

The Mental Capacity Act 2005 (MCA)

About the Mental Capacity Act

The MCA applies to everyone working in social care, health and other sectors who is involved in the support and treatment of people aged 16 and over who live in England and Wales, and who are unable to make all or some decisions for themselves.

The MCA governs decision-making on behalf of adults who may not be able to make particular decisions.

This could be because of, for example:

- a learning disability
- an illness such as dementia
- mental health problems.

It's important to remember these do not in themselves mean that a person lacks the capacity to make a particular decision. The Act and its codes of practice set out:

- who can take particular decisions on someone else's behalf
- when and how a decision can be taken
- when and how people who lack capacity to take decisions about their care and welfare can
- be deprived of their liberty to get the care they need in a hospital or care home.

The Mental Capacity Act was fully implemented on 1 April 2009.

Principles of the Mental Capacity Act

No-one can apply the MCA correctly without knowing these five key principles. The 5 Key Principles of the MCA are:

1. everyone must be assumed to have capacity to take a decision unless it is shown they do not
 2. people cannot be treated as lacking capacity unless all practicable steps have been taken to help them make the decision
 3. people do not lack capacity just because they make an unwise decision
 4. decisions and acts taken for people who lack capacity must be in their best interests
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5. consideration must always be given to whether their best interests can be served by a different approach which is less restrictive of their rights and freedom.

The MCA prohibits blanket decision-making on behalf of people with capacity issues and introduces a functional test of capacity that is time and decision specific.

It requires everyone who cares for or treats people with capacity issues to respect their individual rights and to act in their best interests when making decisions on their behalf.

Importantly, the MCA says a person's capacity must always be assessed in relation to a particular decision at a particular time. There should not be an assumption that someone cannot take one decision just because they cannot make another one

Guidance Video

https://youtu.be/z37_IcDkXWg

E Learning Course (Social Care Institute for Excellence)

<http://www.scie.org.uk/mca/e-learning/>

WTTW and the MCA

Clearly our organisation will not be attracting individuals who may lack decision making capability directly due to old age however there are other conditions that may affect an individual's decision making capability such as learning difficulties or other mental health problems.

Ours is an 'opt in' service and is not one that is involved in primary healthcare. Nevertheless, it is more than likely that we will face situations where individuals who have booked a scan appointment arrive at a clinic and we are unsure of their capability to fully understand the services that we offer.

Our default position in these circumstances is:

- to assume that if a scan has been pre-booked, the individual has the capability to understand what we offer
- to take extra time to explain the scan process
- liaise with other members of the family/group who will be aware of the individual's capacity to understand BUT please remember that a friend or family member is not automatically authorised to make decisions on behalf of someone else unless they are legally allowed to do so (i.e. they have Power of Attorney)
- only in very extreme circumstances, where there is a serious concern that an individual's capability to understand the scan process should any decision to withhold our services be considered. We do not envisage that this circumstance will occur. Any decision to withhold our service would need to be agreed by the Registered Manager.

Author: MSW

Reviewed by: AW

Next review due:

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