

House of Lords Report on the Mental Capacity Act 2005 (MCA).

08 APRIL 2014

Julia Abrey

PARTNER | UK

CATEGORY:
ARTICLE

On 13 March 2014, the House of Lords published its post-legislative scrutiny report on the MCA. Whilst recognising that the MCA was an important piece of legislation with the potential to transform lives, the report was clear that the Act was not working well. In their view this was because people did not know about it and where they did know about it they did not understand it. The most significant criticism was reserved for the Deprivation of Liberty Safeguards (DOLS) regime (intended to protect the most vulnerable in care home and hospital settings) where the provisions were felt to be poorly drafted, over complex and bore no relationship to the language and use of the MCA, the safeguards themselves being poorly understood and implemented.

The Committee recommended that overall responsibility for the MCA should be given to an independent body whose task it would be to drive forward implementation and as part of this process DOLS should be scrapped and a complete set of replacement provisions which were easy to understand and implement should be drafted. Additionally, the Government was exhorted to address poor levels of awareness and understanding of Lasting Powers of Attorney and living wills amongst professionals in the health and social care sectors and recommended that more resources should be given to the Court of Protection to speed up the handling of non controversial cases. It will be interesting to see how many of these recommendations are taken up and within what time scale.

Please [click here](#) to view the House of Lords report.


Authors

Julia Abrey

PARTNER | LONDON

Private client and tax

 +44 20 7597 6053

 julia.abrey@withersworldwide.com