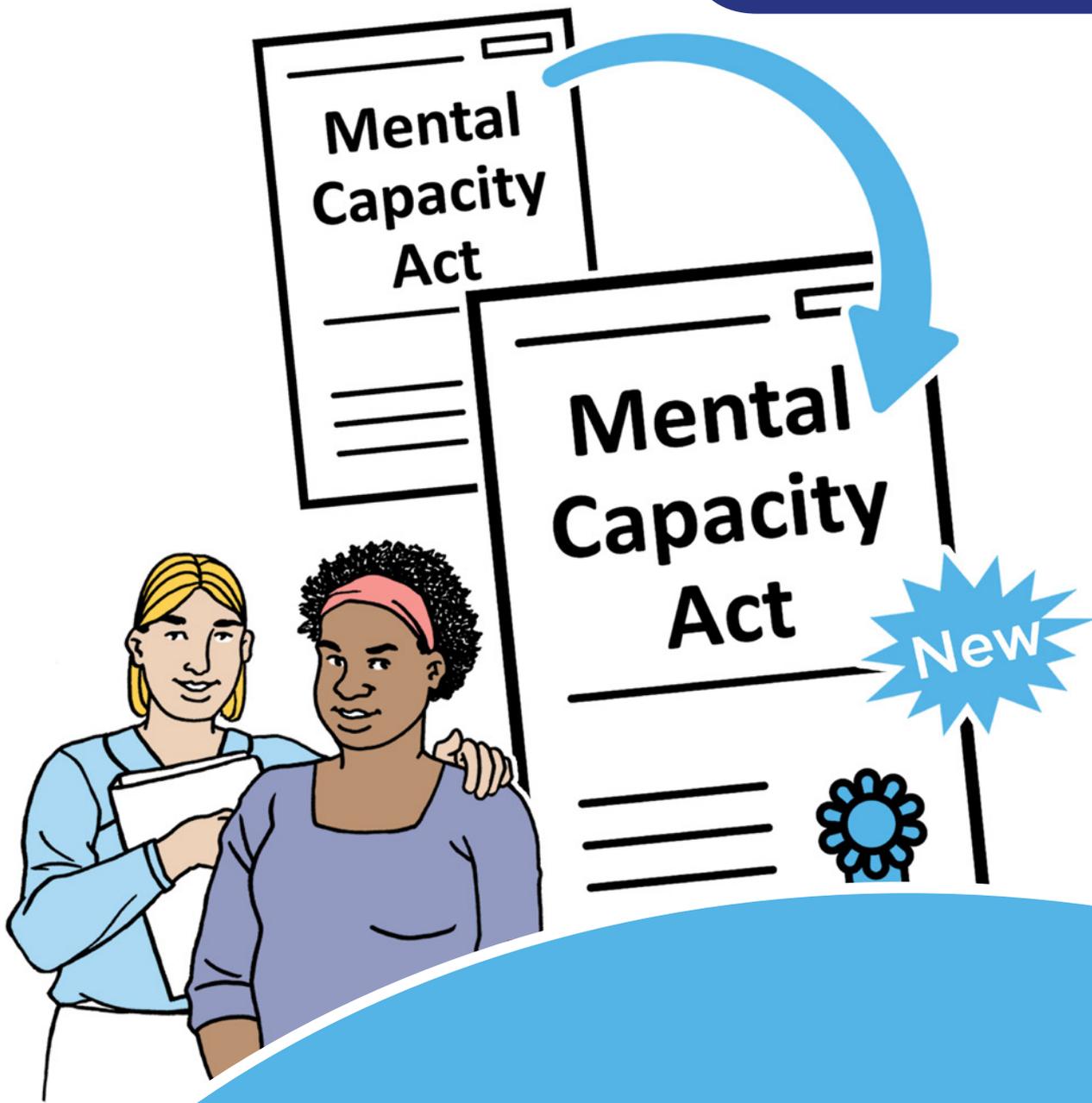


easy read



Mental Capacity (Amendment) Bill

What is changing?

The Mental Capacity (Amendment) Bill

What is changing?



The government needs to change the law and we need your help to get it right.



The Mental Capacity Act 2005 is the law that says when a person can make their own decisions and when other people can make decisions for them.



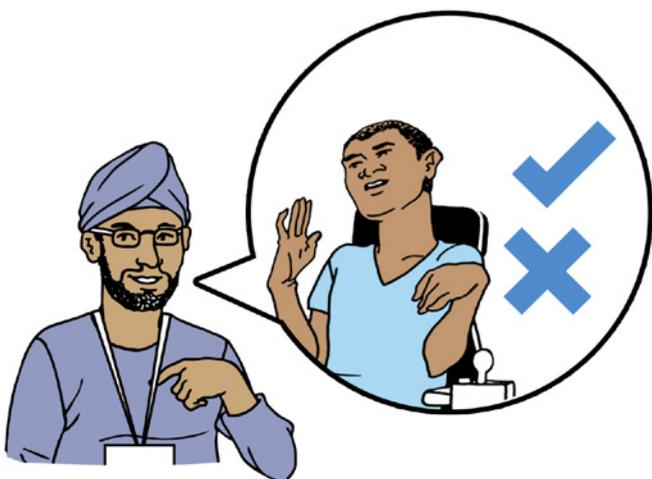
These decisions can be where someone lives, what medical treatment they get, how they spend their money or time.



Mental capacity is whether or not someone has the right mental skills to be able to make a decision. If someone has mental capacity, they can make decisions for themselves.



If someone needs help to decide, other people have to give them help. This is called supported decision-making.



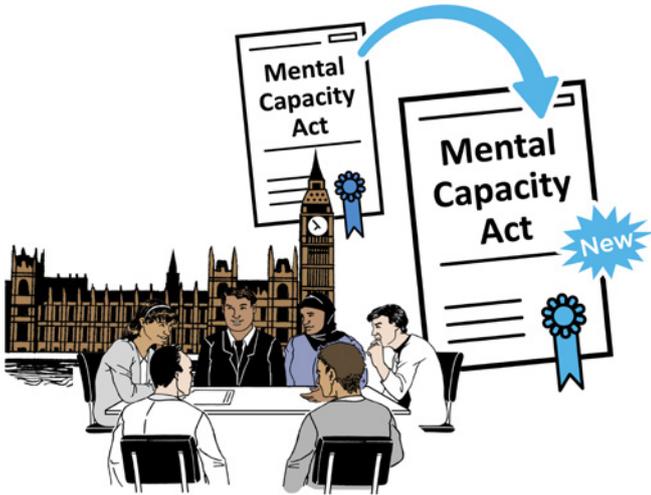
If someone cannot decide with help, they do not have mental capacity. In this case, someone else decides with them in their best interest.



However, sometimes this best interest decision is not the same as what that person wants.



Around 2 million people in England and Wales cannot make their own decisions. This is because of a learning disability, dementia, brain injury or other conditions.



The Mental Capacity (Amendment) Bill is a proposed new law that is being discussed in Parliament. If Parliament agrees, it will become the law and the Mental Capacity Act will change.

What are the “liberty protection safeguards”?



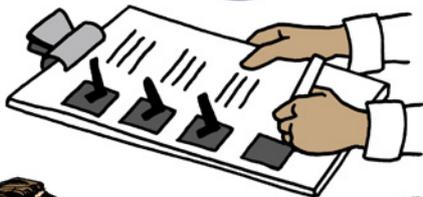
Some people living in care homes, hospitals, supported living and other places are not able to decide where they live. They do not have the capacity to decide for themselves.



Some people need somebody with them most or all of the time to keep them safe. This is called being “deprived of liberty”.



It means that someone independent needs to check whether their care is in their best interests.



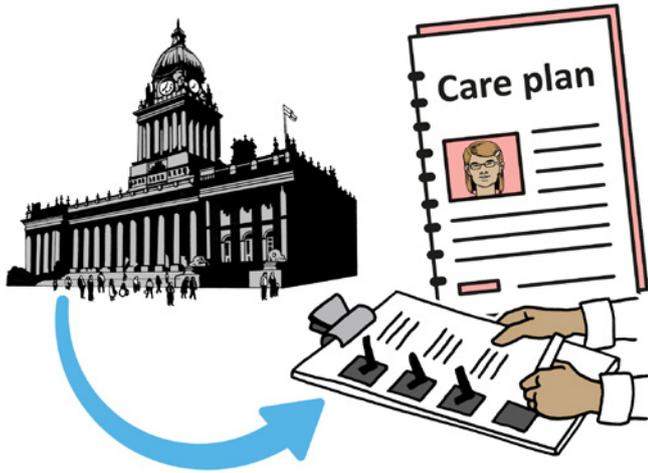
At the moment, thousands of people are deprived of liberty, but without an independent check.



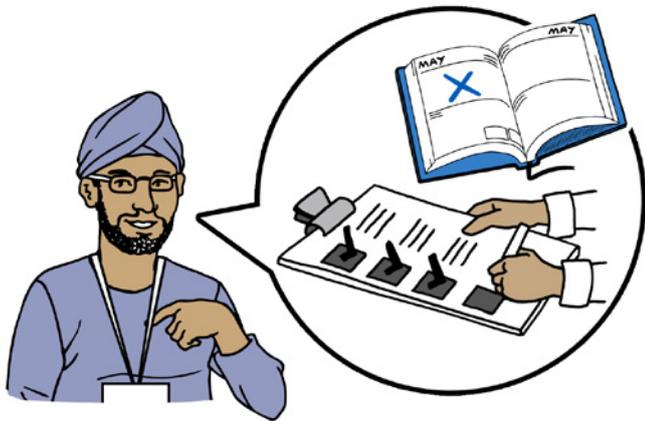
The new bill has liberty protection safeguards.

These are measures to make sure these checks take place.

What does the new law say?



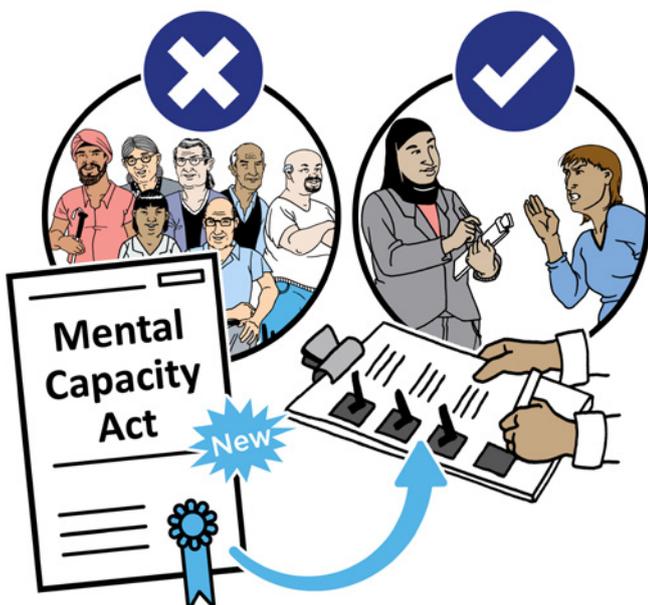
The current law says that local authorities provide assessors to check if care plans are in the best interests of the people in care.



Under the new law, the care home managers would arrange assessments for people deprived of liberty.



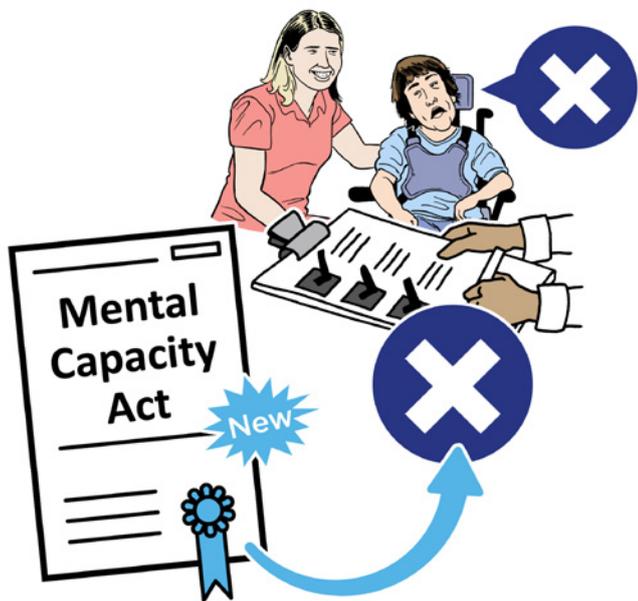
The current law says that everyone gets someone independent to look into their care.



Under the new law, only people who complain about the care they receive would get an independent assessment.



The current law says that the assessor needs to decide if the care is in the best interest of the person in care.



Under the new law nobody will independently assess whether the arrangements are in the person's best interests unless the person complains.



Some people have chosen someone to make decisions for them through a legal document called a Lasting Power of Attorney. Sometimes the court can name someone who can make a decision for a person. They are called "deputies".



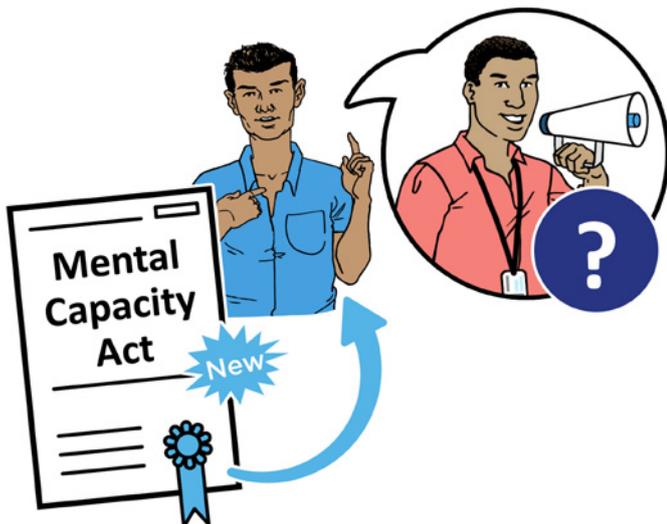
The current law says these people can say no to deprivation of liberty.



The new law does not say if a deputy or someone who has a welfare Lasting Power of Attorney can say no to a deprivation of liberty.



The current law says an independent advocate must be given to the person in many cases.



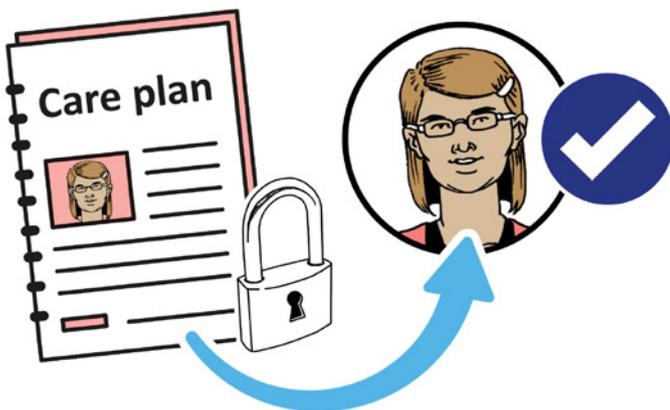
The new law says that if a person has capacity, they can ask for an advocate. If they lack capacity, others decide if an advocate is in the person's best interests.



The current law says that a doctor assesses if a person has a mental disorder.



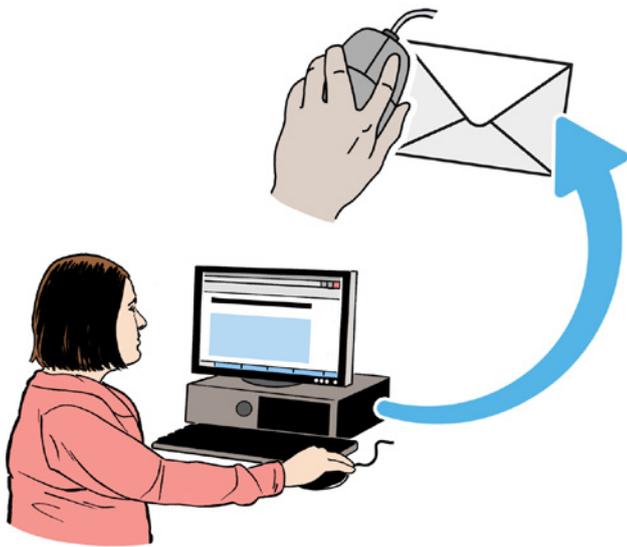
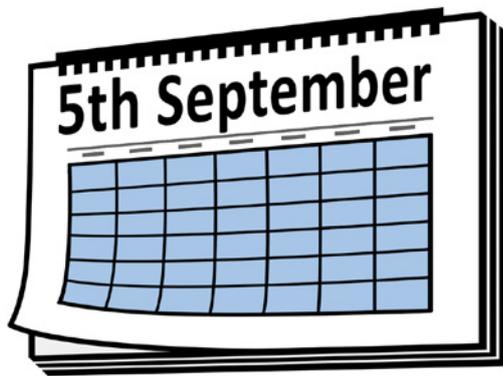
The new law says that a doctor assesses if someone has an “unsound mind”.



The current law says the care plan restrictions aim to prevent harm just to the person.



Under the new law, restrictions might aim to prevent harm to the person in care or to other people.



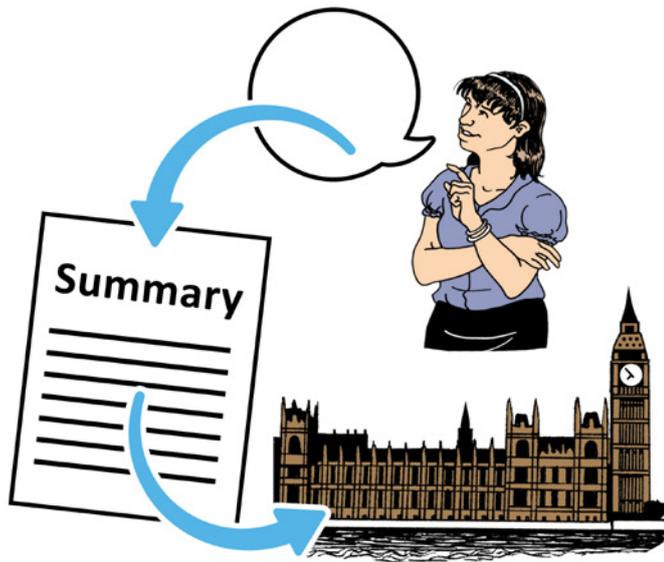
Your views are very important. Please let us know your views by answering any of the following questions.

We have until the 5th of September to get your views.

To do so, please fill in this survey and email it to us at **mcab@39essex.com**

You can also print it off and post it to:

**Mental Capacity Amendment Bill,
39 Essex Chambers,
81 Chancery Lane,
London, WC1A 2DD**



We will take a summary of your answers to this survey to the Minister. We may also publish this summary of your answers and of what the Minister had to say about them.

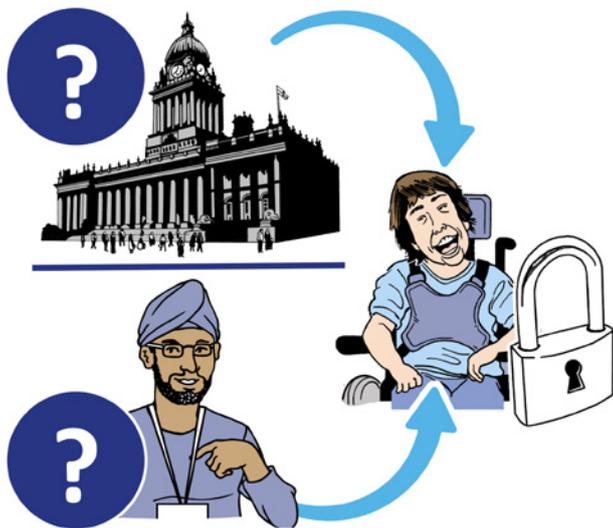
Questions



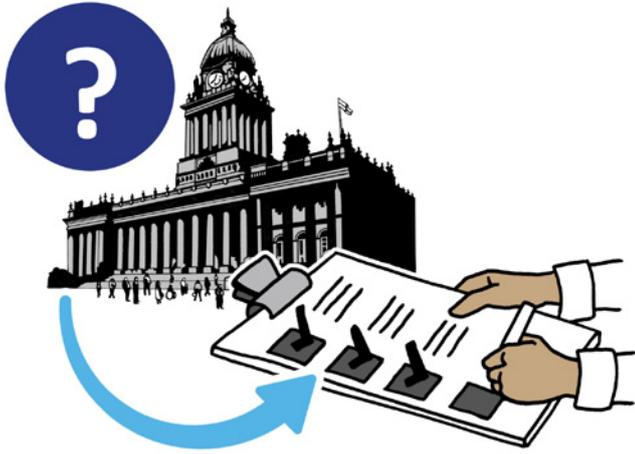
1. Should people be given the right by law to say who they want to support them to make decisions?



2. When should someone else be able to make a decision which is different to what the person wants?



3. Should care home managers or local authorities assess whether a person should be deprived of liberty?



4. When should someone get an independent assessment from the local authority?

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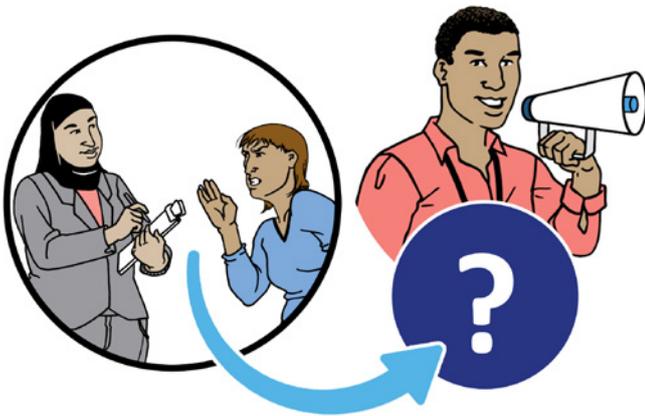


5. Should it be up to care homes to decide if a person gets an advocate?

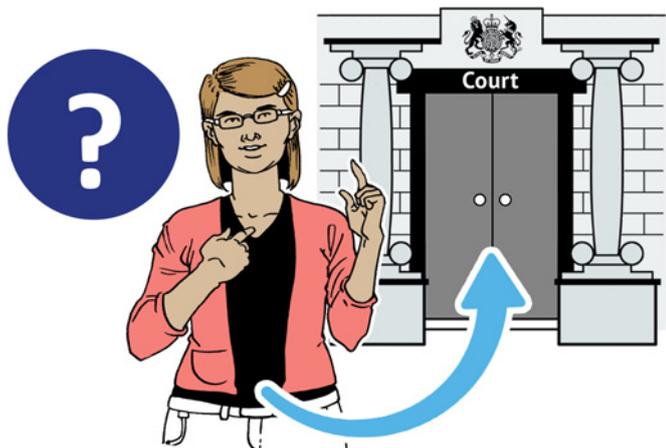
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6. Which people need an advocate?



7. What should advocates do when a person is complaining about their care?



8. When should people have the right to go to court and tell the judge what they think about their care?

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9. Is there anything else you would like to say about these proposed changes to the Mental Capacity Act?

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Lucy Series, Victoria Butler-Cole and Neil Allen have written this with the help of CHANGE to make the government ideas clear.



CHANGE

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