

# **The Bamford Review**

## **Possible changes to the law in Northern Ireland**

**- helping people make decisions about their lives**



**Easy read summary**

February 2007

## Introduction



This paper is about the law and helping people make choices and decisions about their own lives. It is also about helping people who cannot make decisions and looking after their human rights.

Some people cannot make decisions about everything in their lives because they may have:



- mental health problems
- learning disabilities
- problems with making decisions for themselves because they have had a brain injury or a stroke.

## Capacity and mental capacity



This means being able to make your own decisions. The law should help people to make their own decisions. It also needs to help people who cannot make their own decisions.

This is very important for people who need social care or healthcare.



When we looked at this, we came up with ideas for change.

## The most important things are:



**Autonomy** – There must be respect for everybody to make their own decisions. No-one should be stopped from making a decision just because someone else thinks it is wrong or bad.



**Justice** – The laws and rules must be fair and equal for everybody.



**Benefit** – Anytime someone does something or decides for someone who lacks capacity, it must be in the person's best interests.



**Least harm** – Doing everything possible to make sure the person does not get hurt.

All these things are important for everybody when it comes to making decisions about people's healthcare, social care and about money.



Someone should only help a person make decisions when that person cannot make decisions for themselves.

All the laws about mental health and mental capacity need to work together well.

# The Mental Capacity Act 2005

There is a new law in England and Wales called the **Mental Capacity Act 2005**. We think it should be used in Northern Ireland, with only small changes.

The most important things in the law should be:

## Assessing capacity:



No-one can say you cannot make a decision because of your age, your disability or how you look. If someone needs to make a decision for you, they must be sure you cannot make the decision yourself.

## Best interests:



If someone has to make a decision for you they must decide what is in your best interest. They must listen to what you want, ask people who know you and make sure you are involved.

## Acts in connection with care and treatment:



If you need care or treatment someone can give you the care or treatment you need. There will be laws to make sure this happens properly. The person caring or giving treatment must think about your best interests.



## Lasting power of attorney:

Lasting Power of Attorney is a legal document where you can say in writing who you want to make decisions for you in the future when you cannot make them for yourself. You can only make this document if you understand what it means.



The attorney must do things in your best interest. In the new law they can make decisions about:

- **Health**, like if you need an operation
- **Welfare**, like deciding which house is best for you
- **Property**, like if you need to sell your house
- **Money**, like looking after your bank account and paying your bills



## Deputies:

The courts will have more powers. They can choose a deputy for someone who does not have an attorney.

The deputy can make some decisions for you if you cannot decide everything for yourself.



## Advance Decisions to refuse treatments:



Sometimes a doctor needs to treat a person who cannot decide for themselves if they want or do not want some treatment – like an operation.



An **advance decision** is when someone who has mental capacity decides they **do not** want some treatment if they do not have capacity in the future.

This could be about saying no to treatment to keep you alive.



The advance decision must say this clearly and you must sign it. Another person can sign an advance decision for you, but only if you agree and you can see them sign it.



People have to think very carefully before making an advance decision. No one can force you to sign it or agree to make an advance decision. It is your choice and you must understand what it means.

## **Research:**



There are very strict rules about research. There will be a group of independent people who will decide if the research follows the rules.



The rules are about making sure the research is safe and is about helping the condition you have. You must be happy to take part and be able to stop at any time if you want.

## **Independent advocates:**

Advocates will help people who have no family or friends. They will help people when important decisions have to be made about health services, social care and housing.



This could be a decision about treatment you need in hospital or moving into a care home.

## **Code of practice:**

There will be new code of practice to tell people how to follow the law.



Some people like nurses, doctors and social workers will have a duty to follow the code. We want families, carers and other people to read and follow the new code.

## Other suggested changes

There are some things that are not in the Mental Capacity Act, but are part of other laws, which we think should all come together in the new law.



Some of these things are about when someone needs treatment or looking after. The law needs to think about their best interests and the best interests of the community. This can mean making people do things they do not want to do, like taking their medicine or making them go to a care home or hospital.

We think the new law should also be about:

- having a special person looking after someone when things like this happen
- the rights of families, carers and people like doctors and nurses who are helping the person who does not have capacity
- children and young people having special protection
- people who are going through the courts or are in prison
- getting the different organisations who work with people who break the law, to work well together



The new law should also involve:

- new training
- keeping the public, families and carers up to date with new laws
- getting service users and carers to be part of setting the new things up
- making sure there is money to make the new things happen
- setting up research to look at how well things are going
- making changes so the new law comes in for Northern Ireland



## What happens next?



We now need to find out what people who are service users, carers or who work in social care or healthcare think about our ideas. We will put these findings into our report to the government.

There needs to be:



- a task force to make the changes happen and bring everything together in the new law



- research and checking up to see that things are working well



- money for education and training

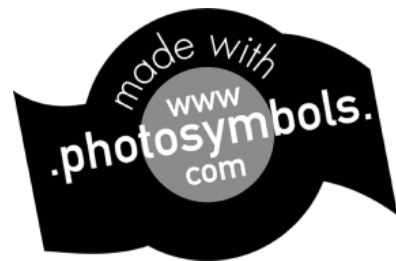


- an information programme for the public, service users, carers and people working in health and social care.

We want to see the law change to make things better for people to make decisions about their own lives. We want all the laws to do with making decisions to work together.

**MENCAP**  
*Understanding learning disability*

**Easy read words by Mencap**



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