

## Best Interests Assessor

SW7035

(Level 7, 30 Credits)

Undertaking this module will lead to qualification as a Best Interests Assessor. Best Interests Assessors undertake an important statutory role within the Mental Capacity Act 2005 Deprivation of Liberty Safeguards (the statutory framework to empower and protect vulnerable people who are not able to make their own decisions). The Act is based on the principle that adults have the right to take their own decisions about their lives, including decisions about their care and support. The Mental Capacity Act 2005 applies to England and Wales.

The Mental Capacity Act Deprivation Of Liberty Safeguards provide a legal framework that applies to people in hospitals and care homes who lack the capacity to consent to the arrangements made for their care or treatment and who need to be deprived of their liberty in their own best interests. The Best Interests Assessor needs to decide whether a deprivation of liberty is occurring, or is likely to occur, and, if so, whether the deprivation of liberty is in the best interests of the person being assessed. In order to undertake this role, professionals need to undertake successfully a recognised training programme.

### Why undertake Best Interests Assessor training at Kingston and St George's?

- 5 day training programme at Master's level (30 level 7 credits) offered at regular intervals throughout the year
- A highly experienced and well qualified academic team deliver the programme, including Tim Spencer-Lane, Lead Lawyer from the Law Commission.
- Regular Assessment Boards enable trainees to proceed in a timely way to qualification and practice
- An additional post-qualification workshop "**Safeguards in Action - Mental Capacity Act 2005 and Deprivation of Liberty Safeguards**" is offered free of charge to those who have taken our module. This will enable newly qualified Best Interests Assessors to share their experiences, gain peer support and enable a reflection of practice alongside an identification of future learning and support needs.
- Attendance to **one free "Best Interest Assessor Refresher Training"** that will include legal updates and an opportunity for case discussion.

### What are previous Kingston BIA students saying about our course?

*"Clear and supportive teaching which was certainly able to inform me and prepare me for practice"*

*"All elements were informative, interesting and useful"*

*"Thank you for your support and making us feel comfortable to facilitate the learning process"*

*"Thank you again for the wonderful support on the course"*

## **WHO IS ELIGIBLE TO UNDERTAKE THIS BEST INTERESTS ASSESSOR TRAINING MODULE?**

This module is only available for those in the following professional groups, who must have at least two years post registration experience at the point of commencing the module (Mental Capacity Regulations (2008))

- a) approved mental health professionals;
- b) social workers registered with the HCPC;
- c) first level nurses, registered in Sub-Part 1 of the Nurses' Part of the Register maintained under article 5 of the Nursing and Midwifery Order 2001 (e);
- d) occupational therapists registered in Part 6 of the register maintained under article 5 of the Health Professions Order 2001(c); or
- e) chartered psychologists who are listed in the British Psychological Society's Register of Chartered Psychologists and who hold a relevant practising certificate issued by that Society

Please note that in addition to the above criteria the student will need to provide a 'Third Party Testimony'. This Testimony must be provided by a relevant professional who can confirm competence to practice with people who lack mental capacity and has the ability to keep appropriate records and to provide clear and reasoned reports in accordance with legal requirements and good practice.

## **AIMS**

This module aims to:

- To enable students to undertake the statutory role of the Best Interests Assessor in applying the principles and provisions of the Mental Capacity Act 2005 and Deprivation Of Liberty Safeguards in practice.
- To keep appropriate records and to provide clear and reasoned reports in accordance with legal requirements and good practice.
- To develop the skills necessary to undertake the Best Interests Assessor role in a person centred manner that promotes human rights and recognises the capabilities and strengths of vulnerable people within a rights-based approach.

## **LEARNING OUTCOMES**

On successful completion of the module students will be able to:

- Apply an extended knowledge and critical analysis of the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards and the related code of practice and relevant case law.
- Justify that they have the skills necessary to obtain, evaluate and analyse complex evidence and differing views
- Construct a critical analysis of the application of law in practice.
- Analyse the complexity of the ethical issues arising from power and cultural issues involved in best interests assessments

## CURRICULUM CONTENT

**Part 1** - 'The Mental Capacity Act 2005' covers the principles, key provisions and situated use of the law in this complex area of practice.

- Mental Capacity Act 2005 principles and statutory provisions
- Consent
- Assessing mental capacity
- Best interests
- Role of the Independent Mental Capacity Advocate (IMCA)
- Autonomy and Mental Disorder
- Tensions between clinical, human rights and legal concepts of capacity
- Understanding of the Mental Capacity Act 2005 within the context of the Care Act 2014 and the Knowledge and Skills Statement for Adult Social Workers.

**Part 2** - 'Deprivation of Liberty Safeguards in Practice' builds on and further develops the learning covered in Part 1 focusing on the use of the Deprivation of Liberty safeguards.

- Deprivation of Liberty Safeguards/MCA – legislative framework and case law.
- Best Interests Assessor role
- Utilisation of the balance sheet approach to best interest determinations.
- Optimising decision making through empowering practice.
- Maximising decision-making capabilities through participation and consultation, particularly with family and carers.
- Restriction of Movement vs Deprivation of Liberty
- Article 5 European Convention on Human Rights
- Interface between Mental Health Act 1983 and Mental Capacity Act 2005
- Anti-Oppressive Practice
- Values, Rights, and Ethics underpinned by the five Statutory Principles of the Mental Capacity Act 2005
- Proposed changes to the MCA/DOLS legislative framework proposed by the Law Commission.

**Part 3**- 'Third Party testimony' provides an additional foundation to the learning covered in Parts 1 and 2.

The third party testimony provides confirmation from the practice agency that the student is able to keep appropriate records, provide clear and reasoned reports and is competent to practice with people who lack mental capacity. The professional responsible to complete the required 'Third Party Testimony' must be approved by the programme as having relevant knowledge of the Mental Capacity Act and Deprivation of Liberty Safeguards to provide such a testimony.

## HOW YOU WILL LEARN ON THIS MODULE

This module will build on the practitioner's existing knowledge of the Mental Capacity Act 2005 by providing opportunities to integrate practice and theory and explore the ethical complexities of balancing the complexities of applying the Mental Capacity Act 2005 in practice. This will be achieved by a combination of lectures, seminars, small group discussions, and workshop activities. This will be supported by further learning materials available via StudySpace together with an interactive online forum. Teaching and learning will also be supported by a range of professionals with expertise in the field.

## TIMETABLE OF LEARNING SESSIONS:

Venue	Kingston Hill campus, Kingston University KT2 7LB (free parking is available)	
Date	Start	End
<b>Provisional Dates, TBC.</b> Monday 28 <sup>th</sup> October 2019	10:00	16:00
Tuesday 29 <sup>th</sup> October 2019	10:00	16:00
Wednesday 30 <sup>th</sup> October 2019	10:00	16:00
Monday 4 <sup>th</sup> November 2019	10:00	16:00
Tuesday 5 <sup>th</sup> November 2019	10:00	16:00

### HOW YOU WILL BE ASSESSED?

Students will complete a 3,500 word essay based on a selected practice case study that enables them to demonstrate an applied knowledge of the legislative framework of the codes of practice and case law related to the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards. Students are required to demonstrate a person centred and empowering approach in their application of the law.

The essay must be supported by a signed confirmation of the student's competence to practise with people who lack mental capacity. This is evidenced by the 'Third Party Testimony'.

### SUGGESTED PRE-MODULE READING

Bartlett, P. and Sandland, R. (2013) *Mental Health Law: Policy and Practice*. 4<sup>TH</sup> edn. Maidenhead: Open University Press.

Brown, R., Barber, P. and Martin, D. (2015) *The Mental Capacity Act 2005 A Guide for Practice*. 3<sup>rd</sup> edn. London: Sage.

Graham, M. (2015) *A Practical Guide to the Mental Capacity Act 2005: Putting the Principles of the Act into Practice*. London: Jessica Kingsley Publishers.

John, R. (2014) *Capacity and Autonomy* London: Palgrave Macmillan

Keene, A. (2014) *Court of Protection Handbook A User's Guide*. London: Legal Action Group.

### APPLYING FOR THE MODULE:

You should apply on line at <http://www.kingston.ac.uk/postgraduate-module/post-qualifying-social-work-modules/>

**Costs** This module costs £ 1,560 in the academic year 2019-20. This cost also includes an additional post-qualification workshop for newly qualified BIAs and attendance to one free "Best Interest Assessor Refresher Training" that will include legal updates and an opportunity for case discussion.

**If you require further details about the module,** please contact  
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Kingston Hill  
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KT2 7LB  
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**Alternatively contact the module leaders:**

Simon Abbott at [S.Abbott@sgul.kingston.ac.uk](mailto:S.Abbott@sgul.kingston.ac.uk)

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