

## **Mental Capacity Act (NI) 2016**

Please Note

During the Coronavirus emergency, temporary changes have been made to the Deprivation of Liberty Safeguards you can read about these by clicking on:

**<https://www.health-ni.gov.uk/publications/coronavirus-act-2020-and-temporary-regulations>**

The Mental Capacity Act (NI) 2016 is a new piece of law which, when fully commenced, will fuse together mental capacity and mental health law for people aged 16 years and over.

When the Act is fully commenced the existing law, the Mental Health (NI) Order 1986 will be repealed for anyone over 16.

The first phase of commencement of the Act began on 2<sup>nd</sup> December 2019 when the Deprivation of Liberty Safeguards (DOLS) came into operation. These are a set of rules which allow someone who lacks capacity to be deprived of their liberty in certain circumstances if it is in their best interests.

During the first phase of the implementation of the Act there will be a dual system of the Mental Health (NI) Order 1986 and the Mental Capacity Act both being operational.

There is a Code of Practice for the Act - <https://www.health-ni.gov.uk/mca-codes-practice>

If you are aged 16 or 17 there are some parts of the Mental Capacity Act which could apply to you, some of these include:

### **Age appropriate environment**

If you are under 18 and an in-patient in hospital for the purpose of assessment or treatment of a mental disorder the hospital must ensure that the environment in the hospital is suitable to your age.

The hospital must consider all relevant factors when determining what environment is suitable.

This could include:

- a. your wishes
- b. the wishes of your parents or guardians
- c. the other persons in the environment where you are
- d. where you can receive the best care and treatment
- e. if there is age specific accommodation available

The hospital must consult a person who has the knowledge or expertise to help determine if the environment is appropriate for your age. This person could be your parents or a social worker.

**This does not mean that you will be placed on a dedicated children's ward.**

If you are going into hospital or have a question about your rights you can contact us.

### **Acts proposed before the 16th birthday**

There may be a time when a DOL is proposed to be done for a time after you are 16 but at the time it is proposed you are still 15.

Immediately upon your 16<sup>th</sup> birthday the Act applies to you and you have rights under the Act. The preparations can be done by professionals a month before your 16<sup>th</sup> birthday. There are protections and safeguards under the Act to protect you, if you have any questions about this you can contact us for advice.

The Mental Capacity Act is a very complicated piece of legislation. If you have any questions about your rights you can contact us for advice and information.