

Mental Capacity Act Update

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Independent Mental Capacity Advocate (IMCA) Consultation

Independent Mental Capacity Advocate Pilots (IMCA)

Code of Practice Informal Consultation Workshops

LPA Consultation

Contact Details

Please circulate this newsletter to anyone who you think may have an interest in the implementation of the Mental Capacity Act.

If you do not wish to receive future updates, please email makingdecisions@dca.gsi.gov.uk to unsubscribe.

To ensure that the Act works in practice, we want to work with everyone who has an interest in this important piece of legislation, hear your views and keep you updated on the work we are doing.

Independent Mental Capacity Advocate (IMCA) Consultation

The formal consultation on the IMCA was launched on 5 July 2005 in England, and closed on 30 September. In Wales it was launched on 2 August and closed on 31 October. The IMCA service was introduced by the Mental Capacity Act 2005 to support and represent the most vulnerable people who are not always able to make their own decisions about their welfare, finances or healthcare.

The Department of Health held five regional roadshows in England to enable people to put forward their views in a less formal context. Over 450 people from a broad range of health and social care professions, voluntary sector service providers, carers and independent advocacy organisations attended these events.

Department of Health officials also attended a special event organised by the National Forum for People with Learning Disabilities to consider the consultation. Furthermore, Action for Advocacy – an umbrella organisation for about 600 independent advocacy organisations – held a number of regional events and created a database for responses to the consultation.

Over 174 written responses to the English consultation and over 40 to the Welsh consultation were received and these are now being analysed along with summaries of the views expressed at regional roadshows and workshops in England.

We are grateful to all that attended the roadshows and responded to the consultations and we are committed to publishing responses in respect of both consultations in the coming months.

This update is a joint communication from the Mental Capacity Implementation Programme whose members are:

Independent Mental Capacity Advocate Pilots (IMCA)

The Mental Capacity Act 2005 includes the provision of a statutory right to advocacy for vulnerable people who may not be able to make their own decisions because they have dementia, brain injuries, learning difficulties or other mental health needs and have no family or friends to support them.

In July 2005 the Department of Health advertised tenders for the provision of advocacy services for the IMCA Service in England. There was considerable interest in the tender and 46 organisations applied to run the pilots. The Department of Health has now selected and awarded the contracts based on a decision making process which included balancing a number of factors including strong advocacy experience and ensuring a geographical spread of small and large organisations.

We are pleased to announce that pilots will take place in:

- Cambridgeshire
- Cheshire & Merseyside
- Croydon
- Dorset
- Hertfordshire
- Newcastle
- Southwark

From January 2006 these pilots will test out the provision of advocacy services to particularly vulnerable people by helping them to make important decisions about medical treatment and changes of residence – for example, moving to a hospital or care home.

The organisations piloting the IMCA service include: Advocacy Matters, Advocacy Partners, Cambridge House Advocacy, Dorset Advocacy, PohWER, Speaking Up and Skills for People. The Department of Health will produce guidance for the national implementation of the IMCA service based on the experience of the pilots

Code of Practice Informal Consultation Workshops

During October we held 3 workshops (in Leeds, Cardiff and London) designed to seek your views on the draft Code which is available at <http://www.dca.gov.uk/menincap/legis.htm>. These workshops were aimed at gathering the views of those with direct personal experience of incapacity, their carers and professionals who work with them. The feedback from the workshops will help shape the next draft Code of Practice. Everyone will have the opportunity to make further comments when the draft Code is issued for consultation in March 2006.

We are working through your comments and will provide details on suggestions on the content of the Code in the next newsletter. However, the main emerging themes in respect of format and style are:

- Use clear, jargon and acronym free language as far as possible.
- Include a thorough index to make it easy to find relevant material.
- Include the distinctions and overlaps between the Mental Capacity Act and the Mental Health Act/ Mental Health Bill and other relevant legislation.
- Ensure the code is flexible enough to cover the range of decisions that fall under the Act (from every day decisions to more complex decisions).
- Ensure that the principles of the Act are outlined at the beginning of the Code and are a common theme throughout the Code.

In addition, the suggestion to include examples or scenarios to illustrate the Code was generally welcomed.

We are delighted with the high level of interest you have all shown and we are very grateful to everyone who attended the workshops or contributed their views by post or email. Thank you!

LPA Consultation

Towards the end of November/ beginning of December 2005 we will be launching a formal consultation on the forms to be used when making a Lasting Power of Attorney. The consultation will ask for views on the format of the forms, the information that should be contained in them as well as the guidance that will be issued with the forms. The consultation will run for three months and the consultation paper including the draft forms and guidance will be available on the DCA, PGO and DH websites as well as in hard copy. We are also preparing an Easy Read summary of the consultation. We will provide you with further details shortly.

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