

Local Authority Circular

LAC 2006 (15)

To: The Chief Executive
County Councils)
Metropolitan District Councils) England
Shire Unitary Councils)
London Borough Councils
Common Council of the City of London
Council of the Isles of Scilly

Chief Executive – Care Trusts
Chief Executive – Strategic Health Authorities

Date: 1 November 2006

Gateway Reference: 7267

THE MENTAL CAPACITY ACT AND THE INDEPENDENT MENTAL CAPACITY ADVOCATE (IMCA) SERVICE

Summary

1. The Mental Capacity Act 2005 becomes law on 1st April 2007. The Department of Health is making resources available to enable Councils with Social Services Responsibilities (CSSRs) to:
 - a) train staff across their Implementation Network to understand the implications of the Act and to act accordingly;
 - b) commission an Independent Mental Capacity Advocate (IMCA) service to be in place by 1st April 2007, and
 - c) increase the staff time needed for assessments of capacity and best interests decisions.
2. This Local Authority Circular sets out the resources available for the year 2006-7 for a) training in relation to the Act and b) commissioning of the IMCA service. It also provides provisional figures for 2007-2008 and the conditions under which the resources will be released.

Purpose

The Mental Capacity Act - Background

3. The Mental Capacity Act 2005, which received Royal Assent in April 2005, is due to be implemented in April 2007. A brief summary of

the Act is appended at the end of this document (Appendix A) and is also available at <http://www.dca.gov.uk/menincap/bill-summary.htm>

4. A large number of staff need to be trained. The Department of Health has commissioned standardised training materials which will be available both electronically and in hard copy to assist this process. These materials are expected to be available from December 2006. Directors of Adult Social Services were invited in March, and in July, to consider setting up Implementation Networks to coordinate the awareness raising and training of all statutory, voluntary and independent sector staff in their geographical area.
<http://www.dh.gov.uk/PublicationsAndStatistics/LettersAndCirculars/DearColleagueLetters>
<http://www.dh.gov.uk/assetRoot/04/13/77/49/04137749.pdf>

Resources for Training

5. The Department of Health is making a total training budget of £8.65m available over 2 years. CSSRs will be allocated £4.325M during 2006/7 and again £4.325 during 2007/8. This is in recognition that training needs to start before the Act comes into force, but needs to continue during the first year of the Act.
6. Each CSSR has been allocated a MCA grant for training. We have attempted to relate the grant to the target population of people who lack capacity. As a result the distribution of the grant is based as follows: "50% of the grant has been allocated according to each authority's relative share of the younger adults' (18-64) Relative Needs Formulae (RNF) control total, with the remaining 50% using the local authority level proportions derived from the older people's (65+) RNF control total". The grant available for each CSSR for 2006-7 is in Appendix B; the provisional grant for 2007-8 is in Appendix C.
7. The new Four-Block Funding Model (including the Relative Needs Formulae) is described further on the DCLG website
<http://www.local.odpm.gov.uk/finance/0607/grant.htm>.
8. The awareness raising and training should be made available to the local health and social care economy through the Implementation Networks. This includes all relevant staff in social services, housing and other local authority departments, NHS staff in the local area, independent and voluntary sector health and social care providers.

Resources for Commissioning the IMCA service

9. The Mental Capacity Act also creates a new statutory service, the Independent Mental Capacity Advocate (IMCA) service. Its purpose is to help vulnerable people who lack capacity who are facing important decisions made by the NHS and Local Authorities about serious medical treatment and changes of residence - for example, moving to a hospital or care home. NHS bodies and Local Authorities will have a duty, under the Act, to instruct and consult the IMCA in decisions involving people who have no family or friends.
10. The Mental Capacity Act requires the commissioning of the IMCA service. This needs to be commissioned by CSSRs. It needs to be independent of both CSSRs and local health providers and needs to be in place by 1st April 2007. Further guidance for commissioners and draft material for inclusion in a spec are available at: www.dh.gov.uk/imca.
11. The Department is making additional resources available for the IMCA service. For 2006/7 there are set up costs available. The total set up costs are £2.16M.
12. The 2006/7 set up costs can be used for the following two purposes. First they can be used towards the actual commissioning costs, for example the time involved in commissioning the service, preparing tenders, advertising, agreeing contracts etc. The second purpose they can be used for is to fund the organisations who will have been commissioned to provide the IMCA service, for a short period of time before April 2007. So, for example, a CSSR could provide funding for the IMCA provider to start in February or March 2007 in order to provide training, develop referral forms or agree engagement protocols.
13. The IMCA 2006/7 set up costs have been allocated using the same formula as above and are also in Appendix B.
14. For the year 2007/8 there is a total of £6.5m available for the costs of the IMCA service. These are in Appendix C.

Resources for Increased Social Care Costs

15. The Department is making additional resources available for the increased social care costs of meeting the requirements of the Act. These have been identified as additional staff costs in carrying out assessments of capacity, case conferences and best interests decisions. The total resources being made available are £3.8m for 2007-8 (Appendix C).

Action

16. We would be grateful if CSSRs complete the form MCA 1 as soon as practicable and return it to the address below. They should then complete and return the form MCA 2 in or after April 2007. This is to assist getting the training materials and other MC Act information to the implementation network.

Cancellation of this circular

17. This circular should be cancelled on 1st April 2008.

Enquiries

18. Any queries to this document or enclosures should be addressed to Lucy Bonnerjea, Department of Health, Mental Capacity Implementation Team. Wellington House, Waterloo Road, London SE1 8UG. You can email: Lucy.Bonnerjea@dh.gsi.gov.uk
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Lucy Bonnerjea,
Department of Health
1st November 2006