

	
<b>MCA (Amendment) ACT 2019 Consultation</b>	
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Date:	19 <sup>th</sup> April 2022
<b>PURPOSE</b>	To Update on the consultation on changes to the Mental Capacity Act in practice 2022 and ensure all areas are aware of the consultation and have to opportunity to respond.
<b>SITUATION</b>	<p>On the 17<sup>th</sup> March 2022 The consultation was launched. This includes consultation on various components of the Mental Capacity (Amendment) Act 2019</p> <p>Included are:</p> <p>Welsh Government Consultation:</p> <ul style="list-style-type: none"> <li>• The Mental Capacity Act 2005(Independent Mental Capacity Advocates) (Wales) (Amendment) Regulations</li> <li>• The Mental Capacity (Deprivation of Liberty: Eligibility to carry out Assessments, Make Determinations and Carry out Pre Authorisation Reviews) (Wales) Regulations 2022</li> <li>• The Mental Capacity (Deprivation of Liberty: Training and Criteria for Approval as an Approved Mental Capacity Professional) (Wales) Regulations 2022</li> <li>• The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022</li> </ul> <p>Draft Welsh Language Impact Assessment  Draft Equality Impact Assessment  Draft Children's Rights Impact Assessment  Explanatory memorandum to Regulations for Wales which supports the implementation of the Mental Capacity (Amendment) Act 2019  Monitoring and Reporting Strategy and National Minimum Data Set  DraT workforce plan and training Framework  Regulations and plans for Wales  Regulatory Impact Assessment to support the implementation of the Mental Capacity (Amendment) Act 2019</p> <p>UK Government Consultation  New Metal Capacity Act 2005 Code of Practice</p> <p>The consultation will take place over 16 weeks closing on the 7<sup>th</sup> July 2022.</p>
<b>BACKGROUND</b>	The Head of Nursing Post for LPS is responsible for the strategic management of LPS and so will coordinate the Health Board response ensuring the implications of the changes are considered in relation to strategy, policy and working practices.

	<p>Any change to MCA in practice impacts on all elements of care planning and service delivery across the Service delivery units.</p> <p>Currently the management of this is split between the following:</p> <ul style="list-style-type: none"> <li>• Delivery of staff training sits with Corporate safeguarding</li> <li>• Management of the IMCA services sits within Corporate Nursing</li> <li>• Management of Deprivation of Liberty Processes (one element of the MCA Act) sits with Primary Care, Community and Therapies unit</li> <li>• Staff competency and management of capacity and consent sits with each SDU</li> <li>• Management of Court of Protection work sits with Corporate Governance and each of the SDU Governance teams.</li> </ul> <p>There is currently a Health Board wide sub group of the Mental health and Legislative committee in place that has been meeting regularly to consider future needs to successfully implement LPS once it is launched. This will from one vehicle to encourage feedback to the consultation to support a HB wide response. However, attendance is variable and limited from some of the key SDU's. While it is understandable due to operational pressures and the ongoing impact of Covid – 19, it is important to ensure Heads of Service are aware of and understand the implications for their service and ensure any comments / concerns or feedback are fed into the HB response.</p>
<p><b>ASSESSMENT</b></p>	<p>16 Week consultation ends 7<sup>th</sup> July 2022 Link to the consultation can be found here:</p> <p><a href="https://gov.wales/liberty-protection-safeguards">https://gov.wales/liberty-protection-safeguards</a></p> <p>For ease a summary of the consultation is outlined below:</p> <p>Welsh Government Consultation:</p> <ul style="list-style-type: none"> <li>• The Mental Capacity Act 2005(Independent Mental Capacity Advocates) (Wales) (Amendment) Regulations</li> <li>• The Mental Capacity (Deprivation of Liberty: Eligibility to carry out Assessments, Make Determinations and Carry out Pre Authorisation Reviews) (Wales) Regulations 2022</li> <li>• The Mental Capacity (Deprivation of Liberty: Training and Criteria for Approval as an Approved Mental Capacity Professional) (Wales) Regulations 2022</li> <li>• The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022</li> </ul> <p><a href="https://www.gov.uk">Changes to the MCA Code of Practice and implementation of the LPS - GOV.UK (www.gov.uk)</a></p> <p>UK Government Consultation New Mental Capacity Act 2005 Code of Practice:</p> <p>501 pages split into 26 chapters Chapters 1-5 Outlines the Act and principles</p>

Health Board Management of Liberty Protection Safeguards and the Mental Capacity  
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Appendix 2.

	<p>Chapters 6-9 Care providers, Court of Protection, LPA</p> <p>Chapter 10 IMCA</p> <p>Chapter 11 Advanced Care Planning</p> <p>Chapter 12-17 LPS</p> <p>Chapter 18 AMCP</p> <p>Chapter 19 Life sustaining treatment and vital acts</p> <p>Chapter 20 How LPS will be monitored</p> <p>Chapter 21 16 and 17 year olds</p> <p>Chapter 22 How MCA relates to and interfaces with the MHA</p> <p>Chapter 23 Safeguarding</p> <p>Chapter 24 Dispute resolution</p> <p>Chapter 25 Data Protection management</p> <p>Chapter 26 Safeguards and controls for research.</p>
<b>RECOMMENDATION</b>	<p>All areas consider the proposed changes and new code of practice so that they are aware of implications for their services. The Head of Nursing will be available to support with any queries or clarification required. The Head of Nursing will continue to work with colleagues on a regional and National basis to ensure the Health Board is fully briefed on progress.</p> <p>All areas review and provide feedback on all or relevant elements for their service by 1<sup>st</sup> June 2022, so that a comprehensive response can be provided.</p>