Use and views of the Mental Capacity Act 2005

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EviDEM Programme of Research – Mental Capacity Act

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Introduction to EviDEM

- EviDEM: Evidence-based interventions in Dementia
- Five year research programme funded by National Institute for Health Research
- Programme timepoints: 2007-12
- Hosted by Central & North West London NHS Foundation Trust

www.evidem.org.uk
Mental Capacity Act 2005

- Mental Capacity Act 2005 aimed to protect and safeguard people with decision-making capacity problems, including dementia
- Applies to people with current or future potential loss of capacity
- Assumes capacity foremost and encourages respect for decision-specific capacity, enhances autonomy and choice
- New criminal offences of wilful neglect and ill-treatment
- Encourages advance planning and advance decisions, including advance refusal of treatment
- Enables the granting of a Lasting Power of Attorney, capable of making decisions on financial and personal welfare issues, keeping Public Guardian Office arrangements for others.

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EviDEM – MCA study: What we are doing

- Study divided into 2 phases:
  
  Phase I: exploration of experiences and expectations with MCA with practitioners and older people

  Phase II: Case studies of people with dementia in their social and care networks and their decision-making choices
Research Questions

What challenges do staff face when they come across issues of mental capacity in their practice with people with dementia?

What are the expectations of professionals working with people with dementia about the MCA?
Interviews

Four main topics covered:
Training – experience, opinions, benefits, confidence levels
Roles and activity – impact of MCA
Looking ahead – predictions of MCA
Personal perspectives – impact of personal experience of caregiving
Participating practitioners = 115

- Participating practitioners = 115
- Adult safeguarding coordinators = 13 (+12 +15)
- Social workers = 10 (+9)
- Care home workers & managers = 43
- Alzheimer’s Society staff = 9
- Carers’ groups & other voluntary associations = 15
- Age Concern = 10
- Specialist dementia nurses = 15 (+15)
Emerging themes

- Limited detailed knowledge of governing principles
- Significant impact on workload but varied at individual level
- Positive opinions/predictions regarding the Act
- Criticisms/disadvantages of the Act
General rather than specific understanding

- General level of understanding of terms, such as change from EPA to LPA, new role of the IMCA, definitions of capacity
  - ‘Common sense’ rather than technical definitions given
- Knowledge and confidence variable, not always a reflection of training received
- Some described information as practically-oriented, rather than legally driven

My knowledge is very limited, just regarding issues of powers of attorney, appointees and donors being made for people not able to carry out their decisions, so it’s the application of the Act rather than the legislation and articles related to it. (#01)

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Impact on workload

- Mental capacity assessments predominated
- Best interests decision making common
- Growing involvement with a range of MCA activity
  - e.g. a care manager having discussions with people with cancer about Advance Decisions

‘A lot of our residents have got dementia but they can still choose – sometimes it’s not the right choice, but it’s their choice and we have to respect it. (#108)

- Act provides a useful framework to structure decision making
- Helps reach & defend decisions

‘So you could sometimes sit across from GPs and doctors and there was not a lot of credence beyond what you are saying, the Act has helped in that way…”
'When I last visited him, the (housing scheme) manager said ‘this chap isn't safe anymore, he needs to go into a residential home’...but when I explained to him this is why it is in his best interests, he couldn't argue with it, whereas I don’t think I would have had that argument before the Act came out'.
Positives & Advantages

- Better, consolidated system with fewer legal loopholes
- Preserves dignity and rights of older people
- In direct job role, daily enquiries had remained the same, but MCA added *extra, sort of, weapon to the armory*.
- IMCA service safeguards vulnerable people, carers and professionals

I think it makes the professionals that’s involved more responsible, it also, I think it does put a safeguard in for carers so that there isn’t any sort of questions around exploitation or even abuse, financial or physical… (# 02)
‘I think it brings transparency to the whole process, because it has been very arbitrary and we have been working in a very grey area and I think it creates a space for care managers to have a voice because often especially with hospital discharges, medical opinion is still very dominant and that it quite a battle for us… It also creates protection for the service user, because we are force to address issues in a systematic way in which you might not have done before…so the safeguards are there for the services user as well’.
Criticisms & Disadvantages

- Some legislative procedures were lengthy and cumbersome
- Expense and complication of LPA registration

One of the disadvantages, I think, is the cost of the LPA. People before would think about (the previous) EPA because it didn’t cost much and they would go along with it, now a lot of people are just saying “no, I am just going to leave it”. (#03)
Complexities remain

- Interaction of MCA and MHA
- Personality disorder and MCA
- Unwise and risky
- Difficulty of establishing mistreatment and working with other agencies
- Paperwork!
- Hospital discharges
Implications

- More thorough understanding of principles necessary for professionals to implement it successfully.
- Confidence needs to be greater.
- Regular training or refresher courses likely to address this need.
- Less of the formalities e.g. LPA, AD, IMCA.
  - Training could be better integrated into practice by case study examples and practical information.
- Safeguarding emerging in day-to-day work but still not key focus.
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Thank you!

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