

Mental Health Act

The Mental Health Act 1983 covers the assessment, treatment and rights of people with a mental health condition.

The Mental Capacity Act

The Mental Capacity Act came into force in October 2007. It protects people who are unable to make some decisions for themselves due to a learning disability, mental health condition or for any other reason. It also provides guidelines for carers/professionals about who can make decisions.

Court of Protection Act

The Court of Protection was created under the Mental Capacity Act 2005. It makes decisions and also appoints other people (called Deputies) to make decisions for people who lack capacity to do this for themselves.

Our Contact Telephone Numbers:-

**Continuing Healthcare Team
(Dorchester base)**

01305 361123

**Continuing Healthcare Team
(Poole base)**

01202 541581

Useful websites

Dorset Clinical Commissioning Group

<http://www.dorsetccg.nhs.uk/>

Along with information about continuing healthcare funding and funded nursing care there are a number of useful documents that are available to download from the CCG's website. This includes:-

- the National Framework;
- NHS continuing healthcare application form;
- funded nursing care information booklet;
- information leaflets.

Dorset Advocacy

<http://www.dorsetadvocacy.co.uk>

NHS England

<http://www.england.nhs.uk/>

The Ombudsman's Office

<http://www.ombudsman.org.uk/>

The Department of Health

<http://www.dh.gov.uk/en/index.htm>

UK Government website

<http://www.direct.gov.uk/>

The official UK government website provides information about the following:-

Mental Health Act, Mental Capacity Act, Court of Protection, Probate and paying your care home fees.

CONTINUING HEALTHCARE FUNDING Consent



Supporting people in Dorset to lead healthier lives

Why does the CCG need the individual's consent?

The Clinical Commissioning Group's (CCG) role is to ensure compliance with national policy (e.g. The National Framework for NHS continuing healthcare and NHS-funded Nursing Care November 2012 (Revised) for individuals who apply for continuing healthcare funding or funded nursing care payments.

As part of this process we need the consent of the individual to undertake and/or gather information for the assessment for eligibility.

When we receive an application for funding we will send you an application form with a consent form attached or you may be asked to complete one in the hospital or care home.

A consent form is available to view or download from the CCG's website.

If the individual has capacity they can sign the consent form themselves. If they cannot sign, a person who has a Lasting Power of Attorney or is a Deputy appointed by the Court of Protection can sign on the individual's behalf.

Alternately a Best Interests Form can be completed by a health or social care professional before the assessment, which will give authority for the assessment to be undertaken and inform the CCG of who we can share the eligibility decision with. This document is also available to view or download from our website.

If the CCG does not have the signed consent from the individual or their legal representative we cannot request access to information that may be required to make the eligibility decision.

Under all circumstances the CCG will require supporting legal evidence for any signature on the consent form other than the individual's own or a completed Best Interest Decision Form.

What is a best interest decision?

The Mental Capacity Act requires any decision or act made on behalf of a person who lacks capacity to be made in that person's best interests.

The interests of the person must be assumed to outweigh those of science and society. The Act does not define best interests but anyone making such a decision should take into account:-

- the person's past and present wishes and feelings, including any advance decisions;
- the beliefs and values that would be likely to affect their decision if they had capacity;
- other factors that the person might have considered if they had capacity.

Probate

Probate is the court's authority given to a person or persons to administer a deceased person's estate. If you are an Executor of someone's will you may need a legal document called a 'grant of probate' to enable you to sort out the deceased person's affairs.

Enduring Power of Attorney

Enduring Power of Attorney is the legal ability to manage someone's **financial affairs** on their behalf.

It applies to people who do not have the mental capacity to decide on their financial matters, but must have been set up before they lost mental capacity.

A new power was introduced in October 2007 called Lasting Power of Attorney, but anyone who already holds an Enduring Power of Attorney can continue to use this for the purpose of supporting legal evidence for the consent form.

Lasting Power of Attorney

Lasting Power of Attorney is a provision created by the Mental Capacity Act 2005. It is the legal document which states that a third party is able to have control over someone's affairs, including decisions about **finances, care and welfare**, once the person lacks capacity.

Lasting Power of Attorney must be set up whilst the person still has capacity to make the decision about who they would like to have control. Lasting Power of Attorney came into effect in October 2007.