



The Ulster University Law Clinic welcomes the opportunity to comment on the draft Mental Capacity Bill, introduced into the NI Assembly on 8 June 2015.

The Ulster University Law Clinic is a core element of the LLM Clinical Legal Education, which trains post-graduate law students to provide social security and employment law advocacy. As part of the LLM Clinical Legal Education, students provide free legal advice and representation to members of the public, under the supervision of Law School staff, through the Ulster University Law Clinic and through placements with the Legal Support Project at the Law Centre (NI). The Ulster University Law Clinic is the only public-facing law clinic on the island of Ireland, and the first post-graduate law clinic in the UK.

The Ulster University Law Clinic has considered the draft Bill in the context of the responses to the September 2014 consultation, and in particular the comprehensive submission of the Law Centre (NI) to DHSSPS, and we endorse the views expressed in that submission. We are pleased to note the Department's decision to adopt a capacity based approach to the current draft Bill, and we underline our support for the views expressed in the Law Centre (NI) submission that appropriate safeguards are vital to protect the rights of those who lack capacity. We would also point to the recent evidence given to the Justice Committee by Colin Stutt, author of the *Access to Justice Review 2*, which addressed the need to consider the vulnerability of adults within the justice system and the importance of addressing the capacity of adults as part of the human rights protections provided by Article 6 ECHR. We confine our response to clauses dealing with the statutory obligation to provide an independent advocate. We welcome the principle behind the clauses, but reiterate concerns articulated by the Law Centre (NI) in its September 2014 submission that the independent advocate should be commissioned independently of the HSC by the Health and Social Care Board and should have a clear role which may include challenging a decision that P lacks capacity. We would encourage the Committee to take further account of these concerns in its consideration of the draft Bill.

July 2015.