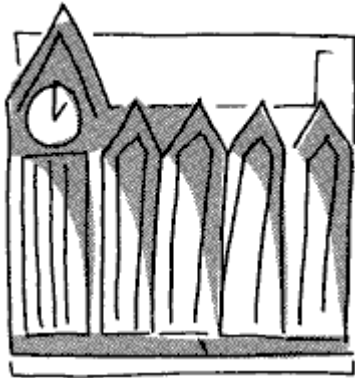


What the Disability Rights Commission thinks about the Mental Capacity Act April 2005



Parliament has finished talking about the Mental Capacity Bill. It is now the Mental Capacity Act. The Disability Rights Commission is pleased. The government listened to disabled people and made the bill better. We think it is good that that the bill was made an Act before the election.

When the government first published the Mental Capacity Bill many disabled people were not happy.



But the Disability Rights Commission worked with the government and helped make the Mental Capacity Act better for disabled people.

Here is some information on the Mental Capacity Act.

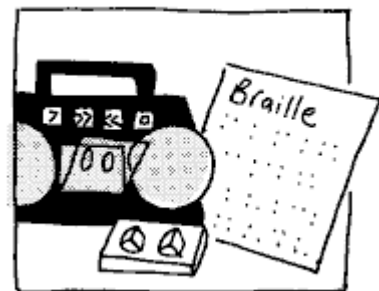
The act says that people must think that everyone can make their own decisions. This means that everyone should have their right to make their own decisions and choices protected.



The law says that no one should think that someone else can't make decisions just because they look, sound or behave differently to other people. This means that disabled people should not be discriminated against by other people.



If a disabled person needs support when they make some important decisions (in hospital for example) it must be provided. This includes BSL, or large print and Easyread information for example.



The government has not said how they will pay for this or how they will make sure everyone has support.

The Disability Rights Commission will talk to the government to make sure disabled people do have support.



The new law will make clear what should happen if someone makes a decision for another person who does not have capacity.

If someone does not have capacity another person can make a decision for them. The decision must be in the best interests of the person without capacity. They must not do something that the person would not want if they had capacity.



The new law says that they must not make a decision that ends the life of the person who does not have capacity.

This Act makes the law clear about people who make decisions not to have treatment if they lose capacity – before they lose capacity.

The Government thinks it is better for people to write these decisions down. Another person must watch and sign the paper too. This can be a friend of the person making the decision.

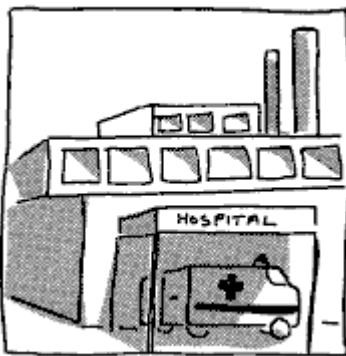


If someone writes down a decision not to have treatment even if it could save their life, another person must watch and sign this too.

The Act says people should talk to their friends and family before making a decision not to have treatment. But they do not have to.



The government added a new right to the Bill before it was made law. People will be able to write down in advance to ask for treatment if they lose capacity.



Doctors will not have to treat people who want to be treated. But the government has told the Disability Rights Commission that the law will say that doctors must write down why they do not treat people who want to be treated.

The Government is changing some words to try and make sure doctors give all the information they can to people without capacity.



If someone without capacity does not have a friend then the government wants an Independent Mental Capacity Advocate to represent them and support them when they make decisions.

The Government thinks this is like an advocate. This person will probably work for an advocacy organisation.



The Government wants people who work for advocacy organisations to help make this law work.

Other information about the Mental Capacity Act

The public guardian will have to publish some information and an annual report about its work.



The government thinks that this law is only for people who do not have capacity. The government thinks that mental health law is different.

The government thinks that there should be no problems between the law on decision making and the law on mental health.

The government has not made an Easyread copy of the Mental Capacity Act yet. The Disability Rights Commission thinks this is not good enough. We have told the government it is too slow.

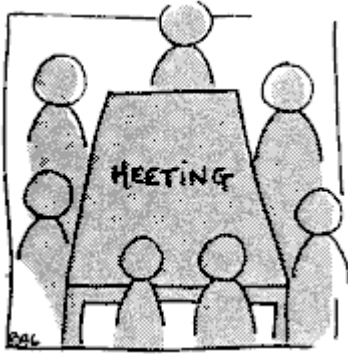
The Disability Rights Commission has two problems with the Mental Capacity Act.



We think that the government must show how the new law will protect all disabled people. This means even disabled people who do not have much contact with anyone except their carers.

We also think the government needs to make sure that all disabled people get the support they need to make decisions for themselves.





We will be meeting the government to talk about these two things after the election. We hope they can be sorted out soon.

If you want more information:

Please call Neil Coyle, Parliamentary Officer, on 020 7543 7039 or e-mail Neil.Coyle@drc-gb.org