

30 April 2012

Welcome to this week's Bulletin from the National Family Carer Network. You are receiving this because you are members of our organisation. If you no longer wish to subscribe please contact [info@familycarers.org.uk](mailto:info@familycarers.org.uk).

#### Contents:

1. CQC Reports
2. New tool to ensure families are involved in best interest decisions
3. Making Decisions About Contraception - Who Decides?
4. Legal Aid Sentencing and Punishment of Offenders Bill

National

### **CQC publishes 36 reports from its review of services for people with learning disabilities**

The Care Quality Commission (CQC) publishes a further 36 reports from a targeted programme of 150 unannounced inspections of hospitals and care homes that care for people with learning disabilities.

The programme is looking at whether people experience safe and appropriate care, treatment and support and whether they are protected from abuse. A national report into the findings of the programme will be published later this year.

These 36 inspections covered locations that provided a range of services including assessment and treatment, rehabilitation and longer term care.

Inspections were focused on two outcomes relating to the government's essential standards of quality and safety: the care and welfare of people who use services, and safeguarding people who use services from abuse.

Read the reports at <http://www.cqc.org.uk/LDReports7>

## **New tool to ensure families are involved in best interest decisions**

Charities work with law firm to highlight rights of families under Mental Capacity Act.

A new resource has been developed for parents who feel that they are not being appropriately consulted about the welfare of their loved ones.

Ambitious about Autism, Mencap and the Challenging Behaviour Foundation worked with Irwin Mitchell Solicitors to develop the tool, following concerns that many professionals are failing to appropriately consult with families, as required under the Mental Capacity Act 2005.

In its latest report into deaths of people with a learning disability in NHS care, Mencap found that many health professionals are failing to abide by the Act and ignoring crucial advice from families.

A leaflet is now available which will support parents who have concerns that they are being excluded from decisions that social care or health professionals are making about their adult son or daughter. These may be decisions about where the person lives, what care they are getting, how they spend their time or medical treatment.

Parents will now be able to use two template letters which are intended to help family members who have not been involved, or are concerned that they will not be involved in the best interest decision-making process in the future.

Alex Rook, solicitor at Irwin Mitchell says: "If an individual lacks the mental capacity to make a decision for themselves, that decision must then be made in their best interests in accordance with the requirements of the Mental Capacity Act 2005.

"The Act requires all professionals, including those from local authorities and the NHS, to consult with family members when an adult lacks the mental capacity to make the relevant decision themselves. The law on this is clear. We want families to know their rights."

Belinda Blank, Transition Liaison Officer at TreeHouse School which is run by Ambitious about Autism, says: "Families are very concerned when their young people reach the age of 18 and transfer from children's to Adults services, that this may involve losing control over decisions made about their care or medical support. We hope that this leaflet and the letter templates will help reassure parents and carers that they can take simple steps to ensure they remain consulted at all times."

David Congdon, Head of Campaigns and Policy at Mencap, says: "We know from our campaigning work how serious the consequences can be when families of people with severe learning disabilities are not listened to. They often have invaluable knowledge about their son or daughter, for example,

they understand the subtle ways in which they communicate or express that they are in pain.

“It is crucial that professionals listen to family carers and use their knowledge to inform decisions being made. This applies to all decisions – those about medical treatment and social care as well as any other decision which affects the person’s life. This is not just good practice it is the law. It is important families understand this and feel able to challenge when they are not being involved.”

Vivian Cooper, Chair, The Challenging Behaviour Foundation, says: “Family carers who contact our helpline often describe being excluded from decision-making. Families have a wealth of knowledge and expertise about the individual and their history as well as being a long term source of love, care and support. These new resources will empower families to ensure they are appropriately involved in the decision-making process.”

Read the [Leaflet here](#) or click on [www.irwinmitchePress ll.com/MCAletter](http://www.irwinmitchePress ll.com/MCAletter)

## **Making Decisions About Contraception - Who Decides?**

Dr Liz Tilley at the Open University is conducting research into how decisions are made about contraception for women with learning disabilities.

If you are a family member, friend, advocate or practitioner who has been involved in making decisions about contraception, we would like to ask you to complete a survey and share your views and experiences. The survey should only take about 15 minutes of your time and your answers will be completely anonymous.

Please do pass this message on to anyone you know who might be willing to take part. The more people we can reach the better.

WHAT WILL HAPPEN NEXT? Information you provide will be used to inform a further programme of work in this area, in order to support best practice. You may also wish to participate in a follow up interview. More information on this option is provided on the survey.

PLEASE CLICK HERE TO ACCESS THE SURVEY:  
<http://survey.euro.confirmit.com/wix3/p918833815.aspx>

Liz Tilley can be reached at: [E.K.Tilley@open.ac.uk](mailto:E.K.Tilley@open.ac.uk)

## **Legal Aid Sentencing and Punishment of Offenders Bill**

As you may well know, LASPO received Royal Assent on 1<sup>st</sup> May and is now law. We are expecting the changes to come into force around April 2013.

It has been one of the most contested bills of this coalition, with debate in the House of Lords particularly fierce as a number of peers criticised the Government's plans. This means we have managed to secure significant concessions thanks in no small part to your help and support in spreading the word.

Specific concessions that may interest you include:

- Community care cases will be removed from the pilot mandatory telephone gateway (so it will just cover cases of debt (where the home is at risk), special educational needs and discrimination);
- Legal aid will now be available for welfare benefits appeals in the Upper Tribunal, Court of Appeal and Supreme Court;
- The Ministry of Justice will consider whether there should be funding for welfare benefits appeals in the First-Tier Tribunal which involve a "point of law";
- There is a measure of independence in decision making on entitlement to legal aid in entitlement to individual cases

This is in addition to concessions on domestic violence and immigration, among others.

However, the bill remains a devastating blow to the legal aid scheme that will leave thousands of people without specialist help for their legal problems. We are particularly concerned that the distinction being made between a 'point of law' and a 'point of fact' in the Lower Tribunal is an arbitrary one. As such we will continue to work to highlight the problems that arise once the changes come into force. The government has in the Act given itself the power to bring areas of law back into the scope of legal aid using secondary legislation, so we are focussing our efforts on highlighting why the areas need to be brought back.

National Family Carer Network  
07747 460727  
[www.familycarers.org.uk](http://www.familycarers.org.uk)

*NFCN is an umbrella organisation that aims to promote the voice and rights of family carers supporting a person with a LD. Its membership comprises both organisations and individuals but we cannot be responsible at any time for the views expressed by our members unless explicitly promoted by us.*