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# factsheet



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## Factsheet 105 – 26 May 2010 (8 pages)



### Mental Capacity Act 2005



The Mental Capacity Act helps to support and protect people who can't make decisions for themselves.

#### Who is the Mental Capacity Act for?

**16 +**

People who are 16 or over.



People who cannot make their own decisions about things.



Family or friends who help to make decisions for someone who is unable to decide by themselves.



The Mental Capacity Act makes sure family or friends protect themselves and the person they are making decisions for.

## What is in the Mental Capacity Act?



**There are 5 important things** people must do and think about when using the Act.



1. People helping you should start by thinking you can make your own decisions.



2. They should give you all the support they can to help you make decisions.



3. You should be allowed to make a decision if you are able to even if people do not agree with it.



4. If someone acts or makes a decision for you it must be what is best for you. There is a checklist for this.



5. When people do something or decide something for you, they must always think about your freedom and rights.

## What is in the Mental Capacity Act?



**Lasting Power of Attorney (LPA)** is a legal document that allows you to choose a person called an attorney.



An attorney will help you make decisions about your treatment and care.



You can make decisions about your future care and treatment. You can decide that you do not want a certain type of treatment.



A doctor must respect this decision.



**Neglect or ill treatment** - it is against the law to treat someone badly who may lack capacity.



**Independent Mental Capacity Advocate (IMCA)** - They will help people who have no family or friends.



They will help people when important decisions have to be made involving health, social care and housing.



**Research** - The Mental Capacity Act has very strict rules about research.



This is to make sure useful research can take place and at the same time protect people who do not have the mental capacity to say if they want to take part in research or not.

## What else does the act involve?



Law court

**Court of Protection** – the new court will deal with everything to do with the Mental Capacity Act .



Court

It will help when you cannot say or decide what to do. People will discuss difficult cases and a judge will decide what is best.



The Court might make decisions about things like health, money and anything else where someone needs to make a decision for you but people cannot agree on what is best.



The Court of Protection may make someone a **deputy**. The **deputy** can make certain decisions for you if you cannot decide everything for yourself.



The Public Guardian will be in charge of the Office of the Public Guardian (**OPG**).



The **OPG** will help the Court by looking after the paperwork and applications for Lasting Powers of Attorney and deputies.



The **OPG** will keep an eye on deputies to make sure they are doing their job properly.



The **OPG** will work with the police and Adult & Community Services when they think that somebody may have been ill treated.

## Who has to use the act?



Anyone who helps to make decisions for someone who is unable to themselves.



The Act makes sure they protect themselves and the person they are making decisions for.



There will be a **Code of Practice** that will tell people how to make sure they are following the Mental Capacity Act properly.



Some people – like nurses, doctors, social workers, or anyone paid for the job they do, will have a **duty** to know what the Code says.

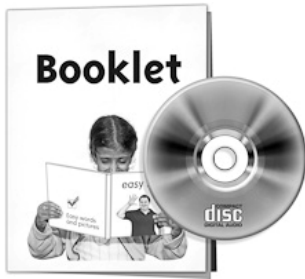
## How can I find out more?



Some booklets can be found at [www.publicguardian.gov.uk/forms/additional-publicationsa-newsletters.htm\mcab](http://www.publicguardian.gov.uk/forms/additional-publicationsa-newsletters.htm\mcab)



Other information can be found at [www.devon.gov.uk/mentalcapacityact](http://www.devon.gov.uk/mentalcapacityact)



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