

Mental Capacity Act Update

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Llywodraeth Cynulliad Cymru
Welsh Assembly Government



Office of the
Public Guardian

Welcome to edition 19 of the *Mental Capacity Act Update*.

If you know anyone who is interested in the Mental Capacity Act (MCA), or who may be affected by this 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

OPG Annual Report and Accounts

The first Annual Report and Accounts of the OPG is now available on the website. The report contains details of the performance of the OPG from October 2007 to March 2008.

The report also contains the Annual Report by the Public Guardian to the Lord Chancellor on the discharge of his functions. This new Report specifically covers the statutory role and duties of the Public Guardian, and is separate from the Annual Report of the OPG as an agency.

For further information and to view the annual report, please use the link www.publicguardian.gov.uk/docs/opg-annual-report-2007-08.pdf

Public Guardian Board

The Public Guardian Board is an independent body set up to scrutinise and review the way in which the Public Guardian discharges his functions. The first Public Guardian Board open public meeting will take place in London on 7 October, which will provide an opportunity for the Board to formally present its first Annual Report.

The Public Guardian Board will also be holding a meeting in Cardiff on 22 October, with representatives from across the voluntary and care, legal and local authority sectors in Wales.

The Board is keen to look further at how the MCA has been implemented in both England and Wales and to discuss with stakeholders their views on the next year's key activities for the Board.

Other News

Mental Capacity Act Review

There has been a long-standing public commitment to review the Act one year after it came into force. The official launch for this Review will be in October and will cover all aspects of the Act including how the processes have been embedded within OPG, the Court of Protection, and Supervision and whether the Act has made a fundamental difference to the lives of those it was supposed to help.

The Review will look at the IMCA service - using the evidence that has already been collected and published in the first IMCA annual report. Looking at how the IMCA service is working will be a key part of the research into whether the Act has made a fundamental difference to people's lives. This research is likely to start at the beginning of next year and run for about a year - so on a slightly slower track than some of the rest of the MCA Review.

LPA Registration & Court of Protection Update

In the first year of service, the OPG and Court of Protection (CoP), have had unprecedented volumes of applications. Since the start of this year up to the end of August, there have been almost 46,000 applications to register LPAs and EPAs.

LPA applications were taking 13 weeks to register, however, following sustained efforts during August, which included the setting up of a dedicated team to clear backlogs, well over 5,000 LPAs and 4,500 pieces of outstanding correspondence have been cleared. All new applications to register LPAs are now being dealt with in accordance with predicted timescales - that is in 9 weeks.

There have been over 21,000 applications to the CoP including those which, until July 2008 attracted no fee and were from former receivers whose powers needed to be extended usually through full deputyship orders: the remaining 1000 of these will be completed by November. Over 9,000 finance Deputies have been appointed and 75 health and personal welfare deputies as the Court is usually able to give a single order to cover the decision required in health and welfare matters. 172 court hearings have been held at regional courts in addition to those heard at Archway.

The Archway judges have been assisted by regional and PRFD judges which has facilitated the issue of over 86% of orders within 16 weeks: the planned addition of two more judges to the Archway complement is eagerly awaited.

Supervision of Deputies

The Supervision team are assessing between 150-200 new Deputy appointments a week and allocating them to one of three levels of supervision. Additionally, 19,000 former receivership cases have been allocated to one of three levels of supervision. Using the benefit of case experience, we have kept the model of supervision under review and work will be progressed over the next few months to ensure that supervision is proportionate, flexible and affords a sufficient level of protection and intervention to meet individual case needs.

There has been a large increase in the number of referrals to investigate the actions of a deputy or attorney, with the Supervision team handling 460 referrals since October 2007 compared with 83 in the year leading up to implementation of the Mental Capacity Act. Some of these have resulted in applications back to Court to discharge unsuitable deputies or to revoke powers of attorney. 70 applications to Court have been progressed since March 2008.

This work has informed the development of an OPG policy for safeguarding vulnerable adults from abuse. The policy defines the OPG's role in safeguarding vulnerable adults and sets out our strategy, including a commitment to staff training on identifying and preventing abuse and procedures for working in partnership with local authorities on adult protection investigations. The policy is supported by a protocol for working with local authorities, which is being consulted on during September, and will be implemented by the end of the year.

Mental Capacity Act 2005 (MCA) Deprivation of Liberty Safeguards (DOLS): Implementation Plan

The publication of the MCA Deprivation of Liberty Safeguards Code of Practice marks a milestone in the implementation programme kick starting the necessary national and regional training and communications programmes to support health and social care systems deliver:

- appropriately trained staff in place in sufficient numbers at 'go live' to carry out the necessary procedures
- information and briefing for staff involved in administering the procedures
- information in a variety of accessible formats for service users, carers and families impacted by the MCA DOLS.

The implementation programme includes a wide range of activities designed to deliver secondary legislation; support the training of professionals delivering the safeguards, establish the monitoring systems for the operation of the safeguards and improve knowledge of rights, responsibilities and entitlements for service users, carers and families and the professionals involved in administering the safeguards.

News and information will be available on an ongoing basis at:

www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/index.htm

MCA DOLS Transitional Arrangements

To ease the handling of the higher number of assessments that may be requested when the Safeguards are implemented in April 2009, transitional arrangements will be placed before Parliament.

www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/DH_087830

Directors of adult social care services and NHS chief executives will need to ensure that any staff affected are familiar with the Code of Practice and the transitional arrangements in relation to the Deprivation of Liberty Safeguards.

IMCA service update update

Annual Report of the Independent Mental Capacity Advocate Service

The first annual report of the IMCA service is now published and is available on the DH IMCA webpage.

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_086478

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

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 Robert.Nisbet@eastmislands.csip.nhs.uk	07825 358714 07824 707985
Eastern	Lou.Brewster@csip.org.uk	07717 576822
South East	sjappleton@btinternet.com	07747 863973
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	Ralph.Hall@csip.org.uk Colin.Vines@csip.org.uk	07825 402599 07748 703687

Deprivation of Liberty Safeguards

CSIP Region	Email	Telephone
North East, Yorkshire and Humber	Bruce.Bradshaw@nimheneyh.nhs.uk	07940 361335
North West	Christine.Hutchinson@csip.org.uk	07500 228654
East Midlands	Robert.Nisbet@eastmislands.csip.nhs.uk	07824 707985
Eastern	Jo.White@csip.org.uk	07747 796858
South East	Keith.Nieland@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

Contact details

Office of the Public Guardian
2 Junction Road
London N19 5SZ

tel: 0845 330 2900 (local call rate)

fax: 0870 739 5780

email: mcaupdate@publicguardian.gsi.gov.uk

website: www.publicguardian.gov.uk