

Mental Capacity Act Update

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Welcome to Edition 7 of our newsletter. We apologise for the delay since the publication of the last newsletter in January. We will be publishing the newsletter every two months. However, from time to time, we may notify you of other news relating to the Mental Capacity Act.

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.

Consultation on the draft Code of Practice

On 9 March we held an event to launch the public consultation on the draft Code of Practice and introduce the new Public Guardian (designate), Richard Brook. Baroness Cathy Ashton, Parliamentary Under Secretary of State for the Department for Constitutional Affairs (DCA) and Rosie Winterton MP, Minister of State for Health Services at the Department of Health (DH) attended and took questions from delegates.

The draft code and consultation is in English and Welsh and audio and easy read information about the code is also available. If you would like a copy contact the Communications Team on 020 7210 0037/0025 or by emailing makingdecisions@dca.gsi.gov.uk. More information is available from our website at <http://www.dca.gov.uk/capacity/index.htm>. As well as your views on the code, we are also asking for your views about ways in which we can make the code accessible in easy read. **The consultation closes on 2 June 2006.**

The new Public Guardian (Designate)

Richard Brook joined the DCA in February 2006, as Chief Executive of the Public Guardianship Office and Public Guardian (designate). He will be responsible for the new Office of the Public Guardian (OPG) when launched in April 2007. As Public Guardian, he will be responsible for regulating people appointed to make finance, health and welfare decisions for those who lack capacity.

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

Richard sees the role of the OPG as integral to the effective functioning of the Act and he said:

“Working in effective partnership with the judiciary it will be our role to ensure that appropriate supervision regimes are in place which balance the autonomy of the individual with the most appropriate protection against abuse. We are currently considering how this regime can be effective yet as unobtrusive as possible. We will also have a role in providing the public with information about mental capacity issues and sign-posting people to the most appropriate form of help and assistance.”

Consultation on the forms and guidance for Lasting Powers of Attorney

The consultation on forms and guidance for Lasting Powers of Attorney has now closed and a response will be published in due course.

The Court of Protection

Denzil Lush, the current Master of the Court of Protection (CoP) has been appointed as the Senior Judge-designate of the new CoP. The Senior Judge will have overall responsibility for the administrative functions of the court, including the setting up and delivery of training for judiciary appointed to the court and ensuring that the court has a good administration and operates effectively.

There will be a consultation on the Court Rules and Fees during the Summer of 2006.

IMCA Implementation in England and Wales

The Mental Capacity Act 2005 includes the provision of a statutory right to advocacy for people who lack the capacity to make their own decisions about serious medical treatment or significant changes in their care arrangements and have no family or friends to support them. This advocacy service is called the Independent Mental Capacity Advocate (IMCA) service.

Consultations

The Department of Health (DH) has published the results of last year's consultation on the Independent Mental Capacity Advocate (IMCA) service in England. The response is available in English, alternative formats and other languages on the DH website:

<http://www.dh.gov.uk/Consultations/ResponsesToConsultations/fs/en> or from DH Publications Orderline, PO Box 777, London SE1 6XH. Telephone: 08701 555 455. Textphone: 08700 102870 (8am to 6pm Monday to Friday). Email: dh@prolog.uk.com

The Welsh Assembly Government (WAG) are currently considering their response to their separate consultation on the IMCA service for Wales. If you would like to receive a copy of the full response to the consultation and when available, the Assembly's Health and Social Services Minister's approval of the policy proposals for the IMCA service, please email Sarah.Austin@wales.gsi.gov.uk.

Pilot schemes

Following a tender process in 2005, the Department of Health awarded contracts for the provision of advocacy services for the IMCA Service in England. 7 IMCA Pilots were launched in January 2006 and are taking place in:

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

These pilots are testing the practicalities of providing 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 results will be used when considering how to provide this service on a wider basis. Cambridge University will be evaluating the results of the pilots.

Two of the pilots had public launches of their new IMCA services recently. Advocacy Matters, based in Warrington, invited DH Minister, Rosie Winterton to open the Advocacy Matters IMCA service, and invited the local MP, Helen Jones as well. Mrs Winterton was very pleased to officially open the IMCA service and spoke about how much she had wanted this extra safeguard for people with impaired capacity. She also said that she was delighted it was now a pilot project with national implementation planned for next year. 'Speaking Up' in Cambridge also formally launched their pilot scheme, with speakers Professor Tony Holland and Marcus Redley from the University of Cambridge, who are both writing a good practice guide based on the experience of the seven pilots.

Training qualification for independent advocates

Work is progressing on the feasibility of developing a national advocacy qualification, which would include separate pathways for IMCAs and independent mental health advocates. A workshop to explore the issues involved was held in Birmingham on 14 March involving independent advocates and trainers and was over-subscribed. There will be further opportunities to get involved in this process.

WAG is also working with colleagues in England on issues around qualifications and standards for advocates. Work is also underway on developing a training strategy and programme and devising regulations for research in Wales.

Care Service Improvement Partnership & Training materials

The Care Services Improvement Partnership (CSIP) is part of the Department of Health (DH) and is made up of several teams supporting positive changes in services for various groups including people with learning disabilities, people with mental health problems, and older people with health and social needs.

Care Services Improvement Partnership (CSIP) regional leads

The Department of Health is working closely with CSIP to create nine regional leads, one in each CSIP region in England, to promote and support the implementation of the Act. One of their initial tasks will be to support the creation of up to 150 local area implementation networks.

Training materials

The Department of Health is working closely with SCIE (Social Care Institute for Excellence) to tender for and procure training materials to support the Act's implementation. The current plan is that the training materials will be available in both electronic and hard copy formats at the end of this year in advance of the Act's implementation.

Nomination of local area contacts

In the Chief Executive Bulletin, published on 16th March, the Department of Health invited Adult Directors of Social Services in England to nominate a local area contact to work with the DH's MCIP Team. They also supported the idea of the creation of a Mental Capacity Act Implementation Network across the geographical area of each local social services authority.

Bournewood

The Department of Health recently announced that it would be introducing a new shorter Bill to amend the existing Mental Health Act. This Bill will introduce the Bournewood safeguards into the Mental Capacity Act and will protect people who lack capacity and who are not under compulsion, but are deprived of their liberty but do not receive mental health legislation safeguards. The Department of Health will also shortly be publishing the responses to its consultation on Bournewood that it held last year.

MCIP Communications

In February 2006 Toby Williamson joined the Mental Capacity Implementation Programme as Stakeholder and Communications Manager, seconded from the Mental Health Foundation, a UK-wide charity that works in the fields of mental health and issues affecting people with learning disabilities. When asked about his experience working in this field, Toby said:

“Supporting people who use services to make decisions for themselves, has been an important part of my work and has made me realise how legislation could help them, their families, and paid practitioners. This was reinforced by my own family experiences involving issues of mental health and mental capacity.”

Seeking your views

Part of the role of the MCIP Communications Team is to maximise general awareness of the Act, ensuring that different stakeholder groups understand what the Act means for them and continuing to involve stakeholder groups in delivery and information provision. We would welcome your support to do this, particularly by raising awareness of the Act at appropriate events you may be arranging or through existing forms of communication you have with your membership or contacts.

- *Please let us know if you think we can help you with this.*

We would also like to hear your views on the following question:

- *What kind of information would you find useful on the Mental Capacity Act?*

If you can help raise awareness or know of any other ways in which the Communications Team can give you useful information on the Act then please send a short email with your suggestions by **28th April 2006** to makingdecisions@dca.gsi.gov.uk (Marking your email "Seeking views on communications").

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