

Mental Capacity Act Update

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Llywodraeth Cynulliad Cymru
Welsh Assembly Government



Office of the
Public Guardian

Welcome to edition 18 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 mcaupdate@publicguardian.gsi.gov.uk to subscribe.

Latest News

Farewell from Richard Brook

As many of you may know I was offered, and accepted, the position of Chief Executive for Sense, the charity working with people who are deaf blind in April. While this opportunity offers new and exciting challenges, it is with an obvious degree of sadness that I leave the Office of the Public Guardian (OPG) and my role as Public Guardian.

Throughout my time at the OPG, I have received strong support from people involved with the new legislation to make it a success. I hope that you and your organisation will continue to work with the OPG to help improve and develop services, which give better choice and protection to some of the most vulnerable people in society.

The planned review, that is to occur shortly, will allow both the successes and the lessons of the last 9 months to be taken forward. I am sure you will all play an active and essential role in this.

Message from Martin John

As you may already have picked up, Justice Minister Bridget Prentice announced on Friday 13th June my appointment as the new Public Guardian and Chief Executive of OPG. I hope the date of announcement does not prove to be a bad omen!

I officially took up post on 10 July, but I started working alongside Richard earlier to ensure as full a handover as possible.

It's a real privilege to be taking on such a significant role – one which touches on the lives of so many people. I know there is much to do – both now and as we start to evaluate last year's changes – and I look forward to OPG continuing to work with you to make a real difference to those who need our services.

Business Plan for 08/09 – Key objectives

The new OPG Business Plan for 2008/09 is now available on our website. The main focus for the OPG this year will be 'Achieving consistently good performance'. To support this the OPG has five main objectives, which are as follows:

- Objective 1 – We will measurably improve the service to individuals who lack capacity and those who support them in their decision-making.
- Objective 2 – We will ensure effective engagement whenever possible with those who lack capacity, those who support them and stakeholders to provide clarity of the role of the OPG as a regulator.
- Objective 3 – During 2008-09 we will focus on creating a proficient and motivated workforce equipped with the skills to carry out their roles effectively.
- Objective 4 – We aim to modernise our processes and better target our resources in order to improve our efficiency and effectiveness as an organisation.
- Objective 5 – We will undertake a review to consider the impact of the Mental Capacity Act 2005 and the programme to implement the Act in creating the OPG.

The Business Plan also outlines the Key Performance Indicators (KPIs) for the OPG and Court of Protection.

To read the full OPG Business Plan 2008 –2009 please use the link below.

<http://www.publicguardian.gov.uk/docs/opg-business-plan-0809.pdf>

Deprivation of Liberty Safeguards regulations for England laid in Parliament

The Mental Capacity (Deprivation of Liberty: Standards Authorisations, Assessments and Ordinary Residence) Regulations 2008 were laid in Parliament on the 20 May 2008.

These regulations relate to the eligibility criteria for and selection of, deprivation of liberty safeguards assessors and the timescales within, which assessments must be completed and the information to be supplied with a request for standard authorisation of deprivation of liberty. They also outline the arrangements that apply in certain cases, where there are disputes about the place of ordinary residence of a person coming within the scope of the deprivation of liberty safeguard provisions.

To read the full regulations please use the link below.

<http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/index.htm>

Deprivation of Liberty Code of Practice laid in Parliament

The Mental Capacity Act 2005 (MCA) deprivation of liberty safeguards (DoLS) Code of Practice (the Code) for England and Wales was laid in Parliament on the 13 June 2008.

The Code is a supplement to the main MCA Code of Practice, published in April 2007.

The laying of the Code follows the laying of DoLS regulations in Parliament on 20 May (please see above). Subject to successful completion of the Parliamentary process, final versions of the Code and regulations will be available by late July.

It is planned that the DoLS will come into force in April 2009.

For further information on the DoLS Code of Practice please use the link below.

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476

Consultation report

The DH recently published its report on the consultation on the Mental Capacity Act 2005 Deprivation of Liberty Safeguards Code of Practice and regulations.

http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_085353

Other News

OPG Performance Update

On current figures, we expect the number of LPAs registered in the first year of operation to be more than double the number of EPAs registered last year.

Therefore the volumes of LPAs received for registration have been much higher than our predictions and registration for correctly made applications is taking up to 13 weeks.

To keep customers and stakeholders informed about work progress, we have developed a status page “How long are applications taking”, on our website www.publicguardian.gov.uk

LPA Registration Process

Recent correspondence received at the OPG points to some confusion over how the 42-day statutory waiting period fits into the overall registration process. Once an LPA is scanned onto our systems, it is checked for any errors. If there are none, named parties are notified of the application to register.

Thereafter there is a statutory waiting period of 42 days, before registration can take place. This allows notified parties to object to the application to register and is one of the new safeguards introduced under the Act. The waiting period is in addition to time taken to check and process the LPA, which has been taking some 8 - 9 weeks.

Website Update

All Court of Protection forms on our website, can now be completed and saved electronically.

The OPG forms to make a property and affairs LPA (LPAPA) or a personal welfare LPA (LPAPW) can also be completed and saved electronically.

<http://www.publicguardian.gov.uk/forms/all-forms-guidance.htm>

OPG Information CD

An updated OPG information CD, containing updated forms and guidance and the film ‘3 stories’ will be available from the end of July.

IMCA service update update

The First ever IMCA Annual Conference

The first ever IMCA annual conference was held on the 29 April at the Franklin Wilkins Building, Kings College London.

Over 200 Independent Mental Capacity Advocates (IMCAs) attended the conference, which was organised by Action for Advocacy (A4A). Keynote speakers included Anne McGuire the Minister for Disabled People, A4A’s Chief Executive Rick Henderson and the Public Guardian, Richard Brook.

There was a panel debate chaired by David Brindle of The Guardian and a range of workshops. The workshops gave IMCAs the chance to explore practice issues and specific dilemmas.

They also looked at other areas such as, communication skills, challenging decisions, report writing and the role of the IMCA in safeguarding adult procedures and the forthcoming Deprivation of Liberty Safeguards.

Annual Report on the IMCA Service

The Department of Health (DH) has drafted the annual report on the IMCA Service, which will be available later this month.

IMCA service in England

The following link provides a list of IMCA providers in England

<http://www.dh.gov.uk/en/Policyandguidance/Healthandsocialcaretopics/Socialcare/IMCA/index.htm>

More detailed information on the IMCA service in England is available at www.dh.gov.uk/imca or by emailing IMCA@dh.gsi.gov.uk.

IMCA training in England and Wales

Training can be booked online at www.actionforadvocacy.org.uk or you can email training@actionforadvocacy.org.uk to get a booking form.

IMCA service in Wales

For further information on the Act in Wales, including a list of IMCA providers, please contact Sarah.Austin@wales.gsi.gov.uk or go to our website <http://new.wales.gov.uk/topics/health/nhswales/healthservice/mentalhealthservices/mentalcapacityact/?lang=en>

IMCA providers in Wales are supported by an IMCA Network, which has met bi-monthly since summer 2007. The Network which until recently was chaired by an Assembly official is chaired jointly by IMCA providers, Shanaz Dorkenoo and Sorrel Smith. Further information can be obtained from our website.

Arrangements are currently underway to set up a national training programme to provide IMCAs with Protection of Vulnerable Adults training at Levels 2 and 3.

Health and Social Care update

Local Authority Circular LAC (4) 2008

The DH recently issued a Local Authority Circular that set out the resources available for the year 2008-2009 for the Mental Capacity Act 2005 and provisional figures for 2009-2010 and 2010-2011.

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/AllLocalAuthority/DH_085168

Dear Colleague Letter

The DH recently issued a letter setting out the new resources being made available for the health sector for the year 2008-09 for work in relation to the Mental Capacity Act 2005.

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_084464

Regional leads to support the Act

The role of the regional leads, contact details below, is to support awareness raising activities and events, assisting with the education and training of health and social care staff who are affected by the Act, and supporting the provision of IMCA services.

Mental Capacity Act

CSIP Region	Email	Telephone
North East, Yorkshire and Humber	Bruce.Bradshaw@nimheneyh.nhs.uk	07940 361335
North West	Julie.Foster@csip.org.uk	07976 878823
East Midlands	Tina.Morley-Ramage@nottshc.nhs.uk	07825 358714

Eastern	Lou.Brewster@csip.org.uk	07717 576822
South East	Keithnieland@csip.org.uk	07711 980057
London	Maggie.Goff@londondevelopmentcentre.org Steve.Chamberlain@londondevelopmentcentre.org	07932 612977 07967 347764
South West	David.Pennington@csip.org.uk Amanda.Williams@pcs-tr.swest.nhs.uk	07799 627244 07825 843356
West Midlands	Colin.Vines@csip.org.uk Ralph.Hall@csip.org.uk	07748 703687 07825 402599

Deprivation of Liberty Safeguards

CSIP Region	Email	Telephone
North East, Yorkshire and Humber	Bruce.Bradshaw@nimheneyh.nhs.uk	07940 361335
North West	Currently vacant	
East Midlands	Robert.Nisbet@eastmislands.csip.nhs.uk	07824 707985
Eastern	Jo.White@csip.org.uk	07747 796858
South East	Keithnieland@csip.org.uk	07711 980057
London	Maggie.Goff@londondevelopmentcentre.org Steve.Chamberlain@londondevelopmentcentre.org	07932 612977 07967 347764
South West	David.Pennington@csip.org.uk	07799 627244
West Midlands	Ralph.Hall@csip.org.uk	07825 402599

For more information and contact details for the regional leads in Wales please contact Sarah.Austin@wales.gsi.gov.uk

Jargonbox

Your guide to abbreviations and terminology used in MCA Update

CoP - Court of Protection - a new Court of Protection that is able to make decisions on both property and personal welfare issues.

CSIP - Care Services Improvement Partnership. For more information go to www.csip.org.uk

DH - Department of Health. For more information go to www.dh.gov.uk/

DoLS - Deprivation of Liberty Safeguards. For more information go to <http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/index.htm>

IMCA - Independent Mental Capacity Advocate. For more information go to www.dh.gov.uk/imca

LPA - Lasting Power of Attorney.

OPG - Office of the Public Guardian - a new public office supporting the work of the Public Guardian. For more information go to www.publicguardian.gov.uk

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