



Ministry
of Justice

Lord Faulks QC

Minister of State for Justice
102 Petty France
London SW1H 9AJ

T 020 3334 3555

F 020 3334 3669

E general.queries@justice.gsi.gov.uk

www.gov.uk/moj

To All Peers
The House of Lords
Westminster
London
SW1A 0PW

9th
March 2015

Dear Colkape

MENTAL CAPACITY ACT 2005: UPDATE ON HOUSE OF LORDS SELECT COMMITTEE INQUIRY 2014 RECOMMENDATIONS

The Government committed to update the Liaison Committee on the actions taken in response to the two key recommendations made in the summary of the report into the Mental Capacity Act within 12 months of publication. A debate is tabled for 10 March, which will examine progress against the Select Committee's recommendations in more detail.

In advance of the debate, I wanted to provide members with a written update on the two recommendations as well as highlighting developments in relation to other recommendations made by the Committee last year.

The Mental Capacity Act is a vitally important piece of legislation and we are determined to ensure that it is used widely and to its best effect. Over the past 12 months, a huge amount of resource has been channelled into the fundamental changes required to court rules and forms as a result of the Supreme Court judgment 'Cheshire West'. This work was an absolute priority and has unavoidably resulted in there being less time to dedicate to the implementation of the recommendations.

Nonetheless, we have made good progress. Ministers Simon Hughes and Norman Lamb recently announced our intention to create a new National Mental Capacity Forum, which will oversee and coordinate actions to drive up awareness of the Act. We considered that a strong national forum of this nature, together with an independent chair, would bring together a wide range of views from outside Government as well as providing much-needed independent scrutiny.

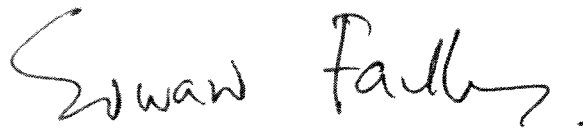
Recruitment for the post of Chair will get underway imminently and there has already been keen interest from a number of quarters on becoming part of this valuable forum. We expect interest to rise even further over the coming weeks as we accelerate the formal recruitment.

forum. We expect interest to rise even further over the coming weeks as we accelerate the formal recruitment.

As a result of the 'Cheshire West' judgment, use of the Deprivation of Liberty Safeguards (DOLS) is now considerably greater than when the Select Committee looked at this matter. I am pleased to say the Government has initiated a fundamental review of the DoLS legislation by the Law Commission, on which we expect their detailed consultation paper this summer. The new scheme they propose will cover community settings, such as supported living, as well as care homes and hospitals. The Law Commission's work will complete in summer 2017 when the Government will be presented with draft legislation. In the meantime, we have taken steps to simplify the existing process as much as possible.

A table of all the recommendations and progress to date accompanies this letter. I hope that members will welcome the steps taken to implement the recommendations and continued efforts to promote the principles of the Act. A copy of this letter will be placed in the library.

Yours Sincerely

A handwritten signature in black ink that reads "Edward Faulks". The signature is written in a cursive style with a large initial 'E' and a long, sweeping tail on the 's'.

EDWARD FAULKES