

Yr Ymarferydd Gwasanaethau Cymdeithasol

Deddf Galluedd Meddyliol
(2005)

Social Services Practitioner

Mental Capacity Act
(2005)



Facilitator notes

WELSH

Cyn mynychu, mae'n ofynnol i ddysgwyr gael mynediad at gopi digidol neu gopi caled o'u Cod Ymarfer/Ymddygiad perthnasol gan gynnwys fersiwn 'i Gyflogwyr', rheoliadau RISCA a swydd ddisgrifiad, ac unrhyw ganllawiau ymarfer perthnasol eraill.

ENGLISH

Prior to attending, learners are required to have access to a digital or hard copy of their relevant Code of Practice/Conduct including 'for Employers' version, RISCA regulations and job description, and any other relevant practice guidance.

Mae'r adnodd hwn wedi'i ddatblygu mewn partneriaeth â'r Consortiwm Ymarferwyr Gwasanaethau Cymdeithasol (SSP) ar ran Gofal Cymdeithasol Cymru. Mae'r consortiwm yn cynnwys y partneriaid canlynol:

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Gofal Cymdeithasol Cymru a'i gynghorwyr penodedig sy'n berchen ar hawlfraint y deunyddiau hyn. Gall darparwyr dysgu, awdurdodau lleol a darparwyr gwasanaethau gofal yng Nghymru gopïo, atgynhyrchu, dosbarthu neu drefnu bod y Rhaglen Ddysgu Ymarferwyr Gwasanaethau Cymdeithasol (SSP) ar gael fel arall i unrhyw drydydd parti arall ar sail ddrielw yn unig. Rhaid i unrhyw bartïon eraill sy'n dymuno copïo, atgynhyrchu, dosbarthu neu fel arall wneud y Rhaglen Ymarferwyr Gwasanaethau Cymdeithasol (SSP) ar gael i unrhyw drydydd parti arall geisio caniatâd ysgrifenedig Gofal Cymdeithasol Cymru ymlaen llaw.

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Sgiliau Astudio / Study Skills



Cyfeirnod / Referencing



Darllen / Reading



Ysgrifenu / Writing



Myfyrdod Beirniadol /
Critical Reflection



Cyfathrebiad /
Communication



Gwaith Grŵp / Group Work



Cyflwyniad / Presentation



Ymchwil / Research



Sgiliau rhyngpersonol /
Interpersonal Skills



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Sgiliau Astudio Cudd / Hidden Study Skills

Peidiwch ag anghofio bod amrywiaeth o sgiliau wedi'u gwreiddio, gan gynnwys...

Trefniadaeth

Cadw amser

Cynllunio

Cymryd nodyn

Cynllunio Traethawd

Gwrandawriad

Datrys problemau

Penderfyniadau

Cwestiynu

Siarad yn effeithiol

Cyfathrebu llafar

Efallai y bydd rhai o'r rhain yn rhan o'ch sgiliau rhyngpersonol hefyd.

Don't forget there are a range of skills embedded including...

Organisation

Time keeping

Planning

Note taking

Essay planning

Listening

Problem solving

Decision making

Questioning

Effective speaking

Verbal communication

Some of these may form part of your Interpersonal Skills too.



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Nodau a Deilliannau Dysgu

- Deall nodau a phwrpas yr MCA (2005)
- Deall a gallu gweithredu'r 5 egwyddor
- Archwilio'r darpariaethau sy'n tanategu ac yn galluogi unigolion i gael eu hamddiffyn mewn perthynas â phenderfyniadau (Fframwaith trwy God Ymarfer)
- Gwybod camau asesu galluedd a phwy all eu cynnal
- Deall y broses o 'les pennaf' a phwy ddylai gymryd rhan
- Deall sut mae mesurau diogelu amddiffyn rhyddid yn cael eu cymhwyso
- Deall y berthynas rhwng yr MCA (2005) a'r Ddeddf Iechyd Meddwl
- Gwybod pryd y dylai fod dyletswydd atgyfeirio at Eiriolwr Galluedd Meddyliol Annibynnol
- Gwybod pryd i godi pryder
- Myfyrio ar yr MCA (2005)

Aims and Learning Outcomes



- Understand the aims & purpose of the MCA (2005)
- Understand and be able to implement the 5 principles
- Explore the provisions that underpin and enable individuals to be protected in relation to decisions (Framework through a Code of Practice)
- Know the stages of capacity assessment and who can undertake them
- Understand the process of 'best interests' and who should be involved
- Understand how liberty protection safeguards are applied
- Understand the relationship between the MCA (2005) and the Mental Health Act
- Know when there should be a duty of referral to an Independent Mental Capacity Advocate
- Know when to raise a concern
- Reflect on the MCA (2005)

Welsh:

Mae'r rhain yn adlewyrchu'r meini prawf asesu ar gyfer deilliant dysgu 7.

English:

These reflect the assessment criteria for learning outcome 7.



Mental Capacity Act 2005



Beth yw'r Ddeddf Galluedd Meddyliol (2005)?

- Derbyniodd y Ddeddf Galluedd Meddyliol Gydsyniad Brenhinol ar 7 Ebrill 2005, gan ddod i rym yn 2007. Mae'n ddeddfwriaeth sy'n gymwys yng Nghymru a Lloegr ar gyfer pobl 16 oed a hŷn
- Prif ddiben yr MCA yw hybu a diogelu'r broses o wneud penderfyniadau o fewn fframwaith cyfreithiol
- Mae'n gwneud hyn mewn dwy ffordd:
 - trwy rymuso pobl i wneud penderfyniadau drostynt eu hunain lle bynnag y bo modd, a thrwy amddiffyn pobl sydd heb alluedd trwy ddarparu fframwaith hyblyg sy'n gosod unigolion wrth galon y broses o wneud penderfyniadau
 - drwy ganiatáu i bobl gynllunio ymlaen llaw ar gyfer amser yn y dyfodol pan fyddent efallai heb alluedd

What is the Mental Capacity Act (2005)?

- The Mental Capacity Act received Royal Assent on 7 April 2005, coming into force in 2007. It is legislation applicable in England and Wales for those 16 years and over
- The main purpose of the MCA is to promote and safeguard decision-making within a legal framework
- It does this in two ways:
 - by empowering people to make decisions for themselves wherever possible, and by protecting people who lack capacity by providing a flexible framework that places individuals at the heart of the decision-making process
 - by allowing people to plan ahead for a time in the future when they might lack the capacity



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Facilitator notes

Welsh:

Mae'r Ddeddf yn dweud:

English:

The Act states:

Sut mae'r Ddeddf yn berthnasol i ddeddfwriaeth arall?

Bydd Deddf Galluedd Meddyliol 2005 yn berthnasol ar y cyd â deddfwriaeth arall sy'n effeithio ar bobl a all fod heb alluedd mewn perthynas â materion penodol. Mae hyn yn golygu y dylai staff gofal iechyd a gofal cymdeithasol sy'n gweithredu o dan y Ddeddf hefyd fod yn ymwybodol o'u rhwymedigaethau o dan ddeddfwriaeth arall, gan gynnwys (ond heb fod yn gyfyngedig i):

- Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014
- Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016
- Deddf Iechyd Meddwl 1983
- Mesur Iechyd Meddwl (Cymru) 2010
- Gweithdrefnau Diogelu Cymru Gyfan (2019)
- Deddf Diogelu Data 1998
- Deddf Hawliau Dynol 1998
- Deddf Cydraddoldeb 2010
- Deddf Meinweoedd Dynol 2004

How does the Act relate to other legislation?

The Mental Capacity Act 2005 will apply in conjunction with other legislation affecting people who may lack capacity in relation to specific matters. This means that healthcare and social care staff acting under the Act should also be aware of their obligations under other legislation, including (but not limited to) the:

- Social Services & Well-Being (Wales) Act 2014
- Regulation and Inspection of Social Care (Wales) Act 2016
- Mental Health Act 1983
- The Mental Health (Wales) Measure 2010
- All Wales Safeguarding Procedures (2019)
- Data Protection Act 1998
- Human Rights Act 1998
- Equality Act 2010
- Human Tissue Act 2004



Facilitator notes

Welsh:

Ymhlith Deddfau eraill o ddeddfwriaeth sy'n berthnasol i'r MCA, mae 'Deddf yr Iaith Gymraeg' 1993.

English:

Included amongst other Acts of legislation relevant to the MCA, is the 'Welsh Language Act' 1993.

Ymarfer 1: Beth mae galluedd meddyliol yn ei olygu?

Galluedd meddyliol yw gallu meddyliol unigolyn i wneud penderfyniad ar adeg benodol. Gallai penderfyniadau olygu bod unigolyn yn penderfynu beth i'w wisgo, ble i wario arian, pwy y bydd yn ei weld a phryd y bydd yn ei weld. Gallai gynnwys penderfynu pwy fydd yn gofalu amdanynt a sut y darperir eu gofal.



Exercise 1: What does mental capacity mean?

Mental capacity is an individual's mental ability to make a decision at a particular point in time. Decisions might involve an individual deciding what to wear, where to spend money, who they will see and when they will see them. It might involve deciding who will care for them and how their care will be provided.

Facilitator notes

Welsh:

Pwysig: Mae galluedd person (neu ddiffyg galluedd) yn cyfeirio yn benodol at ei alluedd i wneud penderfyniad penodol ar yr adeg y mae angen ei wneud.

English:

Important: A person's capacity (or lack of capacity) refers specifically to their capacity to make a particular decision at the time it needs to be made.

Ymarfer 2: Beth yw 5 egwyddor statudol y Ddeddf?

(Gwerthoedd sy'n sail i'r gofynion cyfreithiol yn y Ddeddf)

1. Yn cymryd bod gan berson alluedd oni bai y profir yn wahanol.
2. Ni ddylid trin pobl fel pobl na allant wneud penderfyniad oni bai bod pob cam ymarferol wedi'i roi ar waith i'w helpu.
3. Ni ddylid trin person fel rhywun na all wneud penderfyniad oherwydd gall ei benderfyniad ymddangos yn annoeth.
4. Gwnewch bethau bob amser neu gwnewch benderfyniadau ar ran pobl heb alluedd er eu lles pennaf.
5. Cyn gwneud rhywbeth i rywun neu wneud penderfyniad ar ei ran, ystyriwch a ellid cyflawni'r canlyniad mewn ffordd lai cyfyngol.

Exercise 2: What are the 5 statutory principles of the Act?

(Values that underpin the legal requirements in the Act)

1. Assumes a person has capacity unless proved otherwise.
2. People are not to be treated as incapable of making a decision unless all practicable steps have been tried to help them.
3. A person should not be treated as incapable of making a decision because their decision may seem unwise.
4. Always do things or take decisions for people without capacity in their best interests.
5. Before doing something to someone or making a decision on their behalf, consider whether the outcome could be achieved in a less restrictive way.

Facilitator notes

Welsh:

Anogwch grwpiau bach i ateb.

English:

Encourage small groups to answer.

Beth yw'r Cod Ymarfer (MCA) a pham mae ei angen?

Mae adran 42 o'r Ddeddf yn gofyn i'r Arglwydd Ganghellor gynhyrchu **Cod Ymarfer** ar gyfer arweiniad i ystod o bobl gyda dyletswyddau a swyddogaethau gwahanol o dan y Ddeddf.

Mae gan rai categorïau o bobl ddyletswydd gyfreithiol i roi sylw iddi wrth weithio gyda neu ofalu am oedolion a all fod heb alluedd i wneud penderfyniadau drostynt eu hunain.

Mae'r Cod Ymarfer yn canolbwyntio ar y rhai â dyletswydd gofal tuag at rywun sydd heb alluedd i gytuno i'r gofal sy'n cael ei ddarparu, gan ddilyn y canllawiau statudol fel y bo'n gymwys.

What is the Code of Practice (MCA) and why is it needed?

Section 42 of the Act requires the Lord Chancellor to produce a **Code of Practice** for the guidance of a range of people with different duties and functions under the Act.

Certain categories of people have a legal duty to have regard to it when working with or caring for adults who may lack capacity to make decisions for themselves.

The Code of Practice focuses on those who have a duty of care to someone who lacks the capacity to agree to the care that is being provided, following the statutory guidance as applicable.



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Facilitator notes

Welsh:

Gwybodaeth gyffredinol.

English:

General information.

Pwy sy'n gorfod 'ystyried' y Cod?

Mae'r categorïau o bobl y mae gofyn iddynt ystyried y Cod Ymarfer yn cynnwys unrhyw un sy'n:

Eiriolwr Galluedd Meddyliol Annibynnol	Atwrnal o dan Bŵer Atwrnal Parhaus
Dirprwy wedi ei benodi gan y Llys Diogelu newydd	Staff gofal cymdeithasol (gweithwyr cymdeithasol, rheolwyr gofal, ac ati)
Meddygon, deintyddion, nysys, therapyddion, parafeddygon ac ati)	Yn ymwneud yn achlysurol: yr heddlu, criw ambiwlans, gweithwyr tai, ac ati
Cynnal ymchwil a gymeradwywyd yn unol â'r Ddeddf	(Gweithwyr Gofal)

Who must 'have regard' for the Code?

The categories of people that are required to have regard to the Code of Practice include anyone who is:

An Independent Mental Capacity Advocate	An attorney under a Lasting Power of Attorney
A deputy appointed by the new Court of Protection	Social care staff (social workers, care managers, etc)
Doctors, dentists, nurses, therapists, paramedics etc)	Carrying out research approved in accordance with the Act
Occasionally involved: police, ambulance crew, housing workers, etc	(Care Workers)

Facilitator notes

Welsh:

Noder: (Teulu neu ofalwyr eraill: nid yw'n ofynnol yn gyfreithiol iddynt roi sylw i'r Cod Ymarfer. Bydd y canllawiau a roddir yn y Cod yn eu helpu i ddeall y Ddeddf a'i rhoi ar waith. Dylent ddilyn y canllawiau yn y Cod hyd y gwyddant amdano)

English:

Note: (Family or other carers: are not legally required to have regard to the Code of Practice. The guidance given in the Code will help them to understand the Act and apply it. They should follow the guidance in the Code as far as they are aware of it)

Mae Adran 3 o'r MCA (2005):

'Analluedd i Wneud Penderfyniadau', yn nodi nad yw person yn gallu gwneud penderfyniad os yw'n methu â gwneud un neu fwy o'r pethau canlynol:

1. Deall y wybodaeth am benderfyniad penodol
2. Cofio'r wybodaeth yn ddigon hir i wneud y penderfyniad
3. Pwyso a mesur y wybodaeth i wneud y penderfyniad
4. Cyfathrebu ei benderfyniad



Section 3 of the MCA (2005):

'Inability to Make Decisions', states that a person is unable to make a decision if they cannot do one or more of the following things:

1. Understand the information about a particular decision
2. Remember the information long enough to make the decision
3. Weigh up the information to make the decision
4. Communicate their decision

Ymarfer 3:



Pa ffactorau allai effeithio ar
rywun sy'n deall y
wybodaeth i wneud
penderfyniad ar adeg
benodol?

Exercise 3:



What factors might affect
someone understanding the
information to make a
decision at a particular
time?

Ymarfer 4: Pa ffactorau allai ymwneud â diffyg galluedd meddyliol?

Anabledd dysgu
Problem iechyd meddwl
Effeithiau salwch
Analluogrwydd yn dilyn damwain
Strôc neu anaf i'r ymennydd
Camddefnyddio sylweddau
Dementia

Exercise 4: What factors might relate to a lack of mental capacity?

A learning disability
A mental health problem
Effects from illness
Incapacity from an accident
A stroke or brain injury
Substance misuse
Dementia

Sut mae Galluedd Meddyliol yn cael ei Asesu?

Mae'r MCA yn gosod prawf 2 gam o alluedd.

Er mwyn penderfynu a oes gan unigolyn y galluedd i wneud penderfyniad penodol rhaid i chi ateb dau gwestiwn:

Cam 1. A oes nam neu aflonyddwch yng ngweithrediad meddwl neu ymennydd person? Os felly,

Cam 2. A yw'r nam neu'r aflonyddwch yn ddigonol fel nad oes gan y person y galluedd i wneud penderfyniad penodol?

(Os nad oes gan berson nam neu aflonyddwch y meddwl neu'r ymennydd o'r fath, ni fyddant heb alluedd o dan y Ddeddf)

How is Mental Capacity Assessed?

The MCA sets out a 2-stage test of capacity.

In order to decide whether an individual has

the capacity to make a particular decision you must answer two questions:

Stage 1. Is there an impairment of or disturbance in the functioning of a person's mind or brain? If so,

Stage 2. Is the impairment or disturbance sufficient that the person lacks the capacity to make a particular decision?

(If a person does not have such an impairment or disturbance of the mind or brain, they will not lack capacity under the Act)

Helpu pobl i wneud penderfyniadau:

Cyn penderfynu nad oes gan berson alluedd, mae'n bwysig cymryd camau i alluogi iddo geisio gwneud y penderfyniad ei hun

A yw wedi cael gwybodaeth ar unrhyw ddewisiadau eraill?

Oes gan y person yr holl wybodaeth berthnasol sydd ei angen arno?

Oes adegau penodol o'r dydd pan fydd dealltwriaeth y person yn well?

A ellid esbonio neu gyflwyno gwybodaeth yn wahanol?

Oes lleoliadau penodol lle efallai y bydd y person yn teimlo'n fwy cyfforddus?

A allai unrhyw un arall helpu gyda chyfathrebu, fel aelod o'r teulu, gofalwr neu eiriolwr?

Helping people make decisions:

Before deciding a person lacks capacity, it's important to take steps to enable them to try to make the decision themselves

Have they been given information on any alternatives?

Does the person have all the relevant information they need?

Are there particular times of day when the person's understanding is better?

Could information be explained or presented differently?

Are there particular locations where the person may feel more at ease?

Could anyone else help with communication, such as a family member, carer or advocate?



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Ymarfer 5:

Pa wybodaeth y dylid ei darparu i bobl a sut y dylid ei darparu?

Exercise 5:

What information should be provided to people and how should it be provided?



Facilitator notes

Welsh:

Mae darparu gwybodaeth berthnasol yn hanfodol wrth wneud pob penderfyniad.

Er enghraifft, i wneud dewis am yr hyn maen nhw ei eisiau i frecwast, mae angen i bobl wybod pa fwyd sydd ar gael. Os bydd y penderfyniad yn ymwneud â thriniaeth feddygol, rhaid i'r meddyg esbonio pwrpas ac effaith y driniaeth a chanlyniadau tebygol derbyn neu wrthod triaeth.

Rhaid cymryd pob cam ymarferol a phriodol i helpu pobl i wneud penderfyniad drostynt eu hunain.

Rhaid i wybodaeth gael ei theilwra i anghenion a galluoedd yr unigolyn. Rhaid iddi hefyd fod yn y ffurf hawsaf amwyaf priodol o gyfathrebu ar gyfer y person dan sylw.

English:

Providing relevant information is essential in all decision-making. For example, to make a choice about what they want for breakfast, people need to know what food is available. If the decision concerns medical treatment, the doctor must explain the purpose and effect of the course of treatment and the likely consequences of accepting or refusing treatment.

All practical and appropriate steps must be taken to help people to make a decision for themselves.

Information must be tailored to an individual's needs and abilities. It must also be in the easiest and most appropriate form of communication for the person concerned.

Pwy sy'n asesu galluedd meddyliol?

Aelodau teulu
Gweithwyr gofal
Rheolwyr gofal
Gweithwyr Cymdeithasol
Seiciatryddion a Seicolegwyr
IMCA
Meddyg wedi ei benodi gan y Llys
Ymarferwyr cyfreithiol



Who assesses mental capacity?

Family members
Care workers
Care managers
Social workers
Psychiatrists & Psychologists
An IMCA
A doctor appointed by the Court
Legal practitioners



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Facilitator notes

Welsh:

Y person sy'n asesu galluedd unigolyn i wneud penderfyniad fel arfer fydd y person sy'n ymwneud yn uniongyrchol â'r unigolyn ar yr adeg y mae angen gwneud y penderfyniad. Mae hyn yn golygu bod y bydd gwahanol bobl yn ymwneud ag asesu galluedd rhywun i wneud gwahanol benderfyniadau ar wahanol adegau.

Ar gyfer y rhan fwyaf o benderfyniadau o ddydd i ddydd, hwn fydd y person sy'n gofalu amdanynt ar y pryd y mae'n rhaid gwneud penderfyniad. Er enghraifft, gallai fod angen i weithiwr gofal asesu a yw'r person yn gallu cytuno i gael bath. Gallai nyrs ardal asesu a yw'r person yn gallu cydsynio i newid rhwymyn.

English:

The person who assesses an individual's capacity to make a decision will usually be the person who is directly concerned with the individual at the time the decision needs to be made. This means that different people will be involved in assessing someone's capacity to make different decisions at different times.

For most day-to-day decisions, this will be the person caring for them at the time a decision must be made. For example, a care worker might need to assess if the changed.

Gweithredoedd gofal athriniaeth:

Mae rhai penderfyniadau sydd angen eu gwneud yn gymhleth ac o bosibl yn bygwth bywyd. Mewn achosion o'r fath bydd penderfyniadau yn cynnwys mwy nag un person. Gelwir hyn yn ddull tîm amlddisgyblaethol neu aml-asiantaeth



Acts of care and treatment:

Some decisions that need to be made are complex and potentially life-threatening. In such cases decisions will involve more than one person. This is known as a multi-disciplinary team or a multi-agency approach.



Facilitator notes

Welsh:

Os yw meddyg neu weithiwr gofal iechyd proffesiynol yn cynnig triniaeth neu archwiliad, rha id iddynt asesu galluedd y person i gydsynio. Mewn lleoliadau fel ysbyty, gall hyn gynnwys y tîm amlddisgyblaethol (tîm o bobl o wahanol gefndiroedd proffesiynol sy'n rhannu cyfrifoldeb am glaf). Ond yn y pen draw, mater i'r gweithiwr proffesiynol sy'n gyfrifol am driniaeth y person yw gwneud yn siŵr bod galluedd wedi'i asesu.

Ar gyfer gweithredoedd o ofal neu driniaeth, rhaid i'r aseswr fod â 'chred resymol' nad oes gan y person y galluedd i gytuno i'r camau gweithredu neu'r penderfyniad i'w gymryd.

English:

If a doctor or healthcare professional proposes treatment or an examination, they must assess the person's capacity to consent. In settings such as a hospital, this can involve the multi-disciplinary team (a team of people from different professional backgrounds who share responsibility for a patient). But ultimately, it is up to the professional responsible for the person's treatment to make sure that capacity has been assessed.

For acts of care or treatment, the assessor must have a 'reasonable belief' that the person lacks capacity to agree to the action or decision to be taken.

Penderfyniadau cymhleth:

Complex decisions:

Penderfyniad i'w wneud

Decision to be made

Gan bwy

By whom

Erbyn pryd

By when

Trwy ba broses

By what process

Pwy sy'n atebol

Who is accountable



Facilitator notes

Welsh:

Mae penderfyniadau mwy cymhleth yn debygol o fod angen asesiadau mwy ffurfiol. Efallai yn angenrheidiol. Gallai hyn fod, er enghraifft, gan seiciatrydd, seicolegydd, therapydd lleferydd ac iaith, therapydd galwedigaethol neu weithiwr cymdeithasol. Ond rhaid i'r penderfyniad terfynol am alluedd person gael ei wneud gan y person sy'n bwriadu gwneud y penderfyniad neu gyflawni'r weithred ar ran y person sydd heb alluedd – nid y gweithiwr proffesiynol, sydd yno i gynghori.

English:

More complex decisions are likely to need more formal assessments. A professional opinion on the person's capacity might be necessary. This could be, for example, from a psychiatrist, psychologist, a speech and language therapist, occupational therapist or social worker. But the final decision about a person's capacity must be made by the person intending to make the decision or carry out the action on behalf of the person who lacks capacity – not the professional, who is there to advise.

Beth sy'n digwydd mewn sefyllfaoedd brys?

Mae rhai sefyllfaoedd yn golygu bod penderfyniadau angen eu gwneud ar frys.

Gall methiant i wneud penderfyniadau cyflym waethgu iechyd person, neu hyd yn oed arwain at farwolaeth y gellir ei hosgoi.

Rhaid i benderfyniadau moesegol gael eu cymhwyso bob amser, p'un a yw penderfyniadau yn rhai brys, neu lle mae amser i ystyried lles pennaf.

Weithiau, nid oes digon, neu hyd yn oed ddim byd yn hysbys o gwbl am y person sydd angen cymorth brys.

Rhaid i staff proffesiynol ddal ati i geisio cyfathrebu â'r person.

What happens in emergency situations?

Certain situations mean that decisions need to be made urgently.

A failure to make rapid decisions may worsen a person's health, or even result in avoidable death.

Ethical decisions must always be applied, whether decisions are urgent, or where there is time to consider best interests.

Sometimes, not enough, or even nothing at all is known about the person needing emergency support.

Professional staff must persist in trying to communicate with the person.



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Facilitator notes

Welsh:

Mewn sefyllfaoedd meddygol brys (er enghraifft, lle mae person yn llewygu gyda thrawiad ar y galon neu am ryw reswm anhysbys ac yn cael ei ddwyn yn anymwybodol i ysbyty), bydd yn rhaid gwneud penderfyniadau brys ac gweithredu ar unwaith er lles pennaf pennaf.

Efallai na fydd yn ymarferol nac yn briodol gohirio'r driniaeth tra'n ceisio helpu'r person i wn eud ei benderfyniadau ei hun. Hyd yn oed mewn sefyllfaoedd brys, dylai staff gofal iechyd g eisio cyfathrebu â'r person a rhoi gwybod iddynt beth sy'n digwydd.

English:

In emergency medical situations (for example, where a person collapses with a heart attack or for some unknown reason and is brought unconscious into a hospital), urgent decisions will have to be made and immediate action taken in the person's best interests.

It may not be practical or appropriate to delay the treatment while trying to help the person make their own decisions. Even in emergency situations, healthcare staff should try to communicate with the person and keep them informed of what is happening.

Beth yw: 'cred resymol'?

Senario: Cael cymorth i asesu galluedd

Dioddefodd Ms Dodd niwed i'w hymennydd mewn damwain ffordd ac mae'n methu siarad. Ar y dechrau, roedd ei theullyn meddwl nad oedd hi'n gallu gwneud penderfyniadau. Ond darganfuont yn fuan y gallai ddewis trwy bwyntio at bethau, fel y dillad mae hi eisiau eu gwisgo neu y bwyd sydd orau ganddi. Mae ei hymddygiad hefyd yn awgrymu ei bod yn mwynhau mynychu canolfan ddydd, ond mae hi'n gwrthod mynd i nofio. Mae ei gofalwyr wedi asesu ei bod yn meddu ar alluedd i wneud y penderfyniadau hyn. Mae angen triniaeth ysbyty ar Ms Dodd, ond mae hi'n mynd yn ofidus pan oddi cartref. Mae eimam yn teimlo bod Ms Dodd yn gwrthod triniaeth drwy ei hymddygiad, ond mae ei thad yn meddwl nad oes ganddi alluedd i ddweud na i driniaeth a allai wella ei chyflwr.

Ymarfer: beth ellir ei wneud i sefydlu galluedd mewn perthynas ag angen Ms Dodd am driniaeth?

What is: 'reasonable belief'?

Scenario: Getting help with assessing capacity

Ms Dodd suffered brain damage in a road accident and is unable to speak. At first, her Family thought she was not able to make decisions. But they soon discovered that she could choose by pointing at things, such as the clothes she wants to wear or the food she prefers. Her behaviour also indicates that she enjoys attending a day centre, but she refuses to go swimming. Her carers have assessed her as having capacity to make these decisions. Ms Dodd needs hospital treatment, but she gets distressed when away from home. Her mother feels that Ms Dodd is refusing treatment by her behaviour, but her father thinks she lacks capacity to say no to treatment that could improve her condition.

Exercise: what can be done to establish capacity in relation to Ms Dodd's need for treatment?

Facilitator notes

Welsh:

Mae'r sleid nesaf yn rhoi ateb y Cod Ymarfer.

English:

Next slide provides the Code of Practice answer.

Defnyddio gwybodaeth i benderfynu ar 'gred resymol'

Bydd angen i'r clinigydd sy'n cynnig y driniaeth asesu galluedd Ms Dodd i gydsynio. Mae'n cael cymorth gan aelod o staff yn y ganolfan ddydd sy'n adnabod dull cyfathrebu Ms Dodd yn dda a hefyd mae'n trafod pethau gyda'i rhieni.

Dros sawl cyfarfod mae'r clinigydd yn esbonio yr opsiynau triniaeth i Ms Dodd gyda help yr aelod o staff. Mae'r penderfyniad terfynol am alluedd Ms Dodd yn gorwedd gyda'r clinigydd, ond bydd angen iddo ddefnyddio gwybodaeth gan yr aelod o staff ac eraill sy'n adnabod Ms Dodd yn dda i wneud yr asesiad hwn.



Using information to conclude upon 'reasonable belief'

The clinician who is proposing the treatment will have to assess Ms Dodd's capacity to consent. He gets help from a member of staff at the day centre who knows Ms Dodd's communication well and also discusses things with her parents.

Over several meetings the clinician explains the treatment options to Ms Dodd with the help of the staff member. The final decision about Ms Dodd's capacity rests with the clinician, but he will need to use information from the staff member and others who know Ms Dodd well to make this assessment.



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Pa brawf o 'ddiffyg galluedd' sydd ei angen ar y Ddeddf?

Diagnosis sy'n effeithio gwneud penderfyniadau.

Tystiolaeth fod gwneud penderfyniadau wedi'i amharu mewn rhyw ffordd.

Tystiolaeth fod gwybodaeth wedi'i darparu a'i hegluro'n ddigonol.

Tystiolaeth fod y person yn methu deall, pwysu a mesur, cadw, defnyddio neu gyfathrebu am wybodaeth sy'n berthnasol i benderfyniad.

Asesiad



What proof of 'lack of capacity' does the Act require?

A diagnosis that affects decision-making.

Evidence that decision-making is impaired in some way.

Evidence that information has been provided and sufficiently explained.

Evidence that the person cannot understand, weigh-up, retain, use or communicate about information relevant to a decision.

Assessment

Facilitator notes

Welsh:

Dylai unrhyw un sy'n honni bod gan unigolyn ddiffyg galluedd allu darparu prawf. Mae angen iddynt allu dangos, yn ôl tebygolrwydd, nad oes gan yr unigolyn alluedd i wneud penderfyniad penodol, ac yr adeg y mae angen ei wneud.

Mae hyn yn golygu gallu dangos ei bod yn debycach na pheidio fod y person heb alluedd i wneud y penderfyniad dan sylw.

Rhaid gwneud pob ymdrech i ddarparu gwybodaeth mewn ffordd sydd fwyaf priodol i helpu'r person i ddeall. Nid yw esboniadau cyflym neu annigonol yn dderbyniol oni bai bod y sefyllfa yn un frys.

English:

Anybody who claims that an individual lacks capacity should be able to provide proof. They need to be able to show, on the balance of probabilities, that the individual lacks capacity to make a particular decision, at the time it needs to be made.

This means being able to show that it is more likely than not that the person lacks capacity to make the decision in question.

Every effort must be made to provide information in a way that is most appropriate to help the person to understand. Quick or inadequate explanations are not acceptable unless the situation is urgent.

Cymhwyso'r Ddeddf yn ymarferol (Defnyddio'r Cod)

Darparu gwybodaeth berthnasol
Cyfathrebu mewn ffordd briodol
Gwneud i'r person deimlo'n gyffyrddus
Cefnogi'r person
Amseru
Arbenigedd

Applying the Act in practice (Using the Code)

Providing relevant information
Communicating in an appropriate way
Making the person feel at ease
Supporting the person
Timing
Specialism

Facilitator notes

Welsh:

Darparu gwybodaeth berthnasol:

Ni all y Ddeddf ddatgan yn union pa wybodaeth fydd yn berthnasol ym mhob achos. Fodd bynnag, mae'n bwysig eu bod yn gallu cael gafael ar yr holl wybodaeth sydd ei hangen arnynt i wneud penderfyniad gwybodus. Ceisiwch beidio â rhoi mwy o fanylion nag sydd eu hangen ar y person – gallai hyn eu drysu. Mewn rhai achosion, bydd esboniad syml, eang yn ddigon. Ond ni ddylai hepgor gwybodaeth bwysig. Ar gyfer rhai mathau o benderfyniadau, gall fod yn bwysig rhoi mynediad at gyngor o fannau eraill. Gall hyn fod yn gyngor annibynnol neu arbenigol (er enghraifft, gan ymarferydd meddygol neu gynghorydd ariannol neu gyfreithiol).

Cyfathrebu mewn ffordd briodol:

Rhannwch wybodaeth anodd yn bwyntiau llai sy'n hawdd eu deall. Gofynnwch i bobl sy'n adnabod y person yn dda am y ffurf orau o gyfathrebu (ceisiwch siarad ag aelodau'r teulu, gofalwyr, staff canolfan ddydd neu weithwyr cymorth).

Gwneud i'r person deimlo'n gyffyrddus:

Lle bo modd, dewiswch leoliad lle mae'r person yn teimlo'n fwyaf cyffyrddus. Er enghraifft, mae pobl fel arfer yn fwy cyffyrddus yn eu cartref eu hunain nag mewn meddygfa. Fel arall,

efallai y bydd person yn dymuno ymweld â'r man lle bydd y driniaeth yn cael ei rhoi, er mwyn iddo fod yn fwy cyfarwydd â'r lleoliad.

Amseru:

Ceisiwch ddewis yr adeg o'r dydd pan fydd y person yn fwyaf effro - mae rhai pobl yn well yn y boreau, eraill yn fwy bywiog yn y prynhawn neu'n gynnar gyda'r nos. Efallai y bydd angen rhoi cynnig arni sawl gwaith cyn y gellir gwneud penderfyniad.

Arbenigedd:

Yn aml, mae angen ceisio cynnwys arbenigwyr wrth gefnogi'r broses benderfynu. Mae yna sefydliadau hefyd sy'n gallu darparu cymorth arbenigol, fel Cymdeithas Alzheimer.

English:

Providing relevant information:

The Act cannot state exactly what information will be relevant in each case. However, it is important that they have access to all the information they need to make an informed decision. Try not to give more detail than the person needs – this might confuse them. In some cases, a simple, broad explanation will be enough. But it must not miss out important information. For some types of decisions, it may be important to give access to advice from elsewhere. This may be independent or specialist advice (for example, from a medical practitioner or a financial or legal adviser).

Communicating in an appropriate way:

Break down difficult information into smaller points that are easy to understand. Ask people who know the person well about the best form of communication (try speaking to family members, carers, day centre staff or support workers).

Making the person feel at ease:

Where possible, choose a location where the person feels most at ease. For example, people are usually more comfortable in their own home than at a doctor's surgery. Alternatively, a person may wish to visit where the treatment will be given, so that they can be more familiar with the location.

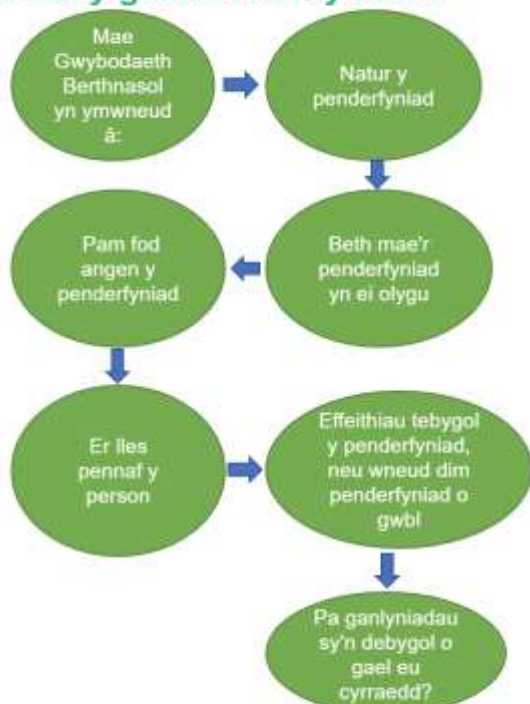
Timing:

Try to choose the time of day when the person is most alert – some people are better in the mornings, others are more lively in the afternoon or early evening. It may be necessary to try several times before a decision can be made.

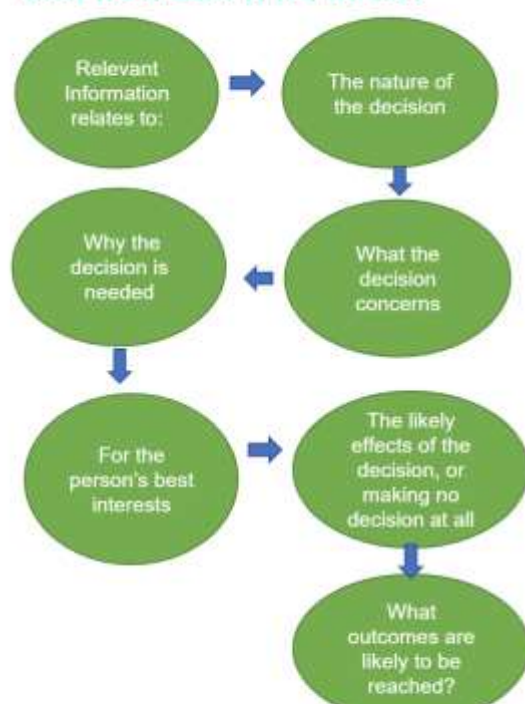
Specialism:

Often, it is necessary to seek the involvement of specialists in supporting the decision-making process. There are also organisations that can provide specialist support, such as the Alzheimer's Society.

Beth yw 'gwybodaeth berthnasol' a sut y gellir ei defnyddio?



What is 'relevant information' and how can it be used?



Facilitator notes

Welsh:

Mae gwneud penderfyniadau yn ei hanfod yn ymwneud â chyd-destun, pwrpas, rheidrwydd, amseriad, canlyniadau tebygol a boddhad. Felly mae angen i weithwyr gofal iechyd ddefnyddio dulliau o gefnogi unigolyn, neu'r person sy'n gwneud yr asesiad o alluedd, sy'n llawn gwybodaeth, yn gyfredol, yn angenrheidiol ac yn gywir.

English:

Making decisions are essentially concerned with context, purpose, necessity, timing, likely outcomes and satisfaction. Healthcare workers therefore need to apply approaches to supporting an individual, or the person making the assessment regarding capacity, that are informative, up-to-date, necessary and accurate.

Enghreifftiau o brosesau gwybodaeth priodol:

Efallai y bydd angen rhywun i ddarllen gwybodaeth ar berson ag anabledd dysgu. Efallai y bydd angen darluniau amyn nhw hefyd i'w helpu i ddeall beth sy'n digwydd. Neu efallai y byddan nhw'n stopio'r darlennydd i ofyn beth yw ystyr pethau. Gallai hefyd fod yn ddefnyddiol iddynt drafod gwybodaeth ag eiriolwr.

Gall person â gorbryder neu iselder ei chael yn anodd dod i benderfyniad am driniaeth mewn cyfarfod grŵp gyda gweithwyr proffesiynol. Efallai y byddai'n well ganddo ddarllen y dogfennau perthnasol yn breifat. Fel hyn gall ddod i gasgliad ar ei ben ei hun, a gofyn am help os oes angen.

Efallai y bydd angen rhoi gwybodaeth sawl gwaith i rywun sydd ag anaf i'r ymiennydd. Os ydynt yn cael anhawster deall, gallai fod yn ddefnyddiol cyflwyno gwybodaeth mewn ffordd wahanol (er enghraifft, gwahanol ffurfiau ar eiriau, lluniau neu ddiagramau). Gall gwybodaeth ysgrifenedig, tapiau sain, fideos a phosteri helpu pobl i gofio ffeithiau pwysig.

Examples of appropriate information processes:

A person with a learning disability may need somebody to read information to them. They might also need illustrations to help them to understand what is happening. Or they might stop the reader to ask what things mean. It might also be helpful for them to discuss information with an advocate.

A person with anxiety or depression may find it difficult to reach a decision about treatment in a group meeting with professionals. They may prefer to read the relevant documents in private. This way they can come to a conclusion alone, and ask for help if necessary.

Someone who has a brain injury might need to be given information several times. If they have difficulty understanding, it might be useful to present information in a different way (for example, different forms of words, pictures or diagrams). Written information, audiotapes, videos and posters can help people remember important facts.

Facilitator notes

Welsh:

Gall y sleid hon fod yn daflen.

English:

This slide can be a handout.

Anallu i gyfathrebu penderfyniad mewn unrhyw ffordd

Ymarfer: Meddylwch am enghreifftiau o bryd y gallai fod anallu i gyfleu penderfyniad.

Pobl sy'n
anymwybodol
neu mewn
coma

Pobl sy'n cael
eu heffeithio'n
ddifrifol gan
sylweddau

Y rhai sydd â
chyflyrau prin iawn,
sy'n ymwybodol ond
na allant siarad na
symud o gwbl

Os na all person gyfathrebu ei
benderfyniad mewn unrhyw
ffordd o gwbl, mae'r Ddeddf yn
dweud y dylid ei drin fel pe na
bai'n gallu gwneud y
penderfyniad hwnnw.

Inability to communicate a decision in any way

Exercise: Think of examples of when there might be an inability to communicate a decision.

People who
are
unconscious
or in a coma

People who
are severely
affected by
substances

Those with the very
rare conditions , who
are conscious but
cannot speak or
move at all

If a person cannot communicate
their decision in any way at all,
the Act says they should be
treated as if they are unable to
make that decision



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Pa faterion eraill a allai effeithio ar alluedd?

Galluedd cyfnewidiol

Nam gwybyddol

Aflonyddwch seicotig

Galluedd dros dro

What other issues might affect capacity?

Fluctuating capacity

Cognitive impairment

Psychotic disturbance

Temporary lack of capacity



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Facilitator notes

Welsh:

Mae gan rai pobl **alluedd cyfnewidiol** - mae ganddyn nhw broblem neu gyflwr sy'n gwaethy gu'n achlysurol ac yn effeithio ar eu gallu i wneud penderfyniadau.

Er enghraifft, gallai rhywun sydd ag iselder manig gael cyfnod manig dros dro sy'n achosi diff yg galluedd i wneud penderfyniadau ariannol, yn ei arwain i fyned i ddyled, er ar adegau eraill maent yn berffaith abl i reoli eu harian.

Gall fod gan berson â salwch seicotig rhithdybiau sy'n effeithio ar eu gallu i wneud penderfyniadau ar adegau penodol, ond eu bod yn diflannu ar adegau eraill. Gall ffactorau dros dro h efyd effeithio ar alluedd rhywuni wneud penderfyniadau: salwch aciwt, poen difrifol, effaith meddyginiaeth, neu drallod ar ôl marwolaeth neu sioc.

English:

Some people have **fluctuating capacity** – they have a problem or condition that gets worse occasionally and affects their ability to make decisions.

For example, someone who has manic depression may have a temporary manic phase which causes them to lack capacity to make financial decisions, leading them to get into debt, even though at other times they are perfectly able to manage their money.

A person with a psychotic illness may have delusions that affect their capacity to make decisions at certain times, but disappear at others. Temporary factors may also affect someone's ability to make decisions: acute illness, severe pain, the effect of medication, or distress after a death or shock.

Cyflyrau parhaus a allai effeithio ar alluedd

Yn gyffredinol, dylai asesiadau galluedd fod yn gysylltiedig â phenderfyniad penodol. Ond efallai y bydd pobl â chyflwr parhaus sy'n effeithio ar eu gallu i wneud penderfyniadau penodol neu a allai effeithio ar benderfyniadau eraill yn eu bywyd. Gallai un penderfyniad ar ei ben ei hun wneud synnwyr, ond gallai achosi pryder pan gaiff ei ystyried ochr yn ochr ag eraill.

Mae'n bwysig adolygu galluedd o bryd i'w gilydd, fel y gall pobl wella eu galluedd gwneud penderfyniadau. Yn benodol, gall rhywun sydd â chyflwr parhaus allu gwneud rhai, os nad pob, penderfyniad. Bydd rhai pobl (er enghraifft, pobl ag anableddau dysgu) yn dysgu sgiliau newydd drwy gydol eu hoes, gan wella eu galluedd i wneud penderfyniadau penodol. Felly dylid adolygu asesiadau o bryd i'w gilydd.

Ongoing conditions that may affect capacity

Generally, capacity assessments should be related to a specific decision. But there may be people with an ongoing condition that affects their ability to make certain decisions or that may affect other decisions in their life. One decision on its own may make sense, but may give cause for concern when considered alongside others.

It is important to review capacity from time to time, as people can improve their decision-making capabilities. In particular, someone with an ongoing condition may become able to make some, if not all, decisions. Some people (for example, people with learning disabilities) will learn new skills throughout their life, improving their capacity to make certain decisions. So assessments should be reviewed from time to time.



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Pa gamau ymarferol y dylid eu cymryd wrth asesu galluedd?

What practical steps should be taken when assessing capacity?

Dylai'r Asesydd:			The Assessor Should:		
Deall natur ac effaith y penderfyniad sydd i'w wneud	Hebgor yr hyn y mae eraill eisiau i ddylanwadu ar yr asesiad	Ddim yn dibynnu ar atebion 'ie' neu 'na' os yn bosibl	Understand the nature and effect of the decision to be made	Omit what others <i>want</i> to influence the assessment	Not rely on 'yes' or 'no' answers if possible
Ystyried yr angen i gael mynediad at y dogfennau angenrheidiol	Egluro gan ddefnyddio cyfathrebu priodol ac effeithiol	Ystyried a oes angen cymorth arbenigol?	Consider the need to access the necessary documents	Explain using appropriate, effective communication	Consider if specialist support is required?
Ymgynghori â'r bobl briodol (gofalwyr, teulu, ac ati)	Gwirio dealltwriaeth y person	Ystyried a chofnodi unrhyw wrthdaro buddiannau	Consult the appropriate people (carers, family, etc)	Check the person's understanding	Consider & record any conflicts of interest



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Pa fesurau diogelu y mae'r Ddeddf yn eu darparu ynghylch asesu galluedd rhywun?



Ni ddylai asesiad bod person heb alluedd byth fod yn seiliedig yn unig ar:

- ei oedran
- ei ymddangosiad
- rhagdybiaethau am ei gyflwr, neu
- unrhyw agwedd ar ei ymddygiad

What safeguards does the Act provide around assessing someone's capacity?



An assessment that a person lacks capacity to make a decision must never be based simply on:

- their age
- their appearance
- assumptions about their condition, or
- any aspect of their behaviour

Facilitator notes

Welsh:

Mae'r Ddeddf yn defnyddio'r gair 'ymddangosiad' yn fwriadol oherwydd ei fod yn cwmpasu pob agwedd ar y ffordd y mae pobl yn edrych (creithiau, nodweddion anabledd dysgu, lliw c roen, tatŵs neu'r ffordd mae pobl yn gwisgo).

Mae'r gair 'cyflwr' hefyd yn eang ei gwmpas, ac yn cyfeirio at bob math o salwch ac anabledd corfforol. Mae hefyd yn cwmpasu ymddygiadau a fynegi gan unigolyn.

English:

The Act deliberately uses the word 'appearance', because it covers all aspects of the way people look (scars, features of a learning disability, skin colour, tattoos or the way people dress).

The word 'condition' is also wide-ranging, referring to all sorts of illnesses and physical disabilities. It also covers behaviours expressed by an individual.

Beth mae'r Ddeddf yn ei olygu pan mae'n sôn am 'lles pennaf'?

- Tybio galluedd
- Pennu diffyg capasiti
- Cefnogi dealltwriaeth
- Parchu penderfyniadau annoeth
- Cyfyngu ar gyfyngiadau
- Chwilio am ddewisiadau eraill
- Ymgynghori
- Cynrychiolaeth
- Penderfyniadau heriol (os yw'n anghenrheidiol)
- Adolygu penderfyniadau

What does the Act mean when it talks about 'best interests'?



- Assuming capacity
- Determining lack of capacity
- Supporting understanding
- Respecting unwise decisions
- Limiting restrictions
- Seeking alternatives
- Consultation
- Representation
- Challenging decisions (if necessary)
- Reviewing decisions



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Facilitator notes

Welsh:

Nid yw'r term 'lles pennaf' wedi'i ddiffinio mewn gwirionedd yn y Ddeddf. Mae hyn oherwydd mae cymaint o wahanol fathau o benderfyniadau a gweithredoedd wedi'u cwmpasu gan y Ddeddf, a chymaint o wahanol bobl ac amgylchiadau yn cael eu heffeithio ganddi. Ond, egwyddor allweddol gyntaf y Ddeddf yw bod yn rhaid tybio bod gan bobl y galluedd i wneud penderfyniad oni bai y sefydlir nad oes ganddynt. Felly, dim ond pan asesir bod person heb alluedd y mae 'lles pennaf' yn berthnasol.

Dylai unigolyn sy'n gweithredu ac yn gwneud penderfyniadau er lles pennaf y person (lle nad oes ganddynt alluedd), ac sydd wedi defnyddio'r Cod Ymarfer fel fframwaith ar gyfer asesu a gwneud penderfyniadau gael ei amddiffyn gan y gyfraith.

English:

The term 'best interests' is not actually defined in the Act. This is because so many different types of decisions and actions are covered by the Act, and so many different people and circumstances are affected by it. But, the Act's first key principle is that people must be assumed to have capacity to make a decision unless it is established that they do not. Therefore, 'best interests' are only relevant when a person is assessed as lacking capacity.

An individual who acts and makes decisions in the person's best interests (where they lack capacity), and who has used the Code of Practice as a framework for assessment and decision-making should be protected by law.

Eithriadau i'r egwyddor lles pennaf

Mae dau amgylchiad pan na fydd yr egwyddor lles pennaf yn berthnasol.

1. Penderfyniadau Ymlaen Llaw

2. Ymchwil



Exceptions to the best interests principle

There are two circumstances when the best interests principle will not apply.

1. Advance Decisions

2. Research

Facilitator notes

Welsh:

Y cyntaf yw pan fydd rhywun wedi gwneud penderfyniad ymlaen llaw i wrthod triniaeth fed dygol tra roedd ganddynt y galluedd i wneud hynny.

Dylid parchu ei benderfyniad ymlaen llaw pan nad oes ganddo alluedd, hyd yn oed os yw era ill yn meddwl nad yw'r penderfyniad i wrthod triniaeth er ei les pennaf.

Mae'r ail yn ymwneud ag ymgymryd ag ymchwil, mewn amgylchiadau penodol, gan rywun h eb alluedd i gydsynio.

English:

The first is where someone has previously made an advance decision to refuse medical treatment while they had the capacity to do so. Their advance decision should be respected when they lack capacity, even if others think that the decision to refuse treatment is not in their best interests.

The second concerns the involvement in research, in certain circumstances, of someone lacking capacity to consent.

Felly, sut mae 'lles pennaf' yn cael ei sefydlu?

(I rywun heb alluedd)



Annog cyfranogiad

Darganfod barn y person

Nodi'r holl amgylchiadau perthnasol

Ceisio cymorth arbenigol

So, how are 'best interests' established?

(For someone lacking capacity)



Encourage participation

Find out the person's views

Identify all relevant circumstances

Seek specialist support

Facilitator notes

Welsh:

Annog cyfranogiad: gwnewch beth bynnag sy'n bosibl i ganiatáu ac annog y person i gymryd rhan, neu i wella ei allu i gymryd rhan, wrth wneud y penderfyniad.

Nodi'r holl amgylchiadau perthnasol: ceisio adnabod yr holl bethau y byddai'r person sydd heb alluedd yn eu hystyried os oeddent yn gwneud y penderfyniad neu'n gweithredu dros ei hun.

Darganfod barn y person:

a). Dymuniadau a theimladau'r person yn y gorffennol a'r presennol - mae'n bosibl bod y rhain wedi'u mynegi ar lafar, yn ysgrifenedig neu drwy ymddygiad neu arferion.

b). Unrhyw gredoau a gwerthoedd (ee crefyddol, diwylliannol, moesol neu wleidyddol) a fyddai'n debygol o ddylanwadu ar y penderfyniad dan sylw.

c). Unrhyw ffactorau eraill y byddai'r person ei hun yn debygol o'u hystyried pe bai'n gwneud y penderfyniad neu'r gweithredu dros ei hun.

Ceisio cymorth arbenigol:

Gall hyn gynnwys mwy nag un unigolyn sydd wedi'i hyfforddi'n broffesiynol. Efallai y bydd angen dull aml-asiantaeth. Mae'n bosibl y bydd sefydliadau arbenigol hefyd yn gallu rhoi cyngor ac arweiniad yn ystod unrhyw ran o'r broses asesu.

English:

Encourage participation: do whatever is possible to permit and encourage the person to take part, or to improve their ability to take part, in making the decision.

Identify all relevant circumstances: try to identify all the things that the person who lacks capacity would take into account if they were making the decision or acting for themselves.

Find out the person's views:

a). The person's past and present wishes and feelings – these may have been expressed verbally, in writing or through behaviour or habits.

b). Any beliefs and values (e.g. religious, cultural, moral or political) that would be likely to influence the decision in question.

c). Any other factors the person themselves would be likely to consider if they were making the decision or acting for themselves.

Seek specialist support:

This may involve more than one professionally trained individual. A multi-agency approach may be needed. Specialist organisations may also be able to provide advice and guidance during any part of the assessment process.

Beth os bydd rhywun yn gwrthod cael ei asesu?

- Ni all neb gael ei orfodi i gael asesiad galluedd meddyliol.
- Fodd bynnag, efallai y bydd adegau pan fydd angen asesiad o dan Ddeddf Iechyd Meddwl (1983).
- Rhaid bod pryder neu dystiolaeth nad oes gan y person alluedd.
- Pan fo'r person sydd heb alluedd yn cytuno neu'n gwrthod cynnal asesiad, gall yr asesiad fynd yn ei flaen o hyd.
- Dylid defnyddio cofnodion i farnu a ddylid cynnal asesiad.

What if someone refuses to be assessed?

- Nobody can be forced to undergo a mental capacity assessment.
- However, there may be times where assessment under the Mental Health Act (1983) is necessary.
- There must be concern or evidence that the person lacks capacity.
- Where the person lacking capacity agrees or refuses to undergo an assessment, the assessment may still go ahead.
- Records should be used to judge whether an assessment should go ahead.

Facilitator notes

Welsh:

Efallai y bydd amgylchiadau pan fydd person y mae amheuaeth ynghylch ei alluedd yn gwrthod cael asesiad o alluedd neu'n gwrthod cael ei archwilio gan feddyg neu weithiwr proffesiynol arall. O dan yr amgylchiadau hyn, gallai fod yn ddefnyddiol esbonio i rywun sy'n gwrthod asesiad pam fod ei angen a beth yw canlyniadau gwrthod. Ond nid yw bygythiadau neu ymdrechion i orfodi'r person i gytuno i asesiad yn dderbyniol.

Os nad oes gan y person y galluedd i gytuno neu wrthod, gall yr asesiad fynd yn ei flaen fel arfer, cyn belled nad yw'r person yn gwrthwynebu'r asesiad, a'i fod er ei les pennaf.

Ni ellir gorfodi neb i gael asesiad o alluedd. Os bydd rhywun yn gwrthod agor y drws i'w gartref, ni ellir ei orfodi. Os oes pryderon difrifol am iechyd meddwl y person, efallai y bydd modd cael gwarant i orfodi mynediad ac asesu'r person ar gyfer triniaeth yn yr ysbyty – ond rhaid i'r sefyllfa fodloni gofynion Deddf Iechyd Meddwl 1983.

English:

There may be circumstances in which a person whose capacity is in doubt refuses to undergo an assessment of capacity or refuses to be examined by a doctor or other professional. In these circumstances, it might help to explain to someone refusing an assessment why it is needed and what the consequences of refusal are. But threats or attempts to force the person to agree to an assessment are not acceptable.

If the person lacks capacity to agree or refuse, the assessment can normally go ahead, as long as the person does not object to the assessment, and it is in their best interests. Nobody can be forced to undergo an assessment of capacity. If someone refuses to open the door to their home, it cannot be forced. If there are serious worries about the person's mental health, it may be possible to get a warrant to force entry and assess the person for treatment in hospital – but the situation must meet the requirements of the Mental Health Act 1983.

Beth mae'r Ddeddf yn ei ddweud am Bŵer Atwrnai Parhaus?

Weithiau bydd un person eisiau rhoi awdurdod i berson arall i wneud penderfyniad ar ei ran. Mae pŵer atwrnai yn ddogfen gyfreithiol sy'n caniatáu iddynt wneud hynny. O dan bŵer atwrnai, gall y person a ddewisir (yr atwrnai neu'r derbynnydd) wneud penderfyniadau sydd mor ddilys ag un a wnaed gan y person (y derbynnydd).

Yn ogystal ag eiddo a materion personol (gan gynnwys materion ariannol), gall LPA hefyd gwmpasu lles personol (gan gynnwys gofal iechyd a chydysyniad i driniaeth feddygol) ar gyfer pobl nad oes ganddynt y galluedd i wneud penderfyniadau o'r fath drostynt eu hunain.

Gall y derbynnydd ddewis un person neu sawl un i wneud gwahanol fathau o benderfyniadau.

Mae cyflwyno'r Ddeddf yn dod â rôl flaenorol Pwerau Atwrnai Parhaol, ond mae EPA a'u hystod o ddyletswyddau a gydnabyddir yn gyfreithiol yn dal yn ddilys os cawsant eu gwneud cyn i'r Ddeddf gael ei rhoi ar waith.

Rhaid i LPA gael ei chofrestru gyda Swyddfa'r Gwarcheidwad Cyhoeddus (OPG) cyn y gellir ei ddefnyddio.

What does the Act say about Lasting Powers of Attorney?

Sometimes one person will want to give another person authority to make a decision on their behalf. A power of attorney is a legal document that allows them to do so. Under a power of attorney, the chosen person (the attorney or donee) can make decisions that are as valid as one made by the person (the donor).

As well as property and affairs (including financial matters), LPAs can also cover personal welfare (including healthcare and consent to medical treatment) for people who lack capacity to make such decisions for themselves.

The donor can choose one person or several to make different kinds of decisions.

The introduction of the Act ends the previously existing role of Enduring Powers of Attorney, but EPAs and their legally recognised range of duties are still valid if made prior to the Act's implementation.

An LPA must be registered with the Office of the Public Guardian (OPG) before it can be used.



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Sut mae derbynnydd yn creu LPA?

Dim ond oedolion 18 oed neu hŷn all wneud LPA, a gallant wneud hynny dim ond os oes ganddynt y galluedd i wneud hynny.

Rhaid i'r derbynnydd hefyd ddilyn y gweithdrefnau cywir ar gyfer creu a chofrestru LPA. Fel arall efallai na fydd yr LPA yn ddilys. Nid yw bob amser yn angenrheidiol cael cyngor cyfreithiol. Ond mae'n syniad da ar gyfer rhai achosion (er enghraifft, os yw amgylchiadau'r derbynnydd yn gymhleth).

Er mwyn i LPA fod yn ddilys:

- rhaid i'r LPA fod yn ddogfen ysgrifenedig wedi'i gosod yn y ffurf statudol a ragnodir gan reoliadau.
- rhaid i'r ddogfen gynnwys gwybodaeth ragnodedig am natur ac effaith yr LPA.
- rhaid i'r ddogfen enwi pobl (nid unrhyw un o'r atwrneiod) a ddylai gael gwybod am gais i gofrestru'r LPA, neu ddatgan nad oes neb i ddweud wrthynt.
- rhaid i'r derbynnydd lofnodi datganiad bod y wybodaeth wedi'i deall ac y bydd LPA yn berthnasol pan gollir galluedd.
- rhaid i'r atwrneiod lofnodi datganiad yn dweud eu bod yn deall eu dyletswyddau, ac y byddant yn gweithredu er lles pennaf y person.
- rhaid i'r ddogfen gynnwys tystysgrif a gwblhawyd gan drydydd parti annibynnol.

How does a donor create an LPA?

Only adults aged 18 or over can make an LPA, and they can only make an LPA if they have the capacity to do so.

The donor must also follow the right procedures for creating and registering an LPA. Otherwise the LPA might not be valid. It is not always necessary to get legal advice. But it is a good idea for certain cases (for example, if the donor's circumstances are complicated).

For an LPA to be valid:

- the LPA must be a written document set out in the statutory form prescribed by regulations.
- the document must include prescribed information about the nature and effect of the LPA.
- the document must name people (not any of the attorneys) who should be told about an application to register the LPA, or state that there is no-one to be told.
- the donor must sign a statement that information is understood and that LPA will apply when capacity is lost.
- the attorneys must sign a statement that they understand their duties, and that they will act in the person's best interests.
- the document must include a certificate completed by an independent third party.

(Parhaed 7: Dewisi Galluedd Meddygol Cof Ymroddol)

(Chapter 7: Mental Capacity Act: Code of Practice)



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Ymarfer: beth yw manteision LPA?

Mae pŵer atwrnai yn ddogfen gyfreithiol

Mae LPA yn atal oedi pan fydd angen gwneud penderfyniadau

Gall yr atwrnai wneud penderfyniadau sydd yr un mor ddilys â **thal** derbynnydd

Rhaid i atwrnaiod weithredu er budd gorau'r derbynnydd

Rhaid dilyn egwyddorion statudol y Ddeddf

Mae LPA yn ymwneud â lles personol, eiddo a materion ariannol

Mae LPA yn ei gwneud yn ofynnol i ddilysu annibynnol fod yn ddilys

Gall y derbynnydd gael mwy nag un atwrnai

Gall anghydfodau dros y budd gorau gael eu clywed gan y Llys Gwarchod

Gall y derbynnydd gyfyngu ar benderfyniadau'r atwrnai

Exercise: what are the advantages of an LPA?

A power of attorney is a legal document

A LPA prevents delay when decisions need to be made

The attorney can make decisions as valid as those of the donee

Attorneys must act in the donee's best interests

The Act's statutory principles must be followed

LPAs cover personal welfare, property and financial matters

LPAs require independent verification to be valid

The donor can have more than one attorney

Disputes over best interests can be heard by the Court of Protection

The donor can limit the decisions of the attorney



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Beth yw rôl y Llys Gwarchod a dirprwyon a benodwyd gan y llys?

Penderfynu a oes gan rywun y galluedd meddyliol i wneud penderfyniad penodol drostynt eu hunain.

Penodi dirprwyon i wneud penderfyniadau parhaus ar gyfer pobl heb alluedd meddyliol.

Rhoi caniatâd i bobl wneud penderfyniadau untro ar ran rhywun arall sydd heb alluedd meddyliol.

Ymdrin â cheisiadau brys neu argyfwng lle mae'n rhaid gwneud penderfyniad ar ran rhywun arall yn ddi-oed.

Gwneud penderfyniadau am bŵer atwrnai parhaus neu bŵer atwrnai parhaol ac ystyried unrhyw wrthwynebiadau i'w cofrestrriad. Ystyried ceisiadau i wneud ewyllysiau statudol neu roddion.

Gwneud penderfyniadau ynghylch pryd y gellir amddifadu rhywun o'i ryddid o dan y Ddeddf Galluedd Meddyliol.

What is the role of the Court of Protection and court-appointed deputies?

Decide whether someone has the mental capacity to make a particular decision for themselves.

Appoint deputies to make ongoing decisions for people who lack mental capacity.

Give people permission to make one-off decisions on behalf of someone else who lacks mental capacity.

Handle urgent or emergency applications where a decision must be made on behalf of someone else without delay.

Make decisions about a lasting power of attorney or enduring power of attorney and consider any objections to their registration.

Consider applications to make statutory wills or gifts.

Make decisions about when someone can be deprived of their liberty under the Mental Capacity Act.

Pwy all wneud cais i fod yn ddirprwy?



- Gallwch wneud cais i fod yn ddirprwy os ydych yn 18 oed neu'n hŷn.
- Mae dirprwyon fel arfer yn berthnasau agos neu'n ffrindiau y person sydd angen cymorth i wneud penderfyniadau.
- Os ydych am ddod yn ddirprwr eiddo a materion, mae angen i chi feddu ar y sgiliau i wneud penderfyniadau ariannol dros rywun arall.
- Gall y llys benodi 2 neu fwy o ddirprwyon ar gyfer yr un person.

Who can apply to be a deputy?



- You can apply to be a deputy if you're 18 or over.
- Deputies are usually close relatives or friends of the person who needs help making decisions.
- If you want to become a property and affairs deputy, you need to have the skills to make financial decisions for someone else.
- The court can appoint 2 or more deputies for the same person.

Facilitator notes

Welsh:

Pam y gallai'r Llys Gwarchod fod yn angenrheidiol?

- Efallai y bydd person yn dymuno herio penderfyniad nad oes ganddynt alluedd.
- Mae ganddo'r un pwerau, hawliau, breintiau ac awdurdod â'r Uchel Lys.
- Lle na roddwyd atwrnai yn ei le pan oedd gan y person alluedd, ond nid oes ganddo alluedd bellach.
- Dod o hyd i ffyrdd o ddatrys anghytundebau gweithredoedd neu benderfyniadau.
- Datrys a gwneud penderfyniadau ar benderfyniadau anodd.
- Trafod anghytundebau na ellir eu datrys mewn unrhyw ffordd arall.
- Ar gyfer sefyllfaoedd lle gallai fod angen gwneud penderfyniadau parhaus am les personol person sydd heb y galluedd i wneud penderfyniadau drostynt eu h unain.

English:

Why might the Court of Protection be necessary?

- A person may wish to challenge a decision that they lack capacity.
- It has the same powers, rights, privileges and authority as the High Court.

- Where no attorney was put in place when the person had capacity, but now lacks it.
- To find ways of settling disagreements about actions or decisions.
- To resolve and make rulings on difficult decisions.
- Deliberate upon disagreements that cannot be resolved in any other way.
- For situations where ongoing decisions may need to be made about the personal welfare of a person who lacks capacity to make decisions for themselves.

Pa bwerau sydd gan y Llys Gwarchod?



What powers does the Court of Protection have?



Facilitator notes

Welsh:

Gwneud datganiadau, penderfyniadau a gorchmynion ar faterion ariannol a materion lles sy'n effeithio ar bobl sydd heb neu yr honnir ei fod heb, alluedd.

Penodi dirprwyon i wneud penderfyniadau ar ran pobl sydd heb alluedd i wneud y penderfyniadau hynny.

Cael gwared ar ddirprwyon neu atwrneiod sy'n ymddwyn yn amhriodol.

Gall y llys hefyd glywedachosion am LPA ac EPA.

Mae pwerau'r llys ynghylch EPA wedi'u nodi yn Atodlen 4 i'r Ddeddf.

Gall ddatrys materion sy'n ymwneud â galluedd person lle mae gweithwyr proffesiynol yn anghytuno.

Gall

y llys wneud datganiadau ynghylch a yw gofal neu driniaeth rhywun yn gyfreithlon.

Mae'n gallu sefydlu cynsail (gall osod enghreifftiau ar gyfer achosion yn y dyfodol) a meithrin arbenigedd ym mhob mater sy'n ymwneud â diffyg gallu.

English:

Make declarations, decisions and orders on financial and welfare matters affecting people who lack, or are alleged to lack, capacity.

Appoint deputies to make decisions for people who lack capacity to make those decisions.

Remove deputies or attorneys who act inappropriately.

The court can also hear cases about LPAs and EPAs. The court's powers concerning EPAs are set out in Schedule 4 of the Act. It can resolve issues relating to a person's capacity where professionals disagree.

The court can make declarations as to whether someone's care or treatment is lawful. It is able to establish precedent (it can set examples for future cases) and build up expertise in all issues related to lack of capacity.

Beth yw'r gwahaniaeth rhwng atwrnai a dirprwy llys?

Caiff atwrnai ei benodi gan unigolyn tra bod ganddynt y gallu i baratoi ar gyfer pan fyddant yn colli galluedd.

Y derbynnydd sy'n penderfynu pwy fydd yr atwrnai, ar yr amod bod amodau a osodir gan yr OPG yn cael eu bodloni.

Gall pwerau atwrnai parhaus gael eu sefydlu ar gyfer eiddo, materion ariannol, iechyd a llesiant

Penodir dirprwy gan y Llys Gwarchod unwaith nid oes gan unigolyn alluedd.

Y llys sy'n penderfynu pwy fydd yn gweithredu er lles pennaf y person.

Mae gan ddirprwyon fwy o fesurau diogelu i helpu i amddiffyn person analluog rhag cam-drin ariannol.

What's the difference between an attorney and a court deputy?

An attorney is appointed by an individual whilst they have capacity in preparation for when they lose capacity.

It is the donor who decides who will be the attorney, provided that conditions set by the OPG are met.

Lasting powers of attorney can be set up for property, financial affairs, health and welfare.

A deputy is appointed by the Court of Protection once an individual lacks capacity.

It is the court who decides who will act in the person's best interests.

Deputyships do have more safeguards to help protect an incapacitated person from financial abuse.



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Pwy all wneud penderfyniad ymlaen llaw i wrthod triniaeth?

- Rhaid i berson fod yn 18 oed a throsodd.
- Rhaid iddo feddu ar alluedd ar adeg gwneud y penderfyniad ymlaen llaw.
- Rhaid iddo ddatgan pa driniaeth y mae eisiau gwrthod.
- Rhaid ysgrifennu'r datganiad hwnnw, ei lofnodi a'i dystio.
- Nodwch yn glir bod y penderfyniad yn berthnasol hyd yn oed os yw bywyd mewn perygl.
- Gall y person dynnu'n ôl a diwygio ei benderfyniad ymlaen llaw ar unrhyw adeg - ar yr amod bod ganddo'r galluedd o hyd i wneud hynny.

Who can make an advance decision to refuse treatment?

- A person must be 18 years old and over.
- They must have capacity at the time of making the advanced decision.
- They must state what treatment they want to refuse.
- That statement must be written, signed and witnessed.
- State clearly that the decision applies even if life is at risk.
- The person can withdraw and amend their advance decision at any time - provided they still have capacity to do so.

Facilitator notes

Welsh:

Mae penderfyniad ymlaen llaw yn galluogi rhywun 18 oed a throsodd, tra'n dal yn alluog, i wrthod triniaeth feddygol benodedig ar gyfer adeg yn y dyfodol pan fydd efallai heb y galluedd i gydsynio neu wrthod y driniaeth honno.

Rhaid i benderfyniad ymlaen llaw i wrthod triniaeth fod yn ddilys ac yn berthnasol i amgylchiadau presennol. Os ydyw, mae ganddo'r un effaith fel penderfyniad a wneir gan berson â galluedd: rhaid i weithwyr gofal iechyd proffesiynol ddilyn y penderfyniad.

Unigolion sydd i benderfynu a ydynt am wrthod triniaeth ymlaen llaw.

Mae ganddynt hawl i wneud hynny os ydynt eisiau, ond nid oes unrhyw rwymedigaeth i wneud hynny.

Mae rhai pobl yn dewis gwneud penderfyniadau ymlaen llaw tra byddant yn dal i fod yn iach, hyd yn oed os nad oes unrhyw arwydd o salwch. Bydd hyn efallai oherwydd eu bod am gadw rhywfaint o reolaeth dros beth allai ddigwydd iddyn nhw yn y dyfodol.

Efallai y bydd eraill yn meddwl am benderfyniad ymlaen llaw fel rhan o'u paratodau ar gyfer heneiddio (yn debyg i wneud ewyllys).

Neu efallai y byddant yn gwneud penderfyniad ymlaen llaw ar ôl iddynt gael gwybod bod ganddynt afiechyd neu gyflwr penodol.

English:

An advance decision enables someone aged 18 and over, while still capable, to refuse specified medical treatment for a time in the future when they may lack the capacity to consent to or refuse that treatment.

An advance decision to refuse treatment must be valid and applicable to current circumstances. If it is, it has the same effect as a decision that is made by a person with capacity: healthcare professionals must follow the decision.

It is up to individuals to decide whether they want to refuse treatment in advance. They are entitled to do so if they want, but there is no obligation to do so. Some people choose to make advance decisions while they are still healthy, even if there is no prospect of illness. This might be because they want to keep some control over what might happen to them in the future.

Others may think of an advance decision as part of their preparations for growing older (similar to making a will). Or they might make an advance decision after they have been told they have a specific disease or condition.

Sut mae staff gofal iechyd yn cael eu hamddiffyn rhag penderfyniadau ymlaen llaw?

Bydd gweithwyr gofal iechyd proffesiynol yn cael eu hamddiffyn rhag atebolrwydd os ydynt:

Yn stopio neu'n atal triniaeth oherwydd eu bod yn credu'n rhesymol bod penderfyniad ymlaen llaw yn bodoli, a'i fod yn ddilys ac yn berthnasol.

Ar ôl cymryd pob cam ymarferol a phriodol i ganfod a yw'r person wedi gwneud penderfyniad ymlaen llaw i wrthod triniaeth, nid ydynt yn gwybod neu'n fodlon bod penderfyniad ymlaen llaw dilys a chymwys yn bodoli.



How are healthcare staff protected from advance decisions?

Healthcare professionals will be protected from liability if they:

Stop or withhold treatment because they reasonably believe that an advance decision exists, and that it is valid and applicable.

Having taken all practical and appropriate steps to find out if the person has made an advance decision to refuse treatment, they do not know or are satisfied that a valid and applicable advance decision exists.



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Beth yw'r Gwasanaeth Eiriolwyr Galluedd Meddyliol Annibynnol a sut mae'n gweithio?

Pwrpas y gwasanaeth IMCA yw:
helpu pobl sy'n arbennig o agored i niwed sydd
heb alluedd i wneud penderfyniadau pwysig
am driniaeth feddygol difrifol a newid mewn
llety, ac sydd heb deulu na ffrindiau y byddai'n
briodol ymgynghori â hwy am y penderfyniadau
hynny. Bydd IMCA yn gweithio gydag ac yn
cefnogi pobl sydd heb alluedd, ac yn
cynrychioli eu barn i'r rhai sy'n gweithio
allan eu lles pennaf.



What is the Independent Mental Capacity Advocate Service and how does it work?

The purpose of the IMCA service is to
help particularly vulnerable people who
lack the capacity to make important
decisions about serious medical
treatment and changes of accommodation,
and who have no family or friends that it
would be appropriate to consult about
those decisions. IMCAs will work with and
support people who lack capacity, and
represent their views to those who are
working out their best
interests.



Pwy all fod yn IMCA?

Yng Nghymru, bydd y bwrdd iechyd lleol yn rhoi cymeradwyaeth. Gall gweithwyr cymwysedig sefydliad cymeradwy weithredu fel IMCA.

Rhaid iddynt:

- meddu ar brofiad penodol
- meddu ar hyfforddiant IMCA
- meddu ar uniondeb a chymeriad da
- gallu gweithredu'n annibynnol

Who can be an IMCA?

In Wales, the local health board will provide approval. Qualified employees of an approved organisation can act as IMCAs.

They must:

- have specific experience
- have IMCA training
- have integrity and a good character
- be able to act independently



The regulations for Wales are available at www.new.wales.gov.uk/consultations/closed/healthandsocialcare/closeds/

Facilitator notes

Welsh:

Bydd awdurdodau lleol a byrddau iechyd fel arfer yn comisiynu sefydliadau eiriolaeth annibynnol i ddarparu'r gwasanaeth IMCA. Bydd y sefydliadau hyn yn gweithio i safonau sefydliado l priodol a osodwyd drwy'r broses contractio/comisiynu.

English:

Local authorities and health boards will usually commission independent advocacy organisations to provide the IMCA service. These organisations will work to appropriate organisational standards set through the contracting/commissioning process.

Cyfarwyddo ac ymgynghori ag IMCA

- Rhaid i IMCA gael ei gyfarwyddo, ac yna rhaid ymgynghori â nhw, i bobl heb alluedd sydd heb neb arall i'w cefnogi (ac eithrio staff cyflogedig), pryd bynnag:
 - mae corff GIG yn bwriadu darparu triniaeth feddygol ddifrifol, neu
 - mae corff GIG neu awdurdod lleol yn bwriadu trefnu llety (neu newid llety) mewn ysbyty neu gartref gofal.
 - bydd y person yn aros yn yr ysbyty am fwy na 28 diwrnod, neu
 - bydd yn aros yn y cartref gofal am fwy nag wyth wythnos.
- **Gall** IMCA gael ei gyfarwyddo i gefnogi rhywun sydd heb alluedd i wneud penderfyniadau ynghylch:
 - adolygiadau gofal, lle nad oes neb arall ar gael i ymgynghori â hwy.
 - achosion amddiffyn oedolion, boed teulu, ffrindiau neu bob eraill yn rhan o'r sefyllfa.

Instructing and consulting an IMCA

- An IMCA **must** be instructed, and then consulted, for people lacking capacity who have no-one else to support them (other than paid staff), whenever:
 - an NHS body is proposing to provide serious medical treatment, or
 - an NHS body or local authority is proposing to arrange accommodation (or a change of accommodation) in hospital or a care home.
 - the person will stay in hospital longer than 28 days, or
 - they will stay in the care home for more than eight weeks
- An IMCA **may** be instructed to support someone who lacks capacity to make decisions concerning:
 - care reviews, where no-one else is available to be consulted.
 - adult protection cases, whether or not family, friends or others are involved.



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Pam mae IMCA yn bwysig i'r rhai sydd heb alluedd?

Penderfynu a yw penderfyniadau yn rhai 'lles pennaf'.

Darparu gwybodaeth

Holi a Herio

Darparu preifatrwydd

Cyrchu cofnodion a gedwir

Gweithredu'n amserol

Darparu cefnogaeth



Why is an IMCA important for those who lack capacity?

Determine if decisions are 'best interests'.

Provide information

Question & Challenge

Provide privacy

Access records kept

Act timely

Provide support



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Facilitator notes

Welsh:

Bydd yr IMCA yn helpu i gynrychioli'r person heb alluedd mewn trafodaethau i weithio allan a yw'r penderfyniad arfaethedig er lles pennaf y person.

Darparu gwybodaeth i helpu i weithio allan beth sydd er lles pennaf y person.

Codi cwestiynau neu herio penderfyniadau sy'n ymddangos nad ydynt er lles gorau'r person. Mae ganddyn nhw hawl i gwrdd â'r person y maent yn ei gefnogi yn breifat.

Caniateir mynediad iddynt i gofnodion gofal iechyd perthnasol a chofnodion gofal cymdeithasol.

Maent yn darparu cefnogaeth a chynrychiolaeth yn benodol tra bod y penderfyniad yn cael ei wneud.

Gallant weithredu'n gyflym fel y gall eu hadroddiad fod yn rhan o gwneud penderfyniadau.

English:

The IMCA will help represent the person without capacity in discussions to work out whether the proposed decision is in the person's best interests.

Provide information to help work out what is in the person's best interests.

Raise questions or challenge decisions which appear not to be in the best interests of the person.

They have a right to meet in private the person they are supporting.

They are permitted access to relevant healthcare records and social care records.

They provide support and representation specifically while the decision is being made.

They can act quickly so their report can form part of decision-making.

Ymarfer: Pa wahaniaeth y gall IMCA ei wneud?

Bydd yn canfod a yw'r penderfynwr wedi rhoi pob cefnogaeth ymarferol a phriodol i helpu'r person sydd heb alluedd i ymwneud cymaint â phosibl mewn gwneud penderfyniadau.

Os oes gan y person anawsterau cyfathrebu, bydd yr IMCA yn darganfod a yw'r penderfynwr wedi cael unrhyw gymorth arbenigol (er enghraifft, gan therapydd iaith a lleferydd).

Gall IMCA ddod o hyd i wybodaeth i awgrymu y gallai person adennill galluedd yn y dyfodol, naill ai iddo geisio gwneud y penderfyniad ei hun neu gymryd mwy o ran mewn gwneud penderfyniadau. Mewn sefyllfa o'r fath, gall yr IMCA ofyn i'r penderfynwr ohirio'r penderfyniad, os nad yw'n fater brys.

Mae'r Ddeddf yn ei gwneud yn ofynnol i'r penderfynwr ystyried yr adroddiadau a wnaed a'r wybodaeth a roddir gan yr IMCA.

Exercise: What difference can an IMCA make?

They will find out whether the decision-maker has given all practical and appropriate support to help the person who lacks capacity to be involved as much as possible in decision-making.

If the person has communication difficulties, the IMCA will find out if the decision-maker has obtained any specialist help (for example, from a speech and language therapist).

An IMCA may find information to suggest a person might regain capacity in the future, either so they can make the decision themselves or be more involved in decision-making. In such a situation, the IMCA can ask the decision-maker to delay the decision, if it is not urgent.

The Act requires the decision-maker to take account of the reports made and information given by the IMCA.

Facilitator notes

Beth fydd yn digwydd os bydd yr IMCA yn anghytuno gyda'r penderfynwr?

Gall yr IMCA ddatrys anghydfodau drwy:

- gweithdrefn gwynion yr awdurdod lleol
- gweithdrefnau Cwynion y GIG
- y Cyngor Iechyd Cymuned (Cymru)
- panel adolygu gofal parhaus lleol
- gweithdrefn gwynion cartref gofal (os yw'r person mewn cartref gofal)



What happens if the IMCA disagrees with the decision-maker?

The IMCA can settle disputes through:

- the local authority complaints procedure
- NHS Complaints Procedures
- the Community Health Council (Wales)
- a local continuing care review panel
- a care home's complaints procedure (if the person is in a care home)

Facilitator notes

Welsh:

Mae gan IMCA yr un hawliau i herio penderfyniad ag unrhyw berson arall sy'n gofalu am y person neu â diddordeb yn ei les. Mae'r hawl i herio yn berthnasol i benderfyniadau ynghylchdiffyg gallu edd a lles pennaf person.

Cyn defnyddio'r dulliau ffurfiol hyn, dylai'r IMCA a'r penderfynwr drafod y meysydd y maent yn anghytuno yn eu cylch sy'n ymwneud â'r unigolyn. Dylai'r IMCA a'r penderfynwr wneud a mser i wrando ar farn ei gilydd ac i ddeall y rheswm dros y gwahaniaethau.

Weithiau gall y trafodaethau hyn helpu i setlo anghytundeb.

English:

An IMCA has the same rights to challenge a decision as any other person caring for the person or interested in their welfare. The right of challenge applies both to decisions about lack of capacity and a person's best interests.

Before using these formal methods, the IMCA and the decision-maker should discuss the areas they disagree about concerning the individual. The IMCA and decision-maker should make time to listen to each other's views and to understand the reason for the differences.

Sometimes these discussions can help settle a disagreement.

Beth yw Cyfreithiwr Swyddogol a beth mae'n ei wneud?

Mae'r Cyfreithiwr Swyddogol yn rhan o system farnwriaeth Cymru a Lloegr. Mae'r Cyfreithiwr Swyddogol yn gweithredu dros blant neu oedolion sydd heb alluedd i gynrychioli eu hunain mewn achosion llys.

Mae'r Cyfreithiwr Swyddogol yn gweithredu fel cyfaill cyfreitha pan fetho popeth arall ac mewn rhai achosion fel cyfreithiwr. Teitl swydd llawn y Cyfreithiwr Swyddogol yw Cyfreithiwr Swyddogol yr Uwch Lysoedd.

Gwaith y Cyfreithiwr Swyddogol yw gwneud penderfyniadau ar gyfer unigolion nad oes ganddynt alluedd meddyliol i wneud penderfyniadau drostyn nhw'u hunain yn ystod achos llys.

Gall materion cyfreithiol fod yn anodd eu deall ac achosi straen mawr i'r unigolyn. Gall y Cyfreithiwr Swyddogol wneud penderfyniadau am yr hyn sy'n digwydd mewn achos llys yn unig - ni all wneud penderfyniadau eraill ar ran yr unigolyn. Rhaid iddo bob amser weithredu er lles pennaf y person.

What is an Official Solicitor and what do they do?

The Official Solicitor is part of the judicial system of England and Wales. The Official Solicitor acts for children or adults who lack capacity to represent themselves in court proceedings.

The Official Solicitor acts as a last resort litigation friend and in some cases solicitor. The Official Solicitor's full job title is the Official Solicitor to the Senior Courts.

The Official Solicitor's job is to make decisions for individuals who do not have mental capacity to make decisions for themselves during court proceedings.

Legal matters can be difficult to understand and be very stressful to the individual. The Official Solicitor can only make decisions about what is happening in a court case - they cannot make other decisions on behalf of the individual. They must always act in the person's best interests.



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Facilitator notes

Welsh:

Gall y Cyfreithiwr Swyddogol ofyn i gwmni o gyfreithwyr helpu unigolyn sydd heb alluedd meddyliol gyda'i achos.

Bydd gan yr unigolyn gyfreithiwr i'w gynrychioli yn ystod yr achos.

Cyfrifoldeb hanfodol yw cyfleu teimladau a dymuniadau'r person agored i niwed.

Bydd y Cyfreithiwr Swyddogol yn ystyried ac weithiau, lle bo'n briodol, yn herio asesiadau blaenorol sydd wedi'u cynnal ynghylch y cleient, megis asesiadau seicolegol. Gall y Cyfreithiwr Swyddogol gynnig asesiadau Pellach.

Mae'r Cyfreithiwr Swyddogol yn gwneud penderfyniadau ynghylch a ddylid dechrau achos llys, neu ei ymladd, neu gytuno ar ffordd ymlaen.

Bydd angen i'r Cyfreithiwr Swyddogol wybod beth mae'r cleient ei eisiau. Bydd yn sicrhau bod y Barnwr yn gwybod beth mae'r cleient ei eisiau.

English:

The Official Solicitor can ask a firm of solicitors to help an individual who lacks mental capacity with their case.

The individual will have a solicitor to represent them during proceedings.

An essential responsibility is to convey the feelings and wishes of the vulnerable person.

The Official Solicitor will consider and sometimes, where appropriate, challenge previous assessments that have taken place of the client, such as psychological assessments. The Official Solicitor may propose further assessments.

The Official Solicitor makes decisions about whether to start a court case, or fight it, or agree a way forward.

The Official Solicitor will need to know what the client wants. They will make sure the Judge knows what the client wants.

Beth yw 'Cyfaill Cyfreitha'?

Efallai na fydd person sydd heb alluedd (neu a all fod heb alluedd) i wneud ei benderfyniadau ei hun bob amser yn ymwneud yn uniongyrchol ag achos llys.

Pan fydd hyn yn digwydd, bydd angen ar yr unigolyn Gyfaill Cyfreitha - person sy'n gallu cynnal yr achos ar ei ran - rhaid i'r Llys benodi cyfaill cyfreitha. Gall Cyfreithiwr Swyddogol gyflwyno cais i ddod yn Gyfaill Cyfreitha.

Mae Cyfaill Cyfreitha felly yn rhan hollbwysig o waith y Llys Gwarchod, gan sicrhau bod y rhai y mae'r trafodion yn ymwneud â hwy yn cael lleisio'u barn o flaen y llys.

Gallwch wneud cais i fod yn Gyfaill Cyfreitha rhywun drwy naill ai:

- darparu copi o'r gorchymyn llys sy'n eich penodi fel dirprwy'r person os yw'n rhoi caniatâd i chi weithredu fel ei gyfaill cyfreitha.
- Llenwi tystysgrif addasrwydd os nad chi yw dirprwy'r person.

What is a 'Litigation Friend'?

A person who lacks (or may lack) capacity to make their own decisions may not always be involved directly in court proceedings.

Where this occurs, the individual will need a Litigation Friend - a person who can conduct the proceedings on their behalf - the Court must appoint a litigation friend. An Official Solicitor may submit an application to become the Litigation Friend.

A Litigation Friend is therefore a crucial part of the working of the Court of Protection, ensuring that those whom the proceedings concern have their voice heard before the court.



You can apply to be someone's Litigation Friend by either:

- providing a copy of the court order that appointed you as the person's deputy if it gives you permission to act as their litigation friend.
- Filling in a certificate of suitability if you're not the person's deputy.

Facilitator notes

Welsh:

Gall y llys benodi unrhyw un i fod yn gyfaill cyfreitha, er enghraifft:

rhiant neu warcheidwad

aelod o'r teulu neu ffrind

cyfreithiwr

eiriolwr proffesiynol, fel Eiriolwr Galluedd Meddyliol Annibynnol (IMCA)

[Dirprwy'r Llys Gwarchod](#)

rhywun sydd ag [atwrneiaeth parhaus neu barhaol](#)

Bydd y llys yn gwirio a ydych yn addas drwy wneud yn siŵr:

nad yw eich buddiannau yn gwrthdaro â'u rhai nhw

gallwch wneud penderfyniadau am yr achos mewn ffordd deg a chymwys

Rhaid i chi lenwi [tystysgrif addasrwydd](#) os ydych yn gwneud cais i fod yn gyfaill cyfreitha i rywun.

Os nad oes unrhyw un addas i fod yn gyfaill cyfreitha

Bydd y Cyfreithiwr Swyddogol yn gweithredu fel cyfaill cyfreitha os:

does neb arall yn addas ac yn fodlon bod yn gyfaill cyfreitha

mae arian ar gael i dalu costau'r Cyfreithiwr Swyddogol, er enghraifft cymorth cyfreithiol

mae meddyg y person neu weithiwr meddygol proffesiynol arall, er enghraifft ei seiciatrydd, yn cadarnhau nad oes ganddo'r galluedd i reoli'r achos (oni bai ei fod yn blentyn)
Bydd y llys yn penodi'r Cyfreithiwr Swyddogol – os yw'n cytuno – ar yr adeg berthnasol.

English:

The court can appoint anyone to be a litigation friend, for example:

a parent or guardian

a family member or friend

a solicitor

a professional advocate, such as an Independent Mental Capacity Advocate (IMCA)

a [Court of Protection deputy](#)

someone who has a [lasting or enduring power of attorney](#)

The court will check you're suitable by making sure:

your interests do not conflict with theirs

you can make decisions about the case in a fair and competent way

You must fill in a [certificate of suitability](#) if you're applying to be someone's litigation friend.

If there's no one suitable to be litigation friend

The Official Solicitor will act as a litigation friend if:

nobody else is suitable and willing to be litigation friend

there's money available to pay the Official Solicitor's costs, for example legal aid

the person's doctor or another medical professional, for example their psychiatrist, confirms

they lack capacity to manage the case (unless they're a child)

The court will appoint the Official Solicitor - if they agree - at the relevant time.

Beth yw'r berthynas rhwng y Ddeddf Galluedd Meddyliol a Deddf Iechyd Meddwl 1983?



Mental Health Act 1983

What is the relationship between the Mental Capacity Act and the Mental Health Act 1983?



Mental Capacity Act 2005

- | | |
|---|--|
| <ul style="list-style-type: none">• Efallai y bydd angen i weithwyr proffesiynol feddwl am ddefnyddio'r MHA i gadw a thrin rhywun sydd heb alluedd i gydsynio i driniaeth (yn hytrach na defnyddio'r MCA), os:• Gellir rhoi triniaeth dim ond os oes angen ei amddifadu o'i ryddid• Mae angen darparu triniaeth dan yr MHA• Efallai bod angen defnyddio rhwystro corfforol | <ul style="list-style-type: none">• Professionals may need to think about using the MHA to detain and treat somebody who lacks capacity to consent to treatment (rather than use the MCA), if:• Treatment can only be given if they need to be deprived of their liberty• Treatment needs to be provided under the MHA• The need to restrain might be necessary |
|---|--|

Facilitator notes

Welsh:

- nid yw'n bosibl rhoi'r gofal neu'r driniaeth sydd ei angen ar y person heb wneud rhywbeth a allai ei amddifadu o'i ryddid.
- mae angen triniaeth ar y person na ellir ei rhoi o dan yr MCA (er enghraifft, oherwydd bod y person wedi gwneud penderfyniad ymlaen llaw dilys a chymwys i wrthod rhan hanfodol o driniaeth).
 - efallai y bydd angen rhwystro'r person yn gorfforol mewn ffordd na chaniateir o dan yr MCA
- nid yw'n bosibl asesu na thrin y person yn ddiogel nac yn effeithiol heb fod triniaeth yn orfodol (efallai oherwydd bod disgwyl i'r person adennill galluedd i gydsynio, ond y gallai wedyn wrthod rhoi caniatâd).
- nid yw'n bosibl asesu na thrin y person yn ddiogel nac yn effeithiol heb fod triniaeth yn orfodol (efallai oherwydd bod disgwyl i'r person adennill galluedd i gydsynio, ond y gallai wedyn wrthod rhoi caniatâd).
- nid oes gan y person y galluedd i benderfynu ar rai elfennau o'r driniaeth ond mae ganddo alluedd i wrthod rhan hanfodol ohoni – ac mae wedi gwneud hynny, neu

- mae yna ryw reswm arall pam efallai na fydd y person yn cael triniaeth, ac efallai y bydd ef/hi neu rywun arall yn dioddef niwed o ganlyniad. Gellir gwneud pobl ag anhwylderau meddwl yn destun gwarcheidiaeth neu ôl-ofal o dan oruchwyliaeth i'w hamddiffyn nhw neu bobl eraill.

English:

- it is not possible to give the person the care or treatment they need without doing something that might deprive them of their liberty.
 - the person needs treatment that cannot be given under the MCA (for example, because the person has made a valid and applicable advance decision to refuse an essential part of treatment).
 - the person may need to be restrained in a way that is not allowed under the MCA
 - it is not possible to assess or treat the person safely or effectively without treatment being compulsory (perhaps because the person is expected to regain capacity to consent, but might then refuse to give consent).
 - it is not possible to assess or treat the person safely or effectively without treatment being compulsory (perhaps because the person is expected to regain capacity to consent, but might then refuse to give consent).
 - the person lacks capacity to decide on some elements of the treatment but has capacity to refuse a vital part of it – and they have done so, or
 - there is some other reason why the person might not get treatment, and they or somebody else might suffer harm as a result.
- People with mental disorders can be made subject to guardianship or after-care under supervision to protect them or other people.

Defnyddio'r MHA a'r MCA

Cyn gwneud cais o dan yr MHA, dylai penderfynwyr ystyried a allent gyflawni eu nodau yn ddiogel ac yn effeithiol trwy Ddefnyddio'r MCA yn lle.

- Nid yw triniaeth orfodol o dan yr MHA yn opsiwn os:
 - nid yw anhwylder meddwl y claf yn cyfiawnhau ei gadw yn yr ysbyty, neu
 - mae angen triniaeth ar y claf dim ond ar gyfer salwch corfforol neu anabledd yn unig.



Using the MHA and the MCA

Before making an application under the MHA, decision-makers should consider whether they could achieve their aims safely and effectively by using the MCA instead.

- Compulsory treatment under the MHA is not an option if:
 - the patient's mental disorder does not justify detention in hospital, or
 - the patient needs treatment only for a physical illness or disability.



Pryd nad yw'r MCA yn gymwys mewn perthynas â'r MHA?

1. Os yw rhywun yn cael ei gadw o dan yr MCA.

2. Os gellir trin rhywun am ei anhwylder meddwl heb ei gydsyniad.

3. Os oes angen cadw person ar gyfer asesiad.

Mae angen gwneud penderfyniadau penodol o dan yr MHA.

When does the MCA not apply in relation to the MHA?

1. If someone is detained under the MHA.

2. If somebody can be treated for their mental disorder without their consent.

3. If a person needs to be detained for assessment.

Particular decisions need to be made under the MHA.

Facilitator notes

Welsh:

1. Os yw rhywun yn cael ei gadw dan yr MHA, ni all penderfynwyr fel arfer ddibynnu ar yr MCA i roi triniaeth ar gyfer anhwylder meddwl neu wneud penderfyniadau am y driniaeth honno ar ran y person hwnnw.
2. Os gellir trin rhywun am ei anhwylder meddwl heb ei ganiatâd oherwydd ei fod yn cael ei gadw dan yr MHA, gall staff gofal iechyd ei drin hyd yn oed os yw'n mynd yn groes i benderfyniad ymlaen llaw i wrthod y driniaeth honno.
3. Os yw person yn destun gwarcheidiaeth, mae gan y gwarcheidwad yr hawl neilltuedig i wneud rhai penderfyniadau penodol, gan gynnwys ble fydd y person yn byw.
4. Nid oes rhaid i Eiriolwyr Galluedd Meddyliol Annibynnol fod yn rhan o benderfyniadau am driniaeth feddygol ddifrifol neu lety, os gwneir y penderfyniadau hynny o dan yr MHA.

English:

1. If someone is detained under the MHA, decision-makers cannot normally rely on the MCA to give treatment for mental disorder or make decisions about that treatment on that person's behalf.
2. If somebody can be treated for their mental disorder without their consent because they are detained under the MHA, healthcare staff can treat them even if it goes against an advance decision to refuse that treatment.

3. If a person is subject to guardianship, the guardian has the exclusive right to take certain decisions, including where the person is to live.
4. Independent Mental Capacity Advocates do not have to be involved in decisions about serious medical treatment or accommodation, if those decisions are made under the MHA.

Beth yw terfynau'r MCA?

Nid yw'r MCA yn caniatáu rhoi triniaeth sy'n mynd yn groes i benderfyniad ymlaen llaw dilys a chymwys i wrthod triniaeth.



What are the MCA's limits

The MCA does not allow giving treatment that goes against a valid and applicable advance decision to refuse treatment.

Mae gan rywun sy'n defnyddio rhwystro corfforol ddiogelwch dim ond yw'r rhwystro yn:

- angenrheidiol i amddiffyn y person sydd heb alluedd rhag niwed, ac
- yn gymesur â thebygolrwydd a difrifoldeb y niwed hwnnw.

Somebody using restraint only has protection if the restraint is:

- necessary to protect the person who lacks capacity from harm, and
- in proportion to the likelihood and seriousness of that harm.

Diogeliadau Amddiffyn Rhyddid: beth ydynt?

- Byddant yn darparu amddiffyniad i bobl 16 oed a hŷn sydd, neu sydd angen, cael eu hamddifadu o'u rhyddid er mwyn galluogi eu gofal neu driniaeth ac nad oes ganddynt y galluedd meddyliol i gydsynio i'w trefniadau.
- Daeth y Diogeliadau Amddiffyn Rhyddid i rym ym mis Ebrill 2022, yn dilyn eu cyflwyno i'r Ddeddf Galluedd Meddyliol (Diwygio) 2019.
- Bydd awdurdodau lleol a chyrff y GIG yn 'Gyrff Cyfrifol' o dan y Diogeliadau Amddiffyn Rhyddid. Bydd Cyrff Cyfrifol yn trefnu'r asesiadau sydd eu hangen o dan y cynllun - rhaid iddynt gyfiawnhau achos dros awdurdodi LPS.

Liberty Protection Safeguards: what they are?

- They will provide protection for people aged 16 and above who are, or who need, to be deprived of their liberty in order to enable their care or treatment and lack the mental capacity to consent to their arrangements.
- The Liberty Protection Safeguards came into force in April 2022, following their introduction into the Mental Capacity (Amendment) Act 2019.
- Local authorities and NHS bodies will be 'Responsible Bodies' under the Liberty Protection Safeguards. Responsible Bodies will organise the assessments needed under the scheme- they must justify a case for authorizing a LPS.

Facilitator notes

Welsh:

Mae pobl a allai fod ag awdurdodiad Diogeliadau Amddiffyn Rhyddid yn cynnwys y rhai â dementia, awtistiaeth ac anabledau dysgu nad oes ganddynt y galluedd perthnasol. Bydd y Diogeliadau Amddiffyn Rhyddid yn sicrhau canlyniadau gwell i bobl sydd wedi eu hamddifadu o'u rhyddid neu y mae angen eu hamddifadu o'u rhyddid. Mae'r Diogeliadau Amddiffyn Rhyddid wedi'u cynllunio i roi hawliau a dymuniadau'r bobl hynny wrth wraidd yr holl benderfyniadau a wneir ar amddifadu o ryddid.

English:

People who might have a Liberty Protection Safeguards authorisation include those with dementia, autism and learning disabilities who lack the relevant capacity.

The Liberty Protection Safeguards will deliver improved outcomes for people who are or who need to be deprived of their liberty. The Liberty Protection Safeguards have been designed to put the rights and wishes of those people at the centre of all decision-making on deprivation of liberty.

Bydd tri asesiad yn sail i awdurdodi'r Diogeliadau Amddiffyn Rhyddid:

1. Asesiad galluedd
2. 'Asesiad meddygol' i benderfynu a oes gan y person anhwylder meddwl
3. Asesiad 'angenrheidiol a chymesur' i benderfynu a yw'r trefniadau'n angenrheidiol i atal niwed i'r person ac yn gymesur â thebygolrwydd a difrifoldeb y niwed hwnnw

Three assessments will form the basis of the authorisation of Liberty Protection Safeguards:

1. A capacity assessment
2. A 'medical assessment' to determine whether the person has a mental disorder
3. a 'necessary and proportionate' assessment to determine if the arrangements are necessary to prevent harm to the person and proportionate to the likelihood and seriousness of that harm



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Facilitator notes

Welsh:

Mwy o gyfranogiad i deuluoedd

Bydd dyletswydd benodol i ymgynghori â'r rhai sy'n gofalu am y person a chyda'r rhai sydd â diddordeb yn lles y person. Bydd cyfle i aelod o'r teulu neu rywun arall sy'n agos at y person, os yw'n fodlon ac yn gallu, gynrychioli a chefnogi'r person drwy'r broses fel "person priodol". Bydd aelodau o'r teulu neu eraill sy'n agos at y person hefyd yn gallu codi pryderon drwy gydol y broses ac mewn ymateb i unrhyw awdurdodiad.

Ymestyn y cynllun i'r rhai 16 a 17 oed

Ar hyn o bryd, pan fo angen i berson ifanc 16 neu 17 oed gael ei amddifadu o'i ryddid, rhaid gwneud cais i'r Llys Gwarchod. O dan y Diogeliadau Amddiffyn Rhyddid, gall Cyrff Cyfrifol awdurdodi'r trefniadau heb orchymyn Llys. Bydd hyn yn arwain at wneud penderfyniadau mwy cymesur ynghylch amddifadu o ryddid ac yn lleihau trallod ac ymyrraeth bosibl i bobl ifanc a'u teuluoedd.

Ymestyn y cynllun i leoliadau domestig

Bydd y Diogeliadau Amddiffyn Rhyddid yn berthnasol i unigolion sy'n byw mewn lleoliadau domestig y mae angen eu hamddifadu o'u rhyddid. Mae lleoliadau domestig yn cynnwys: cartref y person ei hun a chartref y teulu bywydau a rennir byw â chymorth

Mae'r newid hwn yn sicrhau y bydd pob unigolyn y mae angen ei amddifadu o'i ryddid yn cael ei ddiogelu o dan y Diogeliadau Amddiffyn Rhyddid, ni waeth ble y mae'n byw, heb fod angen mynd i'r llys.

English:

Greater involvement for families

There will be an explicit duty to consult those caring for the person and with those interested in the person's welfare. There will be an opportunity for a family member or someone else close to the person, if they are willing and able, to represent and support the person through the process as an "appropriate person". Family members or others close to the person will also be able to raise concerns throughout the process and in response to any authorisation.

Extending the scheme to and 16 and 17-year-olds

Currently, when a 16 or 17-year-old needs to be deprived of their liberty, an application must be made to Court of Protection. Under the Liberty Protection Safeguards, Responsible Bodies can authorise the arrangements without a Court order. This will deliver more proportionate decision-making about deprivation of liberty and minimise potential distress and intrusion for young people and their families.

Extending the scheme to domestic settings

The Liberty Protection Safeguards will apply to individuals residing in domestic settings who need to be deprived of their liberty. Domestic settings include:

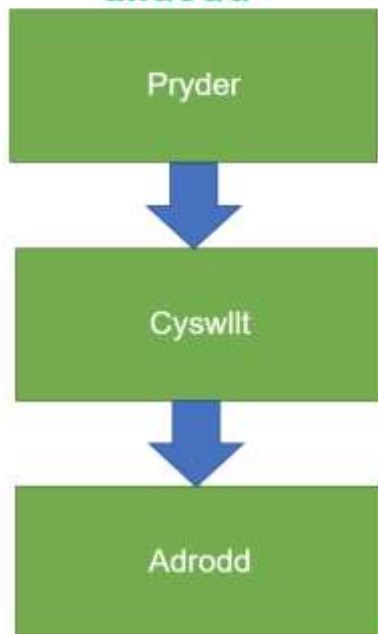
the person's own home and family home

shared lives

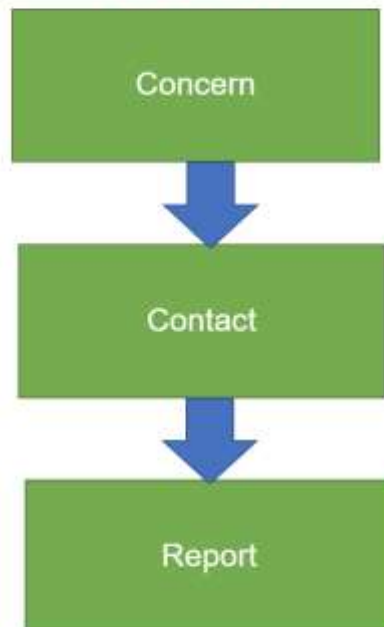
supported living

This change ensures that all individuals who need to be deprived of their liberty will be protected under the Liberty Protection Safeguards, regardless of where they reside, without the need to go to court.

Pryderon am berson sydd heb alluedd



Concerns about a person who lacks capacity



Facilitator notes

Welsh:

Adrodd: Rhowch wybod bob amser i'r asiantaeth berthnasol am amheuan o gam-drin person sydd heb alluedd.

Cyswllt: Os yw rhywun yn pryderu am weithredoedd atwrnai neu ddirprwy, dylai gysylltu â Swyddfa'r Gwarcheidwad Cyhoeddus.

Rheswm i gredu: Os oes rheswm da dros amau bod rhywun wedi cyflawni trosedd yn erbyn person agored i niwed, fel lladrad neu ymosodiad corfforol neu rywiol, cysylltwch â'r heddlu. Yn ogystal, dylid cysylltu â'r gwasanaethau cymdeithasol hefyd, fel y gallant gefnogi'r person agored i niwed yn ystod yr ymchwiliad.

Pryderon am y GIG: Os yw rhywun yn pryderu am y gofal neu'r driniaeth a roddir i'r person mewn unrhyw leoliad GIG (fel ysbyty neu glinig GIG) cysylltwch â rheolwyr y gwasanaeth.

Ar gyfer Gofal Cymdeithasol: cysylltwch yn uniongyrchol ag AGC (Rheoleiddio ac Arolygu Gofal Cymdeithasol).

English:

Report: Always report suspicions of abuse of a person who lacks capacity to the relevant agency.

Contact: If someone is concerned about the actions of an attorney or deputy, they should contact the Office of the Public Guardian.

Reason to believe: If there is a good reason to suspect that someone has committed a crime against a vulnerable person, such as theft or physical or sexual assault, contact the police. In addition, social services should also be contacted, so that they can support the vulnerable person during the investigation.

NHS Concerns: If someone is concerned about the care or treatment given to the person in any NHS setting (such as an NHS hospital or clinic) contact the managers of the service.

For Social Care: directly contact the CIW (Regulation & Inspection of Social Care).

Crynhoi y Ddeddf

Mae'r Ddeddf yn gosod fframwaith cyfreithiol ar sut i weithredu a gwneud penderfyniadau ar ran pobl sydd heb alluedd i wneud penderfyniadau penodol drostynt eu hunain

Mae'n nodi rhai egwyddorion a dulliau craidd ar gyfer gwneud penderfyniadau a chymryd camau mewn perthynas â lles personol, gofal iechyd a materion ariannol sy'n effeithio ar bobl a allai fod heb alluedd i wneud penderfyniadau penodol.

Mae'r Ddeddf yn cyflwyno sawl rôl, corff a phŵer newydd, a bydd pob un ohonynt yn cefnogi darpariaethau'r Ddeddf. Mae'r rhain yn cynnwys:

- Atwrneiod a benodir o dan Bŵer Atwrnai Parhaus
- Y Llys Gwarchod newydd, a dirprwyon a benodwyd gan y llys
- Eiriolwyr Galluedd Meddyliol Annibynnol

Bydd Deddf Galluedd Meddyliol 2005 yn berthnasol ar y cyd â deddfwriaeth arall sy'n effeithio ar bobl a all fod heb alluedd mewn perthynas â materion penodol. Mae hyn yn golygu y dylai staff gofal iechyd a gofal cymdeithasol sy'n gweithredu o dan y Ddeddf hefyd fod yn ymwybodol o'u rhwymedigaethau o dan deddfwriaeth arall



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Summarising the Act

The Act sets out a legal framework of how to act and make decisions on behalf of people who lack capacity to make specific decisions for themselves

It sets out some core principles and methods for making decisions and carrying out actions in relation to personal welfare, healthcare and financial matters affecting people who may lack capacity to make specific decisions

The Act introduces several new roles, bodies and powers, all of which will support the Act's provisions. These include:

- Attorneys appointed under Lasting Powers of Attorney
- The new Court of Protection, and court-appointed deputies
- Independent Mental Capacity Advocates

The Mental Capacity Act 2005 will apply in conjunction with other legislation affecting people who may lack capacity in relation to specific matters. This means that healthcare and social care staff acting under the Act should also be aware of their obligations under other legislation

Sut mae'r Ddeddf yn amddiffyn pobl rhag camdriniaeth? Swyddfa'r Gwarcheidwad Cyhoeddus

Sefydlu a rheoli cofrestr o LPA

Sefydlu a rheoli cofrestr o EPA

Goruchwyllo dirprwyon, gan weithio gyda sefydliadau perthnasol eraill (er enghraifft, gwasanaethau cymdeithasol, os yw'r person sydd heb alluedd yn derbyn gofal cymdeithasol)

Anfon Ymwelwyr y Llys Gwarchod i ymweld â phobl a all fod heb alluedd i wneud penderfyniadau penodol

Derbyn adroddiadau gan atwrneiod sy'n gweithredu o dan LPA a chan ddirprwyon

How does the Act protect people from abuse?

The Office of the Public Guardian

Sets up and manages a register of LPAs

Sets up and manages a register of EPAs

Supervises deputies, working with other relevant organisations (for example, social services, if the person who lacks capacity is receiving social care)

Sending Court of Protection Visitors to visit people who may lack capacity to make particular decisions

Receiving reports from attorneys acting under LPAs and from deputies

A yw'r MHA yn effeithio ar ba bryd y mae'n rhaid cyfarwyddo Eiriolwyr Galluedd Meddyliol Annibynnol?

Nid oes dyletswydd i gyfarwyddo Eiriolwr Galluedd Meddyliol Annibynnol (IMCA) ar gyfer penderfyniadau am driniaeth feddygol ddifrifol sydd i'w rhoi o dan Ran 4 o'r MHA.

Nid oes dyletswydd ychwaith i wneud hynny mewn perthynas â symud i lety, neu newid llety, os yw'n ofynnol i'r person dan sylw fyw ynddo oherwydd rhwymedigaeth o dan yr MHA.

Fodd bynnag, mae cyfarwyddo IMCA ar gyfer cleifion sy'n destun yr MHA a allai gael triniaeth feddygol ddifrifol nad yw'n gysylltiedig â'u hanhwylder meddwl yr un peth ag ar gyfer unrhyw glaf arall.

Byddai'r ddyletswydd i gyfarwyddo IMCA hefyd yn berthnasol fel arfer os yw llety'n cael ei gynllunio fel rhan o'r ôl-ofal o dan adran 117 o'r MHA yn dilyn rhyddhau'r person o gyfnod cadw 240 Cod Ymarfer y Ddeddf Galluedd Meddyliol (ac nad yw'r person yn mynd i orfod byw ynddo fel amod o ôl-ofal dan oruchwyliaeth). Mae hyn oherwydd nad oes rhaid i'r person dderbyn y llety hwnnw.



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Does the MHA affect when Independent Mental Capacity Advocates must be instructed?

There is no duty to instruct an Independent Mental Capacity Advocate (IMCA) for decisions about serious medical treatment which is to be given under Part 4 of the MHA.

Nor is there a duty to do so in respect of a move into accommodation, or a change of accommodation, if the person in question is to be required to live in it because of an obligation under the MHA.

However, instructing an IMCA for patients subject to the MHA who might undergo serious medical treatment not related to their mental disorder are the same as for any other patient.

The duty to instruct an IMCA would also apply as normal if accommodation is being planned as part of the after-care under section 117 of the MHA following the person's discharge from detention (and the person is not going to be required to live in it as a condition of after-care under supervision) under section 13.48 of the Mental Capacity Act Code of Practice . This is because the person does not have to accept that accommodation.

Diolch
Thank you



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