

Appendix 4

AIDE-MEMOIRE

MENTAL CAPACITY ACT

The Mental Capacity Act places legal obligations on the appointee when making decisions on behalf of the claimant. When discussing their responsibilities you must mention the following:

- The appointee must always act in the best interests of the customer. This includes managing and spending any benefits in a way that best serves the interests of the customer.
- Decisions on how benefit money is spent must reflect the customer's individuality. This means the appointee should take account of the customer's feelings, beliefs and values. They cannot take account of their own feelings etc in making these decisions.
- If the customer becomes capable of managing their own affairs the customer and appointee must tell the Department.
- If a customer has lucid moments or periods where they are able to make decisions, the appointee must use these to ask the customer about spending options.
- The appointee must report any changes in the customer's circumstances.
- If the appointee is responsible for paying care home fees and/or fees for social care services eg help at home, they must do so. Ideally a direct debit or standing order should be set up with the LA or care provider.
- They must not take a "fee" or "pay" for acting as an appointee.
- It is a criminal offence to ill-treat or wilfully neglect the customer.
- Appointeeship is a position of trust. If it is abused, the appointeeship will be revoked.

You must also ensure that the prospective appointee has, where it is relevant, cleared his request to act with any other interested parties eg other family members, next of kin.

