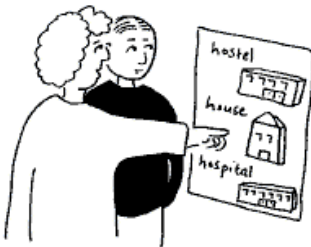
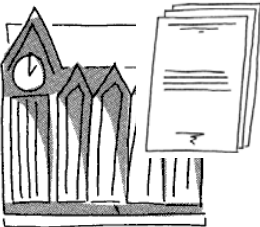
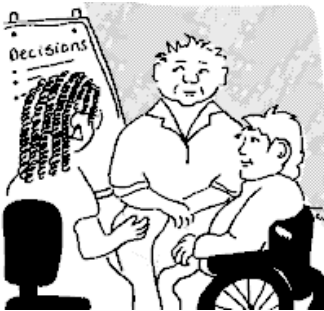


Making Decisions Alliance (MDA) Response to Draft Mental Incapacity Bill



Useful words

Mental capacity: 'Mental capacity' is about whether you can make your own decisions. **Mental incapacity** means you cannot make your own decisions

Bill: a document that is discussed in Parliament before it becomes a law. A Bill is called a draft Bill before it goes to parliament.

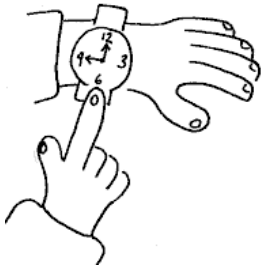
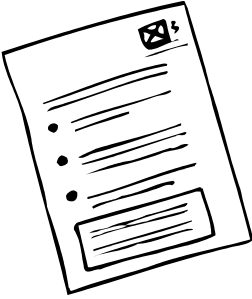
Law: rules that everybody in the country has to follow

Court: where decisions are made about things to do with the law

Advocacy: Supporting and speaking up on behalf of people who need support.

Self-Advocacy: When people speak up for themselves, with or without support.

MDA a group of 27 organisations that help people who find it hard to make decisions or tell other people about their decisions



Introduction

- The Government published a draft Bill in June. It explains what people are able to do when someone cannot make a decision by themselves.
- The Government wants to know what people think of the draft Bill. The Government has set up a group of MPs and Lords to look at the draft Bill.
- The MDA has sent a reply to the group. It says what the MDA thinks about the draft Bill
- The Government may change the draft Bill before it goes to Parliament
- When the draft Bill goes to Parliament the government will talk about it before it becomes a law

The MDA is pleased with most of the draft Bill. We think it will help people who find it hard to make decisions or tell people about their decisions. But there are some bits of the draft Bill we do not like.

What does the MDA want?

- To tell everybody about the draft Bill
- The Bill to become Law as soon as possible



The draft bill on Mental Incapacity

Most people can make their own decisions. Some people find it hard to make their own decisions or cannot make their own decisions about complicated things.

The draft Bill says what should happen when people find it hard to make their own decisions or cannot make their own decisions



At the moment the law is very confusing

“I want to decide but no-one listens”
“Can my mum or dad decide for me?”
“Can my carer decide for me?”

At the moment the law does not answer these questions



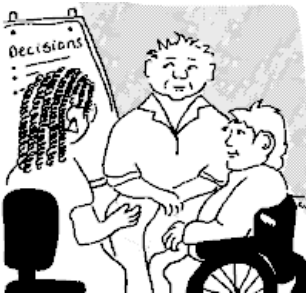
The draft Bill says that people must be allowed to make any decisions they can. People must be given as much help and support as they need to help them make their own decisions



For example if someone finds it hard to communicate they might need:

- more time to think
- time to talk about the decision with someone
- someone to help them say what they want
- to be able to communicate their decision in the way they find easiest eg using signs and interpreters, using pictures
- to use communication methods, eg communication passports, communication boards.





When someone can not make their own decisions

- When someone can not make their own decisions another person can make decisions for them
- The draft Bill says that another person can only make decisions for someone else when they really have to
- The person who makes the decision must always think about what the person they are supporting wants and needs

Every time a new decision needs to be made the person must be given the chance to make his or her own decision



BUT

The MDA does disagree with some things in the draft Bill

The MDA thinks the Bill should be called “The Mental Capacity Bill” not “The Mental Incapacity Bill”. This is because it is important that people should take their own decisions when possible

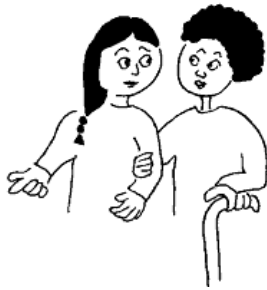
Advocacy

The draft Bill **does not** include “advocacy”

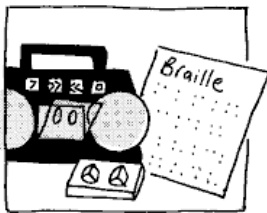
But the Bill says that people must be given support to help them make their own decisions

When there is support to help you say or get what you want, this is called **advocacy**. The





person who gives you this support is called an **advocate**. An advocate could be a member of your family, a friend, or carer. But if you don't want any of them to help you could ask for an **independent advocate** – someone who is trained to help.



You could also be supported to advocate for yourself (this is called **self-advocacy**), having someone to support you with your communication method or interpreting your communication -for example signing, a communication board, or other method.

The MDA thinks that if people have access to advocacy it will help them to understand what the decision is about and to tell people what they want.



The draft Bill needs to explain that people with communication impairments need to have their own ways of communicating acknowledged and recognised as lawful. That someone who is not able to speak in the way most people do, might have their own way of communicating his or her own thoughts and will.

General Authority

The draft Bill says that if someone cannot make their own decisions another person can make day to day decisions for them

This is called the “General Authority”



The MDA thinks that the General Authority is not quite right. We are worried that it may mean that in some situations other people may have too much say in what someone can do. Even though this might not happen very often, it is not safe enough and there need to be very clear ways:



- to make sure that decisions are made in the **best interest** of the person concerned, and
- to protect the person from people making bad decisions on their behalf -for example, consulting with more than one person who knows the person well, in order to try to find out that person's **best interests**.

Appointeeship

The draft Bill does not mention anything about appointeeship

Appointeeships are arrangements for collecting benefits for people who cannot manage that themselves

The MDA has asked for appointeeships to be included in the Bill

