

# Making decisions about your health, welfare or finance

## Who decides when you can't?

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 issue
- A brain injury or a stroke

We might want to plan ahead in case we lack mental capacity in the future because of an accident as an example.

The Mental Capacity Act affects people aged 16 and over in these situations. It will also affect their families, carers, health and social care staff, and other people who may have contact with them. It could affect all sorts of major decisions where a person may lack capacity, for example decisions about money matters, social care or medical treatment, as well as everyday decisions.

# WHAT HAPPENS IF I AM UNABLE TO MAKE DECISIONS FOR MYSELF?

## The Act says:

You should be given help to make your own decisions

Someone should make an assessment of your capacity to decide if you are able to make a particular decision at a particular time.

Even if you find some decisions difficult, you may still be able to make other decisions for yourself.

If someone has to make a decision on your behalf they should still involve you in this as much as possible.

Someone make a decision on your behalf must do so in your best interests: and

An Independent Mental Capacity Advocate (IMCA) can represent you if you lack capacity to make certain important decisions and you have nobody else to speak for you.

## **CAN I PLAN AHEAD FOR THE FUTURE?**

### **The Act says:**

You can appoint someone to make decisions about your health, care and finances should you ever lack capacity to make these decisions yourself. This is called a Lasting Power of Attorney (LPA).

You can make an Advanced 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.

## **HOW WILL THE ACT AFFECT MY ROLE AS A CARER OR FAMILY MEMBER?**

### **The Act says:**

Tells you when and how you can act on behalf of someone who lacks capacity to make decisions.

Makes clear the safeguards and limitations if you are doing this, and

Says that you should be consulted by professionals when, for example, a doctor makes a decision about treatment or a care manager makes a decision about residential care for a family member who lacks capacity

## WHAT ELSE DOES THE ACT DO?

### The Act says:

Provides a Court of Protection and a Public Guardian to safeguard people who lack capacity where such powers are needed

Makes it a criminal offence if a person who lacks capacity is ill treated or wilfully neglected, and

Does not change your powers if you are a receiver for someone who lacks capacity or if you are acting on behalf of someone under an Enduring Power of Attorney.



## HOW CAN I FIND OUT MORE?

### **Ealing Council:**

Customer Contact Centre: 020 8825 8000

Internet site: [www.ealing.gov.uk](http://www.ealing.gov.uk) (General information and links to a series of leaflets that explain the Act in more detail)

### **Ealing Primary Care Trust: 020 8893 0303**

[www.ealingpct.nhs.uk](http://www.ealingpct.nhs.uk)

### **Ealing Hospital Trust: 020 8967 5000**

[www.ealinghospital.org.uk](http://www.ealinghospital.org.uk)

### **West London Mental Health Trust: 020 8354 8354**

[www.wlmht-nhs.uk](http://www.wlmht-nhs.uk)

### **The Office of the Public guardian web pages: [www.publicguardian.gov.uk](http://www.publicguardian.gov.uk)**