Beat: Politics

The Mental Capacity Act

Still failing?

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USPA NEWS - Vulnerable adults are being failed by the Act designed to protect and empower them. That was the key finding of the House of Lords Committee on the Mental Capacity Act 2005 in March 2014. Lord Faulks will respond on behalf of the Government.

Twelve months after the report´s publication, the Committee will hold the Government to account for the action it has taken in response to the findings in a debate in the House, tomorrow, Tuesday 10 March.

The Committee also found that the controversial Deprivation of Liberty Safeguards (DoLS), inserted into the Mental Capacity Act in 2007 by the Mental Health Act, were not fit for purpose and recommended that they were replaced with legislation more in keeping with the language and ethos of the Mental Capacity Act as a whole.

Chairman of the former Committee, Lord Hardie, who will open the debate, said:

“Our report found that tens of thousands of people were being deprived of their liberty without the protection of the law. The provisions designed to protect them ““ the Deprivation of Liberty Safeguards ““ were found to be unfit for purpose. We recommended that the Government start from scratch and replace them entirely. I am gratified that the Government listened and decided to refer the safeguards to the Law Commission for review.

“Our report also highlighted the poor implementation of the Mental Capacity Act. People do not know about the Act, or do not understand it, even though many professionals have legal obligations under it, and those who may lack capacity have legal rights under it. In order to achieve the necessary change in attitudes and practice across the health and social care sector we recommended that overall responsibility for the Act be given to an independent body whose task would be to oversee, monitor and drive forward implementation.

“That has not happened.

“The Government has announced a “˜National Mental Capacity Forum´, but twelve months on there are no terms of reference, membership or even a chair.

“There is absolutely no cause for complacency ““ stakeholders tell us that practice on the ground has not changed; vulnerable individuals and their families are still being failed by poor awareness and poor understanding of the Act. This timely debate provides an opportunity to press the Government on the slow progress it has made in tackling such a major issue.“

Other Members expected to take part in the debate include:

Lord Brown of Eaton-under-Heywood, former Justice of the Supreme Court;
Lord Beecham, Shadow Spokesperson for Justice; and
Baroness Warnock.
Members of the former Committee who are also scheduled to speak include Baroness Barker, Baroness Hollins, Baroness Browning, and Baroness McIntosh of Hudnall.

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