

## Countdown to the Mental Capacity Act 6 – The Code of Practice

The long awaited Code of Practice on the Mental Capacity Act has now been published. The Code, which sets out best practice for health professionals, carers and others who are required to make decisions on behalf of an incapacitated adult person, provides guidance to assist people making decisions in accordance with the best interests of some of the most vulnerable people in society.

Section 42(4) of the Mental Capacity Act makes it clear that any person who makes decisions or otherwise undertakes acts relating to a person who lacks capacity is under an obligation to have regard to the Code. This duty will extend to donees of a Lasting Power of Attorney, any deputy appointed by the Court, an independent Mental Capacity Advocate and any person acting in a professional capacity in relation to the incapacitated person. Any such person who departs from the Code may have to explain the reasons why the Code was not followed.

The Code applies immediately to those aspects of the Mental Capacity Act that came into force on 1 April, namely the Independent Mental Capacity Advocate and the new criminal offence of ill-treatment or neglect. The Code will also apply to all the other provisions of the Act that are due to come into force on 1 October 2007.

The Code can be accessed via [www.dca.gov.uk](http://www.dca.gov.uk)

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