



## Marriage and People with an Intellectual Disability

### Requirements for Marriage

For a marriage to be legal the parties must

- Have the Capacity to Marry
- Freely Consent to the Marriage
- Follow all necessary formalities

### Consent to Marriage

Consent must be free from duress (pressure) of any kind. If somebody consents to being married under threat or intimidation then the marriage may be deemed void.

Consent may be said to be absent if one or both of the parties are intoxicated, mentally impaired or mentally ill and therefore didn't understand the nature of the act of getting married.

### Capacity to Marry

Both parties in a marriage must be aged 18 or over. Any marriage where a person is under the age of 18 will not be recognised by law.

# Marriage



INCLUSION IRELAND  
National Association for People with an Intellectual Disability  
promoting rights, independence, dignity and equality

In some cases people can get married under the age of 18 if they have a court order to allow them.

A person will not be deemed to have capacity to marry another person if they are of the same sex, if either party is already in a valid marriage, related in blood to the other party or if either party does not have the mental capacity to understand the nature of marriage

## **Mental Capacity to Marry**

There is no provision to assess capacity to marry prior to the marriage of two persons. Typically an assessment of a person's capacity to marry is made upon the breakdown of a marriage. At present there are no reported cases of annulment of marriage on the basis that a person lacked capacity because of intellectual disability. Once a person can be found to understand the nature and effect of getting married then s/he can be said to possess the capacity to marry. If a person considers that another lacks the capacity to marry they may lodge an objection in writing with any registrar. The registrar then makes enquiries and decides whether the marriage would proceed.

## **Wards of Court and Marriage**

A person who is taken into Wardship because of mental incapacity is not permitted to marry. However, where a married person is taken into Wardship, the Wardship proceedings do not invalidate the marriage.

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