CALL FOR EVIDENCE
REVISON OF THE MENTAL CAPACITY ACT CODE OF PRACTICE

I am writing to inform you that the Ministry of Justice intends to launch a call for evidence regarding revising the Mental Capacity Act Code of Practice on 24 January 2019. Officials within my Department will be writing to a broad range of interested parties in the field with the objective of developing a robust evidence base which will inform future changes to the Mental Capacity Act Code of Practice.

The Mental Capacity Act is a vital piece of legislation designed to protect and empower people who may currently lack the mental capacity to make their own decisions about their care and treatment. It also facilitates people who have capacity to make preparations for a time when they may lack capacity in the future. Since the Act came into force in 2007, the Code of Practice has provided vital practical guidance regarding its implementation. The Code offers examples of best practice to both carers and practitioners, who have a formal duty to adhere to the Code. It also serves as a fundamental piece of guidance to the friends and family of the individual, to enable them to better understand the practical insight the Act offers to those who lack capacity.

The call for evidence will seek to establish the extent to which the current Code of Practice reflects changes in case law and lessons learned through its practical use over the last 11 years. It is important that we ensure that the Code remains relevant and places individuals at the very heart of the decision-making process. The questions in the call for evidence are designed to inform the Government’s decision-making on which aspects of the Code require revision.

The Department of Health and Social Care (DHSC), are also developing a new Code of Practice to support the introduction of Liberty Protection Safeguards, which are currently being considered by Parliament as a part of the Mental Capacity Amendment Bill. The Ministry of Justice will be working closely with DHSC to ensure that the two separate Code of Practices are reviewed in parallel, with a view to bringing both codes together as closely as possible in content and style.

The call for evidence will run for 6 weeks and will be available at www.gov.uk. Following the conclusion of this process, and in collaboration with DHSC, a formal consultation on the proposed changes to the Mental Capacity Act Code of Practice will be launched. The Government anticipates that the consultation will be take place later this year.
I would be very happy to make my officials available to brief you and other interested Members about this topic.

EDWARD ARGAR MP