

# Mental Capacity (Amendment) Bill



# Contents

Page

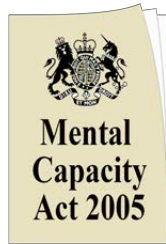
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Introduction

3

---



The Mental Capacity Act 2005

4

---



Why change the law

7

---



This bill

9

---



What next?

17

---



For more information

18

---

# Introduction



This is the easy read version of a **Bill** to change the law about how someone can be ordered to be looked after safely because they can't make decisions for themselves.



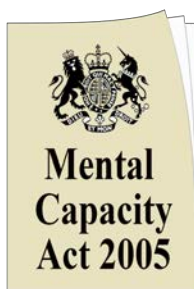
A **Bill** is a plan for a new law.



The Bill is discussed by parliament.



If parliament agrees with the Bill it will become a new law

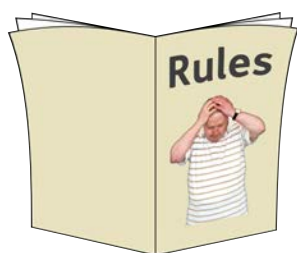


This Bill suggests changes to the law called The Mental Capacity Act 2005.

# The Mental Capacity Act 2005



The Mental Capacity Act 2005 is a law that affects people age 16 or over, who are not able to make decisions for themselves.



It includes rules that order people to be looked after safely who can't make decisions for themselves.



It gives rights to people who cannot make decisions for themselves.

## Who may be affected?

People who are not able to make decisions for themselves may have:

- **Dementia**



**Dementia** is an illness where people have difficulty in remembering things.



- A severe learning disability



- A brain injury



- A mental health illness



- A **stroke**.



A **stroke** is where something stops enough blood getting to the brain and part of the brain dies.

# The Mental Health Act 1983



This Bill does not apply to people who have been ordered to go into hospital under the law called the Mental Health Act 1983.



The Mental Health Act applies to people who can make decisions for themselves and have a mental health problem and to people who can't make decisions for themselves.



The Mental Health Act gives people rights if they are ordered to be in hospital against their wishes.



This is often called being sectioned.

# Why change the law?



In 2013 the Government set up a committee to look into how the Mental Capacity Act 2005 was working.



They found that the rules that order people to be looked after safely were often not being followed properly.



They found that many people who were not able to make decisions for themselves were being ordered to be looked after.



But they were not getting the rights that they should have.



Staff were not following the rules because the rules were too complicated.



The committee said that the part of the law that ordered people to be looked after should be changed.



They said that the rules should be easier to understand

# This bill



This bill says there should be certain changes to the law.

## Who decides?

The bill changes who decides who decides on the rules that order people to be looked after safely, when people cannot make decisions for themselves.



If you are in hospital, the hospital makes the decision.



In Wales the Local Health Board decides.



If you are in a care home or your own home or in supported living then the decision is made by the local council.



If not the decision will be made by the local NHS Clinical Commissioning Group (CCG).

## How do they decide?

They will say that these rules should apply to someone if:



- The person cannot make decisions for themselves



- The person has a mental health problem



- They need to be kept in hospital or another safe place for treatment or care. This might be a care home, supported living or their family home

# Advocacy



The bill says that people have the right to have an independent mental capacity advocate.



This is someone who:

- Gets to know the person so they understand what they want to communicate



- Can speak for the person at meetings



- Helps the person to speak up for themselves



They are independent. This means that they are only interested in what is best for the person.



The bill says that a friend or family member can speak up for the person if they want.



The person should be given an independent mental capacity advocate unless there is an appropriate family member or friend who can speak up for them.

# Consultation



**Consultation** is when you are asked what you think before they make a decision.



The bill says that you cannot order someone to be looked after safely before talking to:

- The person
- Someone who can make decisions for the person by law
- An independent mental capacity advocate
- Anyone that the person has said can help to make decisions for them





- Other people who care for the person. This could be a family member or a carer



The bill says that these people must be involved when you look at what care and support is right for the person.

## **Mental capacity professionals**



The bill says that each local council must approve staff who are mental capacity professionals.



They will be responsible for making sure that when the person disagrees with their order, or in other certain cases the person gets:

- The right care and support
- Their rights



# How long?

The bill says that:



- A decision about where the person lives and their care and treatment can be made up to 28 days before the person goes to live in the place (if they are not already there)



- The decision can last up to a year first



- Then it can be decided to make this decision last for another year



- After this it can last for up to 3 years



- It must be reviewed regularly



## Records

A proper record must be kept.

The bill says the record must say when the order must be reviewed.

## Checking and reporting

The bill says that the Government can ask an organisation to check that people are getting:



- The right care and support



- Their rights



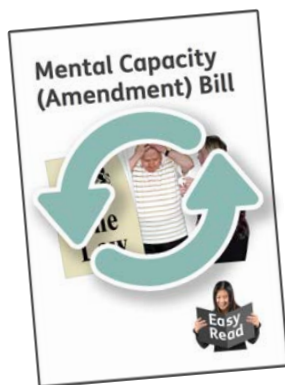
They should write a report to tell the public and Government how the new law is working.

# What next?



This bill will be discussed by:

- Members of the House of Lords
- Members of Parliament (MP) in the House of Commons



Both these groups may suggest changes to the bill.



When both groups have agreed to the bill it goes to the Queen.

The Queen will sign the bill and it becomes law.



If you want to suggest any changes to the bill, you can ask your MP to raise the issue in the House of Commons.

# For more information

If you need more information please contact us by:



Telephone: **0207 210 4850**



Textphone: **0207 222 2262**



Website: **[www.gov.uk/government/organisations/department-of-health-and-social-care](http://www.gov.uk/government/organisations/department-of-health-and-social-care)**



Post:

**Ministerial Correspondence and  
Public Enquiries Unit  
Department of Health and Social  
Care  
39 Victoria Street  
London  
SW1H 0EU**