

Mental Capacity Implementation Programme

The Mental Capacity Act 2005

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Mental Capacity Act – The Court of Protection

CCC presentation – 21 September 2006

dca Department for
Constitutional Affairs
Justice, rights and democracy

DH Department
of Health


Llywodraeth Cynulliad Cymru
Welsh Assembly Government

The presentation will cover:

- The Court of Protection – The Court Now
- The work
- Staffing and Volumes
- The New Court of Protection
- Functions
- Relationship with the Office of the Public Guardian
- Consultations

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Court Of Protection – The Court Now

- Part VII Mental Health Act 1983
- Court Of Protection Rules 2001
- Enduring Powers of Attorney Act 1985
- Court Of Protection (EPA) Rules 2001
- Jurisdiction for England and Wales

The Work

- **The role of the Court is to make decisions in cases of people who are mentally incapable of managing their own property and affairs.**
- **Appointment of receivers**
- **Authorisations under Short Orders**
- **Resolve disputes by formal adjudication**
- **Investigative and corrective functions**

Staffing and Volumes

- The Master
- The Assistant Master and the Deputy Master
- Nominated Officers
- Judicial Support Unit
- 120,000 EPA registrations 1985
- 18,000 current Receivership Cases

The new Court of Protection

- The Court will have jurisdiction relating to the whole of the Mental Capacity Act
- Final Arbiter
- Personal Welfare and Healthcare jurisdiction
- Property and Financial decision making jurisdiction
- It will be a superior Court of Record – Rules and Fees
- Various levels of Judiciary
- Regionalised

The new Court of Protection

- Make declarations as to whether or not someone has capacity to make a particular decision
- Make declarations as to the lawfulness or otherwise of any act done or yet to be done
- Make Single Orders
- Appoint Deputies
- Resolve issues surrounding LPA's and EPA's
- Validity of Advance Decisions

Relationship with the Office of the Public Guardian

- Different to current relationship with PGO
- Two distinct organisations
- Share accommodation
- Staffing

Consultations

- Code of Practice 9 March to 2 June 2006
- Government Response due Autumn 2006
- Court of Protection Rules Consultation - 17 July to 6 October 2006
- Court of Protection and Office of the Public Guardian Fees Consultation 7 September to 29 November 2006