

**Making decisions about your
health, welfare and finances...**

Who decides when you can't?

There is a new law that can help

Do you have an illness, injury or disability that may cause you difficulties in making decisions?

Do you care for, work with, or know someone who has difficulties in making decisions?

Do you want to plan ahead in case you are unable to make important decisions for yourself in the future?

There is a new law that can help.

The Mental Capacity Act 2005

Every day we make decisions about lots of things in our lives. The ability to make decisions is called **mental capacity**. People may have difficulties making some decisions either all or some of the time. This could be because they have:

- a learning disability
- dementia
- a mental health problem
- a brain injury or a stroke

Any of us might plan ahead in case we lack mental capacity in the future, because of an accident for example.

The **Mental Capacity Act** will affect people in

The Act will generally only affect people aged 16 or over.

The Act is being implemented from April 2007. In April the Independent Mental Capacity Advocate (IMCA) service (in England only) and the new criminal offence will commence. In October IMCAs in Wales and all other parts of the Act will commence.

This leaflet explains what these are.

How the Act could affect you

If you are unable to make some decisions the Act explains:

- you should have as much help as possible to make your own decisions
- how an **assessment of capacity** should be made about whether you are able to make a particular decision at a particular time
- that even if you do not have the capacity to make a very complicated decision for yourself this does not mean that you are unable to make more straightforward decisions
- that even if someone has to make a decision on your behalf you must still be involved in this as much as possible
- that anyone making a decision on your behalf must do so in your **best interests**
- that there is a new safeguard, the **Independent Mental Capacity Advocate (IMCA)**, to represent you if you lack capacity to make certain important decisions and there is no one else who can be consulted.

If you want to plan ahead for the future the Act:

- allows you to make a **Lasting Power of Attorney (LPA)** enabling you to appoint someone to make decisions about your finances and property or your health care and welfare should you ever lack the capacity to make these decisions yourself
- enables you to make an **'advance decision to refuse treatment'** if there is a particular medical treatment you would not wish to receive at a time in the future when you may lack capacity to refuse it.

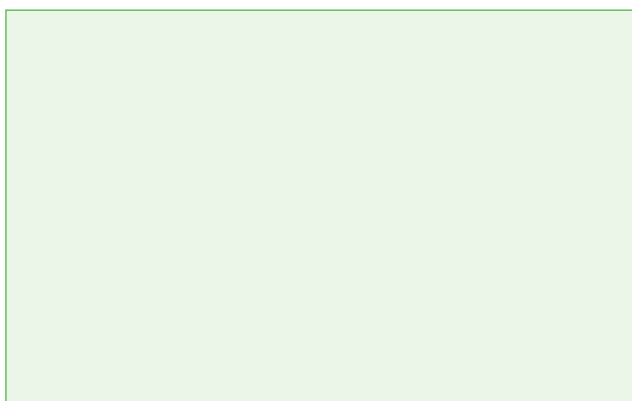
If you are a family or other unpaid carer the Act:

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- creates a single, coherent framework for dealing with mental capacity issues and an improved system for settling disputes, dealing with health and welfare issues, and the financial affairs of people who lack capacity.

The Act creates important safeguards:

- A new **Court of Protection** that will have the power to make declarations about whether someone lacks capacity, make orders or appoint deputies to act and make decisions on behalf of someone who lacks capacity.



Further Information about the new Act

We are producing more detailed information booklets (free of charge) for the following groups of people affected by the Act:

1. People who may lack capacity or wish to plan ahead for the future
2. Family and other unpaid carers
3. Staff working in health and social care
4. Advice workers
5. People with learning disabilities

If you would like to receive these booklets (or more copies of this leaflet) please contact Inprint on:

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

Information on the new Mental Capacity Act is brought to you by the following organisations:

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