referred to as the ‘ODI background’. It is described here. The text ‘Equal Recognition before the Law’ appears on the top right-hand side– white text on a dark blue background. Below, the body text of the slide is set on a light blue background. The Office for Disability Issues logo features in an oval on the bottom-left hand side of the slide.

# Slide 1 – Title slide

## Slide title:

Equal Recognition before the Law: Balancing autonomy and protection in support for the exercise of legal capacity

## Slide text:

Paul Dickey, Senior Advisor, Office for Disability Issues  
April 20 2016

## Picture:

White text is set on a dark blue background. The Office for Disability Issues logo is placed in the top left-hand side of the slide in a white oval. An image of the ’Scales of Justice’ is placed on the top-right hand side of the slide.

# Slide 2

## Slide title:

International law

## Slide text:

* States need to ensure equal rights for everyone.
* International Covenant on Civil and Political Rights:
* **Article 1**: All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
* **Article 16**: Everyone shall have the right to recognition everywhere as a person before the law.

## Picture:

ODI background.

# Slide 3

## Slide title:

Applies to disabled people

## Slide text:

2006: Convention on the Rights of Persons with Disabilities

Preamble:

(n) Recognizing the **importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,**

(o) Considering that persons with disabilities should have the **opportunity to be actively involved in decision-making processes** about policies and programmes, including those directly concerning them.

## Picture:

ODI background.

# Slide 4

## Slide title:

A person with rights, who acts

## Slide text:

Article 12 says that every disabled person should have:

* the right to **equal recognition** before the law
* the right to **enjoy** legal capacity
* the right to **exercise** their legal capacity
* the right to **access** **support** to exercise their legal capacity
* **safeguarding** to protect their rights and prevent abuse and undue influence from the provision of support.

## Picture:

ODI background.

# Slide 5

## Slide title:

Rights based approach

## Slide text:

* Nothing should prevent a person from exercising their rights.
* Some people may need support.
* But the need for support does not transfer or mean the loss of legal capacity or responsibility.
* Focus moves…
* from whether a person has legal capacity or not
* to what support does a person need.
* The presence of support extends a person’s decision making ability.

## Picture:

ODI background.

# Slide 6

## Slide title:

Decision making context

## Slide text:

This slide features a diagram - text noted below.

## Picture:

Near the top of the slide, a red horizontal arrow is featured with the triangular arrow-head pointing from right to left. Next to the arrow is the text ‘People need increasing support (impact, abilities, experience, place, time)’. Below this arrow and text are three boxes. On the left is a middle sized dark-grey box; next to that is the smallest box which is light blue; the largest box is dark blue, and is on the right-hand side of the slide. The smallest blue box overlaps the other two boxes.

In the middle sized dark-grey box the text is ‘Substituted – Someone else decides’.

In the smallest blue box the text is ‘Supported – Decide together’.

In the largest dark-blue box the text is ‘Autonomous – Decide by yourself’.

# Slide 7

## Slide title:

Balancing autonomy vs protection

## Slide text:

* Common factors around the world driving change:
* growth of individualised living in the community
* increasing number of disabled people across all ages
* more older old people
* less natural social connections, busy lives, isolation
* shift in attitudes.
* Challenges to old ways of treating people.

## Picture:

ODI background.

# Slide 8

## Slide title:

From big ideas to ordinary practice

## Slide text:

* Autonomy becomes shared and relational.
* ‘Rights, will and preference’ not ‘in their best interests’.
* Who decides? Who’s voice is it really?
* People with cognitive impairment affecting decision making are diverse – what’s in common?
* Keep it normal and informal? Or paid roles?
* Responsibility of authorities to protect, e.g. banks, hospitals, Work and Income, Inland Revenue.
* Need more research into how to implement safely and what works.

## Picture:

ODI background.

# Slide 9

## Slide title:

## Office for Disability Issues

## Slide text:

Focal point on disability within government, located within the Ministry of Social Development.

* Website: www.odi.govt.nz
* Email: odi@msd.govt.nz
* Facebook: nzofficefordisabilityissues
* Twitter: @nzodi

## Picture:

ODI background.

# Slide 10

## Slide title:

Build a new disability strategy

## Slide text:

* How can disabled New Zealanders and their whānau live a good life, feel valued, supported and able to participate in their communities?
* Fill in a survey, record a video, register for an event or find out how to run your own workshop.
* We are open for feedback until 24 May 2016.

www.jointheconversation.nz

## Picture:

Dark purple text is placed on a light purple background for the main part of this slide.

In the top-right hand corner is a dark purple box. It features a speech bubble representing a conversation. The text immediately below this speech bubble reads ’Join the Conversation’. Below this, and still in this dark purple box, is the Office for Disabilities logo.

ENDS