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■ Capacity Legislation and the Challenges of Implementation

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■ Lack of Knowledge of Act

- problem among service users, professionals, carers.
 - Lack of advance planning

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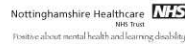


■ Problem of Scale

- Capacity issues can cover virtually any decisions in any setting: who is in charge of implementation?
 - Professional regs/guidance
 - Inspection/audit criteria
 - Public awareness campaigns?

Can't rely on P to enforce.

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■ Flexibility of Language

- 'use and weigh' information; 'all relevant circumstances' for BI [Irish Act: will and preferences if 'practical']
- 'wishes and preferences'
- 'concertina' effect

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■ Professional Colonization

- Nuances of language glossed over
- 'collegiate' decision-making
- Professional ethos and risk aversion

- Training issue???

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■ Courts

- Costs and delays
- Time and situation specific decisions?
- Conflicting jurisdictions

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■ Role of P in Court

- Jurisdictional threshold
- Role of litigation friend
- P's evidence

- P's presence in court

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■ DOLS

What are they for?



Cf *Trust A v X* [2015] EWHC 922 (Fam).

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Good luck.

[and thanks for listening]

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A video of this talk is available. Follow the links at www.ucc.ie/law/docs/mentalhealth/conferences/capacity-2016.shtml