

Local Authority Circular**LAC (DH) (2010) 3**

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: June 2010

Gateway Reference: 14464

THE MENTAL CAPACITY ACTSummary

1. Much progress has been made in implementing the Mental Capacity Act (MCA), which came into force in 2007. Local authorities have achieved a great deal in the last three years in terms of training staff, raising awareness, introducing best interests decisions, commissioning an Independent Mental Capacity Advocacy (IMCA) service and launching new Deprivation of Liberty Safeguards (DOLs). Local authorities have begun a major culture change with the principles of the MCA at the heart of policy and practice.
2. The Mental Capacity Act has required, and still requires, a review of much existing policy and practice in relation to enabling people who lack capacity to be assisted to make decisions and access services. Continued resources for 2010/11 have been made available by the Department of Health for the implementation of the Act.
3. Funding for the MCA is recurrent.

The Implementation of the Mental Capacity Act

The last three years

4. The last three years have seen a large amount of work embedding the principles of the Mental Capacity Act into the work of local authority social care services. Policies and practices relating to working with the two million people who lack the capacity to make some decisions have been rewritten; large amounts of training have taken place across local health and social care economies and best interests decisions are increasingly being made correctly. There has been a large interest in developing and applying audit tools for work with people who lack some decision making capacity.
5. IMCA services are now well established and play an increasing role in accommodation decisions, serious medical treatment decisions, safeguarding decisions and care reviews. In the last year some 9,000 people benefited from the support and representation of IMCAs.
6. The DOLS safeguards have been successfully implemented and Best Interests Assessors are now part of the safeguarding arm of local authorities, working to ensure people's rights are upheld.
7. Overall, local authorities have achieved a great deal over the last year, and much of this is due to the work carried out by the MCA Co-ordinators and the MCA local implementation networks.

The next three years

8. The culture change in relation to working with people who lack capacity needs to continue. There are two particular challenges to address now. First, local authorities need policies to be developed not simply 'on the MCA' but on all aspects of the local authorities' activities – housing, transport, complaints, consultations, partnership working, personalisation, carers breaks and so on – as they relate to people with dementia, learning disabilities or brain injuries. It is now time to look at capacity issues more widely in relation to local authority activity.
9. Second, in the present economic climate it is important that any re-organisation or reduction of local authority services is fair and proportionate in relation to the needs of people who lack capacity. People who lack capacity are least able to complain and challenge; local authorities must therefore remain vigilant that the interests of this group of people are represented in changes and re-organisations. Local authorities should make their own arrangements for these interests to be clearly represented.
10. Finally, best practice suggests:

- i) The focus of future work to be on the inclusion of people who lack capacity,
 - ii) How decisions are made is often as important as the decision itself, and serious attempts should be made to involve people in all decisions being made about them;
 - iii) DH Guidance on eligibility for services advises that people who lack capacity need more frequent reviews than others ;
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_113154
 - iv) ADASS-SCIE guidance confirms that IMCAs are a specialist resource that may be commissioned outside of the MCA for advocacy or other work in relation to this client group (such as home closures, direct payments). See page 11 of
<http://www.scie.org.uk/publications/guides/guide31/index.asp>
11. The Department made funding available, over three years from 2008 - 11, through the Area Based Grant (ABG) to support local authorities to meet their statutory responsibilities. This Local Authority Circular confirms the funding available for the year 2010-11.
http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Localauthoritiesocialservicesletters/DH_081123
 12. Further information on the operation of ABG can be found at:
<http://www.communities.gov.uk/publications/localgovernment/areabas edgrantguidance> .
 13. Decisions are still being made about how MCA resources will be provided beyond 2010/11, but the Department of Health recognises these legislative requirements are recurrent.
 14. The impact assessments:
<http://www.dca.gov.uk/menincap/legis.htm> and
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_084982
give the details of how the MCA and MCA DOLS allocations were calculated for the next five years. In brief, of current allocations, the MCA component is 60% of the total and remains constant over the future. The DOLS component is currently 40% and reduces. As a result, taking the allocation in 2010 as the base line, at 100%; there is an overall reduction of 5% each year until 2015, when the MCA resources were calculated to reach steady state at 75% of current allocations.

Enquiries

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Mental Capacity Act Policy

Annex A

Mental Capacity Act AREA BASED GRANT RESOURCES 2010-11	
Local Authority	2010-11 (£)
Principal Metropolitan Cities	2,357,160
Other Metropolitan Districts	4,974,556
Metropolitan Total	7,331,716
Inner London	2,014,816
Outer London	2,555,453
London Sub Total	4,570,269
Shire Counties	11,715,874
Shire Unitary Authorities	5,308,139
Shire Sub Total	17,024,013
England Total	28,926,000

Local Authority 2010-11 (£)

Principal Metropolitan Cities

Birmingham	700,197
Leeds	415,542
Liverpool	374,053
Manchester	348,160
Newcastle upon Tyne	179,321
Sheffield	339,887
Sub Total	2,357,160

Other Metropolitan Districts

Barnsley	161,272
Bolton	172,714
Bradford	294,823
Bury	102,480
Calderdale	113,486
Coventry	188,612
Doncaster	189,570
Dudley	186,960
Gateshead	133,568
Kirklees	231,687
Knowsley	125,909
North Tyneside	125,673
Oldham	141,983
Rochdale	138,233
Rotherham	170,526
Salford	164,248
Sandwell	219,643
Sefton	190,482
Solihull	97,481
South Tyneside	108,621
St Helens	122,254
Stockport	150,170
Sunderland	196,528
Tameside	145,122
Trafford	115,249
Wakefield	216,101
Walsall	170,536
Wigan	202,397
Wirral	229,882
Wolverhampton	168,346
Sub Total	4,974,556

Metropolitan Sub Total 7,331,716

Local Authority 2010-11 (£)

Inner London

City of London	6,401
Camden	177,255
Greenwich	170,180
Hackney	176,863
Hammersmith and Fulham	120,673
Islington	156,579
Kensington and Chelsea	134,346
Lambeth	181,242
Lewisham	168,099
Southwark	188,942
Tower Hamlets	181,155
Wandsworth	162,379
Westminster	190,702

Sub Total 2,014,816

Outer London

Barking and Dagenham	114,110
Barnet	174,916
Bexley	105,187
Brent	164,789
Bromley	134,843
Croydon	163,893
Ealing	170,066
Enfield	157,897
Haringey	136,920
Harrow	114,564
Havering	114,592
Hillingdon	122,167
Hounslow	113,860
Kingston upon Thames	65,323
Merton	90,950
Newham	180,643
Redbridge	134,135
Richmond upon Thames	75,760
Sutton	87,579
Waltham Forest	133,259

Sub Total 2,555,453

London Sub-Total 4,570,269

Local Authority

2010-11 (£)

Shire Counties

Buckinghamshire	193,105
Cambridgeshire	276,379
Cornwall	336,463
Cumbria	310,056
Derbyshire	453,995
Devon	421,245
Dorset	215,715
Durham	343,465
East Sussex	291,460
Essex	690,063
Gloucestershire	291,178
Hampshire	530,266
Hertfordshire	481,712
Kent	694,460
Lancashire	681,418
Leicestershire	279,209
Lincolnshire	405,508
Norfolk	492,451
North Yorkshire	289,586
Northamptonshire	321,968
Northumberland	184,708
Nottinghamshire	429,074
Oxfordshire	272,676
Shropshire	161,870
Somerset	289,344
Staffordshire	428,076
Suffolk	378,700
Surrey	448,460
Warwickshire	266,662
West Sussex	367,693
Wiltshire	207,196
Worcestershire	281,713

Sub Total

11,715,874

Shire Unitary Authorities

Bath & North East Somerset	85,848
Bedford Borough	77,753
Blackburn with Darwen	96,436
Blackpool	113,573
Bournemouth	99,271
Bracknell Forest	41,531
Brighton & Hove	144,640
Bristol	239,014
Central Bedfordshire	100,384
Cheshire East	168,036
Cheshire West & Chester	176,335
Darlington	59,924
Derby	143,649
East Riding of Yorkshire	178,486
Halton	81,479
Hartlepool	63,136
Herefordshire	103,916
Isle of Wight Council	93,817
Isles of Scilly	1,367
Kingston upon Hull	182,246
Leicester	186,672
Luton	94,963
Medway	113,255
Middlesbrough	92,146
Milton Keynes	105,958
North East Lincolnshire	96,615
North Lincolnshire	92,230
North Somerset	107,125
Nottingham	193,776
Peterborough	93,667
Plymouth	154,796
Poole	70,687
Portsmouth	104,822
Reading	65,488
Redcar and Cleveland	89,162
Rutland	15,200
Slough	59,759
South Gloucestershire	107,893
Southampton	132,468
Southend-on-Sea	96,976
Stockton-on-Tees	104,971
Stoke-on-Trent	174,449
Swindon	86,223
Telford and the Wrekin	95,428
Thurrock	78,253
Torbay	104,158
Warrington	100,298
West Berkshire	56,820

Windsor and Maidenhead	51,855
Wokingham	45,022
York	86,163
Sub Total	5,308,139
Shires Sub Total	17,024,013