The Scottish Law Commission is an independent body which advises the Scottish Government on law reform. We do this by studying particular areas of law to see if changes need to be made. Changes might be needed to make the law clearer or because the law has become out of date.

At present, we are studying some of the law affecting adults who do not have capacity. If a person has capacity to decide something, it means that they understand what is involved and can make up their own mind what should happen.

Sometimes people with learning disability, or dementia, or brain injury, need to be looked after in care homes or hospitals. But they do not have capacity to make their own decisions about where they should live. Perhaps that decision will be made by a relative. Perhaps a court will be involved. A guardian may be appointed to look after the person's interests and to decide where they should live.

But there are risks that those steps might take away too much of the person's freedom. So we are checking that the laws in Scotland do protect the person's freedom as much as possible, while still also making sure that they are safe and receiving the care they need. We are now consulting the public about these matters. After we have received responses to the Consultation, we will write a Report with recommendations for any changes in the law, which will have to be made by the Scottish Parliament.

If you, or a friend or relative, might be affected by these issues and would like to give us your views, we would be glad to hear from you. We have a Discussion Paper, which sets out the law in detail and has a list of questions at the end. There is also a short version of the paper. If you would like to read either of those, you can do so at

www.scotlawcom.gov.uk/consultations

and use the reply form. If you would like to send a letter you can write to us at:

Scottish Law Commission
140 Causewayside
Edinburgh
EH9 1PR

Or e-mail
Susan.sutherland@scotlawcom.gsi.gov.uk

Scottish Law Commission
promoting law reform

Looking at the law on residential care for adults with incapacity