



What social care staff need to know about the Mental Capacity Act

The Mental Capacity Act



The Mental Capacity Act (MCA) applies to everyone who works in health and social care and is involved in the care, treatment or support of people aged 16 and over who are unable to make all or some decisions for themselves. It is important that people working in social care know about the MCA and what it means for how they support people.



Just because a person has learning disabilities it does not mean they lack the capacity to make a specific decision. The Act says we should assume someone has capacity to take a decision unless there is reason to suspect that they do not.

People need to get the right support to help them make decisions. This means they need to be given information about the decision in a way that gives them the best chance to understand it. All possible steps should be taken to help someone make a decision for themselves.



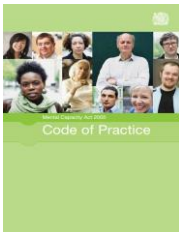
If someone is able to make a decision, they have the right to decide in ways others may think unwise. Making an unwise decision is different to not having capacity to make that choice.

Assessments of capacity must be about a specific decision, at a specific time. It cannot be said that someone doesn't have capacity to make decisions generally. Almost everyone is able to make some decisions about their life, but may not have capacity to make all decisions. Some people who lack capacity to make a decision at a certain time may be able to make it at a later date.

Different people will be involved in assessing someone's capacity to make different decisions at different times. For example, a support worker might need to assess if the person can agree to being bathed. A doctor would need to assess if a person can consent to treatment.



What if the person does not have capacity to make a particular decision?



If a person has been assessed as not having the capacity to make a particular decision then a 'best-interests' decision should be made. The 'decision-maker' is the person who will carry out the action, so doctors or nurses are likely to be the decision makers about medical treatment. They must consult with those who are significant to the person, such as their family or carers who know them well, but they cannot ask anyone else to make the decision or 'consent' to treatment on behalf of the person. If it is a big decision there may need to be a best-interests decision making meeting.

The **MCA Code of Practice**¹ gives a checklist of things to consider when trying to work out what is in someone's best interests. This includes things like thinking about the person's past and present known feelings, wishes and values. The person who lacks capacity to make a decision should still be involved in the decision-making process as much as possible.



A record should be kept by the decision maker of how the best-interests decision was reached.

What is in a person's best interests may well change over time. This means that the person's best interests should be regularly reviewed.

Anything being done to or for a person in their best interests should be the least restrictive option possible. This means the decision-maker must consider whether they could do this in a way that interferes less with the person's rights and freedom of action.



For decisions about serious medical treatment or certain changes of accommodation if the person does not have anyone to support them (other than paid staff) you should consider whether you need to involve an independent mental capacity advocate (IMCA). This person will **represent and support them**.² Find out how you can make a referral for an IMCA.

Where can I find out more information about the MCA?



The Code of Practice gives guidance for decisions made under the MCA.

There is **guidance about the MCA**³ for people who work in social care.

NHS Choices⁴ has further information about the MCA.

SCIE's website⁵ has information about the MCA as well as **videos**.⁶

Key messages:

- people working in social care need to know about the MCA and what it means for the people they support
- someone can lack capacity to make some complex decisions but still have the capacity to make other simple decisions
- people need the right support to help them make decisions
- people have the right to make unwise decisions. This does not mean they lack capacity
- if a person cannot make a specific decision then a decision should be made in their best interests

This is the fourth in a series of health factsheets for social care staff. You can find others and more [guidance](#) for social care providers.

There is a [supporting set of slides](#) for this document that can be used by social care staff as a training resource.

The pictures in this factsheet are from Photosymbols: www.photosymbols.co.uk

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¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497253/Mental-capacity-act-code-of-practice.pdf

² <http://www.scie.org.uk/mca/imca>

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/348440/OPG603-Health-care-workers-MCA-decisions.pdf

⁴ <http://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/mental-capacity.aspx>

⁵ <http://www.scie.org.uk/mca/introduction/mental-capacity-act-2005-at-a-glance>

⁶ <http://www.scie.org.uk/dementia/resources/dementia-videos.asp>