

Mental Capacity (Amendment) Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Marshalled List]

Schedule 1

LORD HUNT OF KINGS HEATH

Page 11, line 17, leave out “care home manager has carried out consultation” and insert “appropriate consultation has been carried out”

Page 12, line 16, leave out “in any other case,”

Page 12, line 23, leave out “otherwise,”

After Clause 3

LORD HUNT OF KINGS HEATH

Insert the following new Clause –

“Requirements before commencement

Before any of the provisions of this Act other than those which come into force on its passing can come into force, the Secretary of State must commission separate independent reports on the following matters –

- (a) the introduction of a statutory definition for “unsound mind”, in the context of a deprivation of liberty, which clarifies the application of the Supreme Court’s acid test for confinement and is based upon consultation with health and social care professionals;
- (b) how to formalise the arrangements for giving advance consent for a deprivation of liberty, how to ensure that any authorised arrangements put in place respect any stipulations the cared-for person has made about his or her future care, and how to ensure that proper records are kept;
- (c) a strategy for enhancing access to, and funding towards, independent mental capacity advocates;

After Clause 3 - continued

- (d) whether a statutory duty should be placed upon appropriate persons or independent mental capacity advocates to make appeals on behalf of cared-for persons in cases where a cared-for person objects to the arrangements authorised under this Act or where the arrangements are unusually intrusive, and whether a statutory duty should be placed on a responsible body to refer a case to appeal where appropriate persons or independent mental capacity advocates have failed to do so;
- (e) how to support cared-for persons to participate in court proceedings relating to any arrangements under this Act;
- (f) the establishment of a tribunal with powers to consider cases relating to the authorisation of arrangements under this Act;
- (g) the availability of legal aid for all eligible persons challenging the authorisation of arrangements depriving them of liberty under this Act;
- (h) evaluating different proposals to replace the term “unsound mind” in the Code of Practice; and
- (i) setting out the short- and long-term cost implications of implementing the provisions of this Act for local authorities, the courts and the health service and evaluating different proposals to meet those costs.”

Mental Capacity (Amendment) Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

10 October 2018
