

*These notes refer to the Mental Capacity Act 2005  
(c.9) which received Royal Assent on 7 April 2005*

# MENTAL CAPACITY ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: the Court of Protection and the Public Guardian**

##### **Supplementary powers**

##### *Section 49: Power to call for reports*

134. This section makes provision for reports to assist the court in determining a case. Such reports can be commissioned from the Public Guardian, local authorities, NHS bodies or Court of Protection Visitors. The Public Guardian is a new statutory official (see [section 57](#)) and the Court of Protection Visitors replace current “Lord Chancellor’s Visitors” (see section 102 of the Mental Health Act 1983 and [section 61](#)). Local authority staff or NHS staff may already be providing services to the person concerned and be able to report to the court on the basis of their existing involvement.
135. *Subsections (7) to (9)* allow the Public Guardian or Court of Protection Visitor who is reporting to the court to have access to health, social services or care records relating to the person and interview him in private. Where a Court of Protection Visitor is a Special Visitor (e.g. a registered medical practitioner or someone with other suitable qualifications or training) he may, on the directions of the court, carry out medical, psychiatric or psychological examinations.