

Mental Capacity Act Update

edition 12 | **March 2007**

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Welcome to the edition 12 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 to subscribe.

What's new?

NEW Criminal Offence and IMCA service from 1 April 2007

On 1 April 2007 the new **criminal offence** of ill treatment or wilful neglect will come into force in England and Wales and the new **Independent Mental Capacity Advocate (IMCA) service** will become operational in England.

For more information on the implementation of the Act please go to the **In depth** section of this *Update*.

NEW IMCA service booklet

The Department of Health, working with the Welsh Assembly Government, has produced an information booklet on the IMCA service. Sue Lee from Speaking Up wrote the booklet, which provides introductory information on the IMCA service and how it will work. IMCAs, anyone who works in local authorities (LAs) or the NHS and is involved in making decisions in situations that may require an IMCA will find this booklet useful. As will anyone with an interest in the new service.

The booklet will shortly be available online at www.dca.gov.uk/legal-policy/mental-capacity/publications.htm. To order hard copies please contact our Publications Orderline by calling 0238 08780380 or emailing reorder@inprintlitho.com.

In depth

NEW Criminal Offence and IMCA service from 1 April 2007

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

Independent Mental Capacity Advocate (IMCA) service will become operational in **England**.

The new criminal offence will apply to anyone caring for a person (of any age) who lacks capacity to make decisions for themselves. This includes family carers, healthcare and social care staff in hospitals and care homes and those providing care in a person's home. The new offence carries a range of penalties from a fine to a prison sentence of up to five years.

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 is due to be formally issued in late April, once it has completed the necessary Parliamentary processes. From this point it should be followed by those who must have regard to it in situations where an IMCA could be involved, or in relation to the criminal offence. It will also be available as a good practice guide for all those working with people who may lack capacity. Once the rest of the Act's provisions come into force in October 2007, the Code will become statutory guidance for all of the Act.

For more detailed guidance on the new offence and the new IMCA service you should refer to the Draft Code of Practice which is available online at <http://www.dca.gov.uk/menincap/legis.htm#codeofpractice> or in hard copy from The Stationery Office by calling 0870 600 5522 or emailing customerservices@tso.co.uk. If you have any other queries please call 0845 330 2900 or email makingdecisions@dca.gsi.gov.uk.

Health and Social Care update

Training materials

Training materials for people who work in health and social care are being finalised and will be available at the end of April.

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	Bruce.Bradshaw@nimheneyh.nhs.uk	07940 361335
North West	Paul.Greenwood@northwest.csip.org.uk	07795 963509
East Midlands	Sylvia.Manson@eastmidlands.csip.nhs.uk	07810 636462
Eastern	Lou.Brewster@nemhpt.nhs.uk	01206 287541
South East	Keithnieland@aol.com	07711 980057
London	Sarah.Haspel@londondevelopmentcentre.org	07890 191361
South West	David.Pennington@nimhesw.nhs.uk	07799 627244
West Midlands	Colin.Vines@csip.org.uk Richard.Bartholomew@csip.org.uk	07748 703687 07748 541956

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

IMCA service update

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

IMCA service in England

All local authorities (LAs) in England have finished commissioning the new IMCA service, which will be ready to start on 1 April 2007. NHS staff and LA staff will need to know when they have a duty to refer people to the new IMCA service. IMCAs will be ready to take referrals and work with people who qualify for the service from 1 April. The Department of Health (DH) is developing a database, which will monitor numbers and types of referrals to the IMCA service. A database of IMCA providers will be available on the DH website shortly.

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

IMCA service in Wales

The IMCA Regulations for Wales were approved by the National Assembly for Wales on 13 March and will come into force on 1 October 2007. These include Regulations giving local authorities and local health boards the discretion to extend the IMCA service to care reviews and adult protection cases.

More detailed information on implementing the service in Wales is available at http://new.wales.gov.uk/topics/health/nhswales/healthservice/mental_health_services/mentalcapacityact/?lang=en or by emailing sarah.austin@wales.gsi.gov.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 consists of 4 taught days and two half study days and is taking place from March to May in England and from late Spring in Wales. Two hundred IMCAs have already been trained.

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

Communications and Events

A message from Toby Williamson Stakeholder & Communications manager

From April, the communications team at the Public Guardianship Office (PGO) will be taking over responsibility for co-ordinating future communications and events and further developing relationships with our stakeholders. This is part of their work in preparing for the new Office of the Public Guardian.

We are very grateful for the participation and contributions of our partners, individuals and external organisations in the programme. All of you have helped us to raise awareness and promote the Act to different audiences as well as providing advice, support and input to the team and programme as a whole.

The current team has been co-ordinating these activities since the summer of 2005 and has successfully delivered a number of important activities. During this time we have produced and distributed over 400,000 leaflets, 100,000 booklets and spoken directly to nearly 10,000 people at over 130 events. I want to thank the team, and other programme colleagues, for all the hard work they have done.

From Monday 2 April for any enquiries about the Act please contact the Customer Contact Centre at the PGO on 0845 330 2900 and they will be pleased to assist you. The PGO is

currently considering ways in which it can further develop its relationships with stakeholder organisations and it will be communicating with you in the near future to outline its plans.

So, on behalf of past and present team members - Steve, Reuben, Dave, Eddie, Vanessa, Sophie, and myself, thank you all again for your interest, support and involvement with the Act and its implementation. We wish our colleagues at the PGO the very best in carrying on with this important work. Keep spreading the word and good luck!

Information leaflet and booklets

An information leaflet and booklets on the Act are available online at <http://www.dca.gov.uk/legal-policy/mentalcapacity/publications/index.htm>. The booklets provide introductory information on the Act and how to access new services and they are customised for key audiences affected by the Act.

To order hard copies, please contact our Publications Orderline by calling 0238 087 8038 or emailing reorder@inprintlitho.com.

Consultations and responses to consultations

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 us by emailing makingdecisions@dca.gsi.gov.uk.

Jargonbox

Your guide to abbreviations and terminology used in Update

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

DCA - Department for Constitutional Affairs. For more information go to www.dca.gov.uk

DH - Department of Health. For more information go to 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

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

PGO - Public Guardianship Office. For more information to www.guardianship.gov.uk

WAG - Welsh Assembly Government. For more information go to www.wales.gov.uk

Contact details

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