

Report for SCIE – Supporting the implementation of the Mental Capacity Act 2005 during 2007/2008

Introduction

BILD (The British Institute of Learning Disabilities) were awarded £10,000 from the above funding programme by SCIE and the Department of Health. This was towards the costs of planning, co-ordinating three action learning events to focus upon providing practical skills and strategies in implementing the Mental Capacity Act for people with learning disabilities with complex needs.

In June and July 2007, BILD ran five awareness raising seminars across England and Wales to provide a broad understanding of the implications of the Mental Capacity Act.

A consistent concern expressed by family carers and professionals was the practical challenges of how to make the Act work for people with complex needs who cannot communicate with words.

Particular areas of concern raised were:

- Communication and finding out wishes and preferences.
- How to involve people in any assessment of capacity.
- How to provide information appropriate to each individual.
- Providing the right level of support.
- Staff skills for decision and choice making.
- How to determine “best interest”.

The application for the funding was to develop and deliver a two day programme with the first day focusing on current practice, a framework to enable support to address the requirements of the Mental Capacity Act, and specific skills and strategies to work with people with complex needs.

The second day would be some time later and would enable participants to reflect and share what they had achieved during the interim period back in their service/organisation. Delivering the action plans developed on the first day would enable each group to share what had worked and identified barriers to their implementation of the Mental Capacity Act requirements.

This report will outline what happened in relation to the three action learning groups, identify areas of best practice addressed and, in addition, identify additional learning and development that course participants identified for the future.

Working in Partnership

BILD's initial bid anticipated partnership working with Advocacy Partners, an advocacy organisation that provides services to people in South London and Surrey since 1981. This had been discussed with the organisation in advance and was seeking to build on a powerful joint presentation that had been given by both organisations at Learning Disability Today in 2007.

However, Advocacy Partners had staff sickness and capacity issues when we were trying to plan these events. SCIE staff were informed and a decision was made to press ahead with the action learning sets being delivered by a BILD consultant with extensive experience in the issues associated with the Mental Capacity Act.

We would recognise that the lack of involvement of a co-trainer with learning disabilities and complex needs was a missed opportunity to provide a powerful reminder to course participants.

The Facilitator/Trainer

Elaine Hardie is one of BILD's most experienced consultants/trainer and has worked across a wide spectrum of services for people with learning disabilities and complex needs. This has included residential and day services and supporting people in their own homes.

In her role as a manager, she was responsible for devising and implementing care plans and behaviour support plans. She has a strong record of advocating on behalf of the people she supported including co-ordinating multi-disciplinary approaches to risk assessment and person centred planning.

Elaine has brought four years of experience as a Local Authority Adult Services Training Officer and four years as a Principal Training and Development Officer.

Over the last three years, Elaine has worked for BILD and freelances as a trainer/consultant. She delivers a wide range of management and social care training.

Elaine's particular interest and skills lie in turning legislative and policy into practice. She teaches on the social work course at Liverpool Community College focussing on the implementation of Every Child Matters, the Mental Health Act, and the Mental Capacity Act. Elaine's in depth knowledge of the Mental Capacity Act combined with her practice and understanding of person centred approaches to supporting people with complex needs meant that she was ideally suited to taking this work forward.

Planning the Events

An initial planning meeting took place at BILD on the 17th January 2008 with Keith Smith (Chief Executive), Liz Howells (Manager – Learning Services) and Elaine Hardie in Kidderminster.

It was decided to hold the events in three different areas to provide a wide area of potential coverage. London, Manchester and Cardiff were identified as the potential venues.

The identified target groups for the training were:

- Anyone who directly supports people with learning disabilities and complex needs.
- Specialist health professionals.
- Advocacy workers.
- Managers of service provision (health and social care).
- Social workers/learning disability community nurses.

The events were rolled out as three x two day events. It was determined that day 1 and day 2 would be held approximately 2 months apart. This would enable participants to put into practice the action plan that they determined as part of the work on day 1.

This would mean that the focus on day 2 would be upon the achievements, learning and barriers to implementation experienced by the course participants in the two month period between the development days. This would enable good practice to be shared with the rest of the group and to problem solve around any issues.

This would mean that whilst the first day's agenda and plan would be the same for all 3 groups, the second day would be negotiated to meet the requirements of each group and would be individually tailored.

Elaine Hardie's role was to:

- Plan the workshops in line with the funding application and in partnership with BILD.
- Facilitate each day, providing learning input and ensuring aims and objectives were addressed.
- Provide information and handouts that would support each session.
- Evaluate day 1 for each group and to use this as the foundation for the planning and delivery of day 2. This would address the issues raised by each group's individual action plans.
- Challenge and develop the assumptions of course participants.
- Signpost participants to additional resources.

Dates of events

The London events to take place on 22nd April, 2008 and 13th June 2008.

The Manchester events took place on 24th April 2008 and 19th June, 2008.

The Cardiff events took place on 25th April 2008 and 20th June, 2008.

Course Participants

The participants on all three events consisted primarily of managers and front line staff from service provider organisations. However, the groups also consisted of advocacy workers, commissioners, specialist health workers and housing workers.

London – 29 participants attended on both days. Including staff from Turning Point, Salvation Army, Nestor Health Care, Wigan and Leigh People First, Real Life Options, Cambian Education Services, Cambridgeshire County Council, Westgate College for the Deaf, Turnstone Support, Southwark CLDT, Orchard Hill, College, Southern Cross.

Cardiff – 40 participants attended day 1; 28 participants attended day 2, including staff from MacIntyre, Value Plus, Opportunity Housing Trust, Cornerstones UK Ltd, New Beginnings, Norwood Stable Family Home Trust, Clifford House, Madus Care Ltd.

Manchester – 22 participants attended on both days including staff from Wargrove House School, Voyage, Quest Haven, United Response, Mencap, Landgate school, Penhurst School, East Lancs Advocacy, Salford JTKLD, Nugent Care.

The wide range of participants was appreciated and viewed as a real strength of the events. This was frequently commented on in the evaluation forms including:

“having delegates from a diverse section of the workforce made shared experience very valuable”.

Day 1

As outlined above, the programme for Day 1 was the same for all three initial events. (see attached flyer)

The aim of the first day was:

- To give the participants the opportunity to reflect on how the Mental Capacity Act will impact on individuals with complex needs who they support.
- The impact on their role, service and organisation.
- To equip participants with the tools and confidence to implement the Act in their organisation.

Planned Outcomes of Day 1

- To fully understand the 5 principles of the Mental Capacity Act and reflect on what this means for their practice and their organisation.
- To understand “best interests” and the implications for staff and their organisation.
- To understand how an “assessment of capacity” is made.
- To highlight issues of effective communication
 - With individuals who have high support needs
 - With people from black and minority ethnic communities
 - With all involved in the support of individuals, including family carers
 - How decisions under the Mental Capacity Act should be recorded
- Identifying areas of support for staff.
- Considering how the Act can support Person Centred Approaches with particular references to cultural differences.
- Reflecting how organisations “measure up” in implementing the Mental Capacity Act.
- To enable each course participant to complete a personal action plan to implement back in the workplace.

Summary of 1st Day Events

- The programme worked well, although some of the course participants lacked understanding of the implications of the Act.
- The groups in Manchester and London were very eager to think through and learn how the Act could impact on the lives of the people being supported. There was considerable interaction and positive learning.
- The group in Cardiff had an imbalance of participants from a single health setting who were quite negative about the Act, but who also wanted definite answers and pre-prepared assessment tools provided for them. The focus of these events was upon participants being able to respond to the information provided to determine for themselves the best ways of implementing the Act for the people they support.

It is significant that the some of the negative course participants did not attend on the second day in Cardiff and this led to a better learning experience.

Aim of Day 2

- To deliver a “bespoke” day for each group of participants that will look at what has worked well for them in terms of implementing their personal actions in the work place.
- To highlight some of the barriers to effective implementation of their actions and to problems solve around these.

Outcomes of Day 2

- To share and reflect on what has worked well for participants around implementing the Mental Capacity Act.
- To highlight some of the barriers to effectively implementing the Mental Capacity Act and to learn lessons form these.
- To consider a range of issues highlighted by each group on Day 1.
- To develop appropriate guidance and tools to help in the implementation of the Act.

Identified Issues Explored in Day 2

- Each group identified areas to concentrate on during the second day, and Elaine Hardie was able to complete additional research around the specific issues to locate and develop useful tools and examples to use as case studies.
- Although the learning outcomes were the same, the days were very different as the identified issues were different for each event.

- In London, group discussions were as follows:

Group 1

- a) Role of Independent Mental Capacity Advocates
- b) What information is required by support staff
- c) Advocacy and funding

Group 2

- a) Deprivation of Liberty Safeguards
- b) What information is required by staff – policies and procedures
- c) Working with decision makers – who can challenge

Group 3

- a) People opting out – flexibility of services
- b) Decision making documentation
- c) Use of images

Group 4

- a) Assessment tools
- b) Guidelines and policies
- c) Monitoring implementation

Group 5

- a) Monitoring the implementation
- b) Deprivation of Liberty safeguards
- c) Decision making flow chart

- In Manchester, group discussions were as follows:
 - Group 1
 - a) Safeguarding adults
 - b) Independent Mental Capacity Advocates
 - c) The interface between the Mental Capacity Act and the Mental Health Act
 - Group 2
 - a) Case studies focussing on person centred approaches
 - b) Links to other legislation
 - c) Deprivation of Liberty Safeguards
 - Group 3
 - a) Assessing capacity
 - b) Recording decisions
 - c) Case studies
 - Group 4
 - a) Assessment of need/planning/delivery/monitoring/continuing process
 - b) Avoiding pitfalls
- In Cardiff, group discussions were as follows:
 - Group 1
 - a) Legal issues required documentation
 - b) Case studies
 - Group 2
 - a) Deprivation of Liberty Safeguards
 - b) Complex decisions – assessment flow chart
 - c) Best interests
 - Group 3
 - a) Resources to aid communication
 - b) Case studies focussing on assessment of capacity
 - c) Individual Mental Capacity Advocates
 - Group 4
 - a) Recording significant decisions
 - b) Balancing the duty of care against “unwise” decision making
 - c) Challenging decisions

Summary of Day 2

- The Manchester and London days went very well. The participants shared the work they had completed since Day 1, and brought a wide range of case studies and assessment tools to share with the rest of the group.
- Day 2 at Cardiff, was much more productive, and once again, participants brought case studies, issues and tools to share with the group.
- Participants were encouraged to share contact details with others in their group to ensure that support networks were developed to support participants following the completion of these events.

Evaluations

- Apart from the feedback from some participants at day 1 in Cardiff, the written evaluations have been almost universally positive.
- Many participants praised the knowledge and facilitation skills of Elaine Hardie, especially in being able to address a wide range of individual issues.
- Areas identified as being addressed well include:
 - The implications of the Mental Capacity Act
 - How to implement the Act in organisations
 - How to use person centred approaches to make the Act work for individuals with complex needs
 - The cultural change required to implement the Act
Including choice/decision making in individual support/care plans
 - Assessment tools
 - IMCA's
 - The potential impact of the Deprivation of Liberty Safeguards
 - Impact on small every day decisions as well as larger decisions
 - Recording formats
 - Practical applications via case studies
 - "best interests"
 - How to challenge a decision maker's decision
 - Addressing capacity issues in support/care plans
 - Specific issues for black and minority ethnic communities
 - Developing communication strategies
- Areas identified for future learning and development include:
 - Further opportunities for front line staff to understand the Mental Capacity Act and its implementation
 - "train the trainers" training for organisations about the Act
 - Training on Deprivation of Liberty safeguards
 - Linking the principles of the Act to person centred approaches
 - Training for people with learning disabilities about the Mental Capacity Act
 - Training for families and family carers

Conclusion

- BILD has delivered the planned training and development events
- The action planning focus worked well with course participants able to work on the issues relating to the people they support before returning for day 2
- However, the implementation of the Mental Capacity Act is dependent on all stakeholders provided with sufficient information, skills, tools and support on being on an ongoing basis. Course participants were able to develop a good level of understanding of the implications of the Act for the people they support. It is apparent that addressing communication and choice and decision making for people with learning disabilities and complex needs requires considerable support and input.

Keith Smith
Chief Executive