

# Mental Capacity Act Update

edition 11 | January 2007

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## Welcome to the edition 11 of the *Mental Capacity Act Update*.

If you know anyone who is interested in the Mental Capacity Act, or who may be affected by this new law, please forward this newsletter to them.

If you would like to get future editions of Update please email [makingdecisions@dca.gsi.gov.uk](mailto:makingdecisions@dca.gsi.gov.uk) to subscribe. Likewise, to unsubscribe please email us.

## What's new?

### The timetable for implementation of the Mental Capacity Act

As many of you already know, the timetable for how we will implement the Mental Capacity Act during 2007 was announced at the end of last year.

For more information please go to the In depth section of this newsletter or call 020 7210 0038/39 or email [makingdecisions@dca.gsi.gov.uk](mailto:makingdecisions@dca.gsi.gov.uk).

### IMCA training in England and Wales

The Department of Health has commissioned Action for Advocacy to provide training courses in England and Wales for organisations that have contracts to provide the IMCA service.

For more information go to the IMCA service Update section of this newsletter.

### The Code of Practice for the Mental Capacity Act

Following public consultation on the Code of Practice during 2007 we are in the final stages of completing it. We plan to lay it before Parliament before the end of February 2006 with the view to issuing it in April 2007 once it has received Parliamentary approval. Once laid before Parliament it will be publicly available.

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

## Bournewood safeguards

The Mental Health Bill was introduced to Parliament on 16th November. The Bill is mainly about making changes to the Mental Health Act 1983 but it is also being used to amend the Mental Capacity Act 2005 by introducing the 'Bournewood' safeguards.

More information on the discussions held to date on the Bournewood safeguards are available at: <http://www.publications.parliament.uk/pa/ld200607/ldhansrd/text/70117-0013.htm#0701186000001>.

## In depth

### When does the Mental Capacity Act come into force?

The timetable for implementing the Act in 2007 was published in December and is shown below. There are two distinct phases: April and October.

#### April 2007

- The new **Independent Mental Capacity Advocate (IMCA) service** will become operational in England only.
- The new **criminal offence** of ill-treatment or wilful neglect will come into force in England and Wales.
- **Sections 1-4** of the Act (the principles, assessing capacity and determining best interests) which are essential to how IMCAs will operate also comes into force **but** only in situations where an IMCA could be involved, and for the purpose of the criminal offence. Sections 1-4 of the Act will **not** apply in any other situations until October 2007.
- The **Code of Practice** for the Act will be published and should be followed by those who must have regard to it in situations where an IMCA could be involved.

#### October 2007

- All other parts of the Act come into force including the IMCA Service in Wales. If you have any queries please contact the MCIP Communications Team (see contacts at the end of the newsletter).

## Health and Social Care update

### Regional leads to support the implementation of the Act

The role of the regional leads is to support awareness raising activities and events, assisting with the education and training of health and social care staff who will be affected by the Act, and supporting the commissioning and provision of IMCA services

The contacts for the regional leads in England are:

CSIP Region	Email contact details	Telephone
North East, Yorkshire and Humber	<a href="mailto:Bruce.Bradshaw@nimheneyh.nhs.uk">Bruce.Bradshaw@nimheneyh.nhs.uk</a>	07940 361335
North West	<a href="mailto:Paul.Greenwood@northwest.csip.org.uk">Paul.Greenwood@northwest.csip.org.uk</a>	07795 963509
East Midlands	<a href="mailto:Sylvia.Manson@eastmidlands.csip.nhs.uk">Sylvia.Manson@eastmidlands.csip.nhs.uk</a>	07810 636462
Eastern	<a href="mailto:Lou.Brewster@nemhpt.nhs.uk">Lou.Brewster@nemhpt.nhs.uk</a>	01206 287541
South East	<a href="mailto:Keithnieland@aol.com">Keithnieland@aol.com</a>	07711 980057

London	<a href="mailto:Sarah.Haspel@londondevelopmentcentre.org">Sarah.Haspel@londondevelopmentcentre.org</a>	07890 191361
South West	<a href="mailto:David.Pennington@nimhesw.nhs.uk">David.Pennington@nimhesw.nhs.uk</a>	07799 627244
West Midlands	<a href="mailto:Carol.Vines@csip.org.uk">Carol.Vines@csip.org.uk</a> <a href="mailto:Richard.Bartholomew@csip.org.uk">Richard.Bartholomew@csip.org.uk</a>	07748 703687 07748 541956

For more information and contact details for the regional leads in Wales please contact [sarah.austin@wales.gsi.gov.uk](mailto:sarah.austin@wales.gsi.gov.uk)

## IMCA service update

### IMCA service in England

The IMCA service will become operational on 1 April 2007 in England.

**Sections 1-4** of the Act (the principles, assessing capacity and determining best interests) which are essential to how IMCAs run will also come into force **but** only in situations where an IMCA could be involved, and also for the criminal offence. Sections 1–4 of the Act will not apply in any other situations until October 2007. The **Code of Practice** for the Act will be published in April and should be followed by those who must have regard to it in situations where an IMCA could be involved.

More detailed information on the following aspects of implementing the IMCA service are available at [www.dh.gov.uk/imca](http://www.dh.gov.uk/imca) including:

- General IMCA regulations & expansion of role regulations
- Guidance on interpreting the regulations extending the IMCA service to accommodation reviews and adult protection cases
- Cambridge University's independent evaluation of the pilot IMCA service
- Information on planning to commission and provide the IMCA service

The following information is also available:

- Guidance for commissioners on the IMCA service, produced by Turning Point is available at <http://www.turning-point.co.uk/Information+Resources/Guidance+for+professionals/>

A guide to bidding for contracts, produced by Action for Advocacy is available at [www.actionforadvocacy.org.uk](http://www.actionforadvocacy.org.uk).

### IMCA training in England and Wales

In England and Wales training will be provided free of charge to IMCA advocates and managers who have an IMCA contract.

The training will consist of 4 taught days and two half study days and will take place in England from March to May and in Wales from May to June. Places are available on a first come first served basis.

To get a booking form you can email [training@actionforadvocacy.org.uk](mailto:training@actionforadvocacy.org.uk) and from 5 February the full list of courses and online booking will be available at [www.actionforadvocacy.org.uk](http://www.actionforadvocacy.org.uk).

The Department of Health has also commissioned IMCA training materials which will be available online at [www.dh.gov.uk/imca](http://www.dh.gov.uk/imca) in March.

## IMCA service in Wales

The IMCA service will become operational on 1 October 2007 in Wales.

More detailed information on the implementation of the IMCA service in Wales, including the IMCA regulations and commissioning guidance is available at [http://new.wales.gov.uk/topics/health/nhswales/healthservice/mental\\_health\\_services/mentalcapacityact/?lang=en](http://new.wales.gov.uk/topics/health/nhswales/healthservice/mental_health_services/mentalcapacityact/?lang=en) (search under Mental Capacity) or email [sarah.austin@wales.gsi.gov.uk](mailto:sarah.austin@wales.gsi.gov.uk).

## Communications and Events

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### Booklets

Information booklets on the Mental Capacity Act will be in stock in February and we will fulfil orders already placed as soon as possible. These booklets provide introductory information on the Act and how to access new services and they will also include information on the timetable for implementation of the Act. They are customised for key audiences affected by the Act:

- A guide for people who may lack capacity and people who wish to plan ahead (booklet 1)
- A guide for family, friends and other unpaid carers (booklet 2)
- A guide for people who work in health and social care (booklet 3)
- A guide for advice workers (booklet 4)

### Leaflet

An information leaflet on the Mental Capacity Act is also available. It is aimed at increasing public awareness of the Act through organisations who work with or represent people who will be affected by the Mental Capacity Act.

To download the leaflet and booklets please go to

<http://www.dca.gov.uk/legal-policy/mental-capacity/publications/index.htm>.

To order hard copies, please email [makingdecisions@dca.gsi.gov.uk](mailto:makingdecisions@dca.gsi.gov.uk).

## Consultations and responses to consultations

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### We are currently consulting on:

- the Welsh Language Scheme for the Office of the Public Guardian (OPG) and the Court of Protection – which closes on **16 February 2007**. It is available online at <http://www.guardianship.gov.uk> or you can email [ravina.kotecha@guardianship.gsi.gov.uk](mailto:ravina.kotecha@guardianship.gsi.gov.uk) to request a hard copy.

### We have recently consulted on:

- the Court of Protection and Office of the Public Guardian fees - which closed on **29 November 2006**
- the Rules for the new Court of Protection – which closed on **6 October 2006**.

For more information or to view a copy of a consultation or response document please go to <http://www.dca.gov.uk/legal-policy/mental-capacity/publications.htm> or contact the Communications Team by calling 0207 210 0038/39 or emailing [makingdecisions@dca.gsi.gov.uk](mailto:makingdecisions@dca.gsi.gov.uk).

## Tribute to Lord Carter

Denis Carter, Lord Carter of Devizes, passed away in December 2006. He was actively involved in supporting the passage of the Mental Capacity Bill through Parliament and we would like to pay particular tribute to him for the work that he did.

## Jargonbox

Your guide to abbreviations and terminology used in Update

**A4A** - Action for Advocacy - a central point of information on advocacy for advocacy providers and the voluntary sector. For more information go to [www.actionforadvocacy.org.uk](http://www.actionforadvocacy.org.uk)

**CSIP** - Care Services Improvement Partnership. For more information go to [www.csip.org.uk](http://www.csip.org.uk)

**DCA** - Department for Constitutional Affairs. For more information go to [www.dca.gov.uk](http://www.dca.gov.uk)

**DH** - Department of Health. For more information go to [www.dh.gov.uk](http://www.dh.gov.uk)

**IMCA** - Independent Mental Capacity Advocate - a new safeguard introduced by the Mental Capacity Act to protect the rights of the most vulnerable. They will be appointed to support and represent people who lack capacity to make decisions about serious medical treatment or changes in their long-term accommodation and who have no family or friends to support them. For more information go to [www.dh.gov.uk/imca](http://www.dh.gov.uk/imca)

**MCIP** - Mental Capacity Implementation Programme - a joint Programme between the DCA, DH, the PGO and WAG, established to implement the organisation, process and procedures to launch the Mental Capacity Act in 2007.

For more information go to [www.dca.gov.uk/legal-policy/mental-capacity/index.htm](http://www.dca.gov.uk/legal-policy/mental-capacity/index.htm)

**PGO** - Public Guardianship Office. For more information to [www.guardianship.gov.uk](http://www.guardianship.gov.uk)

**WAG** - Welsh Assembly Government. For more information go to [www.wales.gov.uk](http://www.wales.gov.uk)

### Contact details

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website: [www.dca.gov.uk/legal-policy/mental-capacity/index.htm](http://www.dca.gov.uk/legal-policy/mental-capacity/index.htm)