

Mental Capacity (Amendment) Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Schedule 1

BARONESS MURPHY

Page 6, line 4, at end insert “, and

- “() if living in a care home or supported accommodation, meets any one of the following conditions –
 - () is under continuous supervision and is not permitted to leave the premises on their own, or
 - () is subject to the use of physical barriers to limit their access to particular areas, or
 - () is subject to the use of force, including physical, mechanical or chemical restraint, or
 - () is subject to constant close observation and surveillance.”

BARONESS THORNTON

Page 11, line 44, at end insert –

- “(c) a determination made on an assessment that steps to establish supported decision making are not practicable.
- () Reference in sub-paragraph (1)(c) to “supported decision making” means that, in relation to decisions about their personal welfare or property and affairs (or both), a cared for person is –
 - (a) be aged 16 or over, and
 - (b) has capacity to appoint a person to assist them in making those decisions.”

Page 11, line 44, at end insert –

- “() The assessment must include –
 - (a) a description of the steps which have been taken to establish whether P lacks capacity;
 - (b) a description of the steps which have been taken to help P to make decisions or an explanation as to why it was not practicable to take such steps;
 - (c) an explanation of why it is believed that P lacks capacity including –

Schedule 1 - continued

- (i) identification of the impairment or disturbance in the functioning of P's mind or brain by reason of which it is believed P lacks capacity in relation to the matter, and
- (ii) an explanation of why P is unable to make a decisions."

Page 12, line 10, at end insert "and in the cared for person's best interests."

Page 12, line 12, at end insert "and in the cared for person's best interests in accordance with an assessment made under section 4."

Clause 2

BARONESS MURPHY

Page 2, line 17, at end insert –

- “() Condition 1A is that the person authorising or effecting the steps which deprive P of liberty is satisfied that doing so will benefit P and that life-sustaining treatment or doing any vital act cannot reasonably be achieved without taking those steps.”

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16 August 2018
