Making Decisions about your Health, Welfare and Finances

Who can make those decisions if you cannot?

There is a new law that can help:

The Mental Capacity Act 2005

Every day we make decisions about many things in our lives. The ability to make decisions is called **mental capacity**. However, some people may have difficulties making some decisions some or all of the time. This could be because they have:-

- a learning disability;
- dementia;
- a mental health problem or
- a brain injury
- an illness or physical condition that affects the way their brain works.

And any of us might wish to plan ahead in case we lack mental capacity in the future, for example, because of an accident.

What is the *Mental Capacity Act?*

This is a new law, the Mental Capacity Act 2005 (MCA) which came into force during 2007. It protects people aged 16 and over who lack the mental capacity to make decisions for themselves and empowers others who may be assumed to lack capacity, but who, in fact, don't.

There are five key principles:-

1. Every adult has the right to make decisions for themselves, unless it is shown that they are unable to make them.
2. People should be supported as much as possible to enable them to make their own decisions before concluding that they cannot make them.
3. People may make decisions even though such decisions may appear unwise.
4. Decisions taken on behalf of people lacking capacity must be in their best interests.
5. The rights and freedom of people who lack capacity must not be restricted unnecessarily.

How can the *Mental Capacity Act* help me?

The MCA:-

- strengthens your rights to make your own decisions and supports you to do so;
- protects you if you lack capacity to make a particular decision;
- sets out in which situations other people can make decisions and act on your behalf if you are unable to do so;
- ensures that you are involved in decisions that affect you, and
- helps resolve disputes.

If you want to plan ahead for the future, the Act:

- allows you to make a **Lasting Power of Attorney (LPA)** so that you can appoint someone to make decisions on your behalf about your finances and property and/or your health and welfare in the future;
- enables you to set out decisions in advance about particular medical treatments you do not wish to receive, even if you become incapable of refusing directly, later on.

If you have made an Enduring Power of Attorney (EPA), or are acting on someone's behalf under an EPA, it will still be valid unless the person who made the EPA decides to replace it with an LPA.

If you are family member or an unpaid Carer, the Act:-

- will help you to understand how and when you can act on behalf of someone who lacks mental capacity to make decisions - and explains the safeguards and limitations when you are doing this;
- states that you should be consulted by professionals, for example, a doctor, before they make a decision about treatment for a family member who lacks mental capacity.

If you need further information about the Mental Capacity Act more detailed guidance is available from:

- **Office of the Public Guardian:**
  For all matters relating to the Mental Capacity Act

  www.publicguardian.gov.uk/mca/mca.htm

  Email: customerservices@publicguardian.gsi.gov.uk

  Customer contact centre: 0845 330 2900

- **NHS Website:**
  www.mentalcapacityact.wales.nhs.uk

- **Community Legal Advice:**
  For confidential and independent legal advice:

  www.communitylegaladvice.org.uk

  Helpline: 0845 345 4 345

- **The Alzheimer's Society:**
  For advice for people with Alzheimer's and their carers.

  Email: nportalzheimers@btconnect.com

  Tel: 01633 665110

This leaflet is also available in large print and Braille. Leaflets are also available in other languages and easy read formats. Please contact your Local Health Board or Local Authority for further information.

Blaenau-Gwent Local Health Board:
01495 325400

Blaenau-Gwent County Borough Council:
01495 315700

Caerphilly Local Health Board:
01495 241200

Caerphilly County Borough Council:
01443 815588

Monmouthshire Local Health Board:
01600 710000

Monmouthshire County Council:
01633 644644

Newport Local Health Board:
01633 261430

Newport City Council:
01633 656656

Torfaen Local Health Board:
01495 332200

Torfaen County Borough Council:
01495 762200

Gwent Healthcare NHS Trust:
01633 238027

THIS LEAFLET GIVES ONLY BASIC INFORMATION AND IS FOR GUIDANCE ONLY

Produced by the Gwent Mental Capacity Act Consortium in collaboration with the voluntary sector. March 2008.