



MCA14 – MCA2 Sample 1 (Dental Treatment)

This form must be used for **significant** decisions

PART 1: Individual's Details and Assessment of Capacity (Compulsory)

1.1 Details of the Individual

| | | | |
|------------------------------------|--|-----------------------------|--|
| First Name: | Jimmy | Surname: | Jacobs |
| Electronic Database No. (& System) | Y0112233 (Carebase) | Date and Time of Assessment | 20 th February 2010 – 10.30am |
| Date of Birth | 07.07.1987 | Gender: | Male |
| Permanent Address (incl post code) | Hargrove House Main Street County Town Essex CM2 2PL | | |
| Home Phone Number | 01236 123456 | | |

| | | | |
|--|---|--------------|--------------|
| Temporary Address (incl. post code) if not at home | N/A | | |
| Name of Contact Person | Mr Jo Chang – Unit Manager | Phone Number | 01236 123456 |
| Nature of this Address | Jimmy's main residence is his residential accommodation at Hargrove House – this accommodation is commissioned by ECC. It is a residential home for 6 young people with severe LD | | |

Ethnicity: If the individual's ethnicity has not been self defined, detail here on the source of this information:

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> White British | <input type="checkbox"/> Any other Mixed Background | <input type="checkbox"/> Black African |
| <input type="checkbox"/> White Irish | <input type="checkbox"/> Indian | <input type="checkbox"/> Any other Black Background |
| <input type="checkbox"/> Any other White Background | <input type="checkbox"/> Pakistani | <input type="checkbox"/> Chinese |
| <input type="checkbox"/> White and Black Caribbean | <input type="checkbox"/> Bangladeshi | <input type="checkbox"/> Any other Ethnic Group |
| <input type="checkbox"/> White and Black African | <input type="checkbox"/> Any other Asian Background | <input type="checkbox"/> Unknown |
| <input type="checkbox"/> White and Black Asian | <input type="checkbox"/> Black Caribbean | <input type="checkbox"/> Not stated |

1.2 Family and / or Friends

Please give names, addresses, contact details and nature of relationship for known family or friends who *may* be appropriate to consult if the individual is found to lack capacity, and a decision needs to be made in their best interests.

| 1 | | 2 | |
|---|--|---|---|
| Name | Paulette Jacobs | Name | Joanne Jacobs |
| Address incl. post code | 121 Main Street County Town Essex CM1 1AB | Address incl. post code | Currently studying at Manchester University. Please contact c/o mobile phone or via mother's address |
| Phone Number | 01236 456123 | Phone Number | 07777 123456 |
| Relationship with Individual | Mother | Relationship with Individual | Younger sister (aged 20) |
| Appropriate to Consult? If not, you MUST record the reason here | Yes | Appropriate to Consult? If not, you MUST record the reason here | Yes |

| | |
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| If this is a SOVA Investigation, Give the name of the Safeguarding Lead | |
|---|--|

1.3 Decision Maker and Assessor Details

| Assessor 1: The Decision Maker | | Assessor 2 | |
|--|---|-------------------------|---|
| Name | Dr Bashir | Name | Andy Peters |
| Sign below to confirm that you have read and understood the five key principles of the Mental Capacity Act (written above) and will adhere to them whilst carrying out this assessment | | | |
| Signature | <i>AJBashir</i> | Signature | ANDYPETERS |
| Designation | Dentist | Designation | Social Worker |
| Address incl. post code | County Town Dental Practice County Town, Essex CM1 2CD | Address incl. post code | LD&PI Team County Hall Essex CM1 1XZ |
| Phone Number | 01236 789654 | Phone Number | 01236 369258 |
| Mobile | N/A | Mobile | N/A |
| Fax | | Fax | |

| | | | |
|--|--|--|---|
| | 01236 456123 | | 01236 852741 |
| Email | a.bashir@yahuu.com | Email | Andy.peters@essex.com |
| Established Relationship with Individual? | Yes, Dr Bashir has known Jimmy since he was 17. | Established Relationship with Individual? | Yes, Andy has known Jimmy for years. |

1.4 This MCA assessment must adhere to the Act’s 5 key principles:

- Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise.
- A person must be given all practicable help before anyone treats them as not being able to make their own decisions.
- Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision.
- Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests.
- Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.

| | | |
|--|---|-----------------------------|
| Does the Service user have an impairment of, or a disturbance in the functioning of, their mind or brain? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
|--|---|-----------------------------|

| | | |
|---|--|---|
| What is the individual’s presenting condition? | | |
| <input type="checkbox"/> Unconsciousness <input type="checkbox"/> Autistic Spectrum Disorder <input type="checkbox"/> Mental Health Issues <input type="checkbox"/> Other Cognitive Impairment e.g. stroke | <input type="checkbox"/> Dementia <input checked="" type="checkbox"/> Learning Difficulties <input type="checkbox"/> Acquired Brain Injury | <input type="checkbox"/> Other (please state) |

1.5 The Capacity Assessment

| | | |
|--|---|---|
| What prompted this assessment? | | |
| <input type="checkbox"/> Serious medical treatment <input type="checkbox"/> Care Review | <input type="checkbox"/> Change of accommodation <input type="checkbox"/> Safeguarding Adults Procedures | <input type="checkbox"/> Finances <input checked="" type="checkbox"/> Other – please state Dental Treatment |

What is the exact decision to be made, or action to be taken?

Jimmy has been living in residential accommodation in a group home for adults with severe learning difficulties for two years. His mother visits him regularly and Jimmy attends a number of local activities and enjoys going horse riding and swimming. He requires one-to-one support to complete most activities of daily living. Jimmy has some receptive language skills and uses his limited expressive language skills and behaviour to communicate with staff. Staff often use pictograms and makaton in communicating with Jimmy.

Jimmy has always needs considerable assistance to pay attention to his oral hygiene and it is very rare that Jimmy allows staff to help him to clean his teeth – he usually refuses to open his mouth.

Jimmy is increasingly difficult to manage and has had a number of aggressive outbursts in recent weeks. He may have toothache and require dental treatment – he has been seen hitting the side of his cheek and at other times holding his cheek in his hands whilst moaning – clearly appearing to be in some pain and discomfort. Jimmy has a history of dental difficulties.

The dentist has managed to briefly examine Jimmy (with considerable assistance from staff) and advises that Jimmy almost certainly needs at least three teeth to be taken out as they appeared to be infected and must be causing Jimmy considerable pain and discomfort. The dentist was unable to take X rays as Jimmy was uncooperative and clearly distressed about being in the dentist's chair. The dentist advises he wants to remove these teeth as quickly as possible and preferably within the next 48 hours.

The dental treatment required is extensive and the dentist (who has previous experience of attempting to examine Jimmy) notes that he believes that Jimmy will require use of anaesthetic. This assessment is being conducted to assess if Jimmy has capacity to consent to dental treatment, including having 3 teeth removed and to accepting anaesthetic.

Explain to the individual the purpose of this assessment, including all necessary information and all available options to help them make a decision (for example the pro's and con's, the consequences of taking, or not taking an action).

| | | |
|--|------------------------------|--|
| Do they understand the information given to them? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Can they retain the information long enough to make a decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Can they weigh up and discuss the pros and cons of the decision or action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Can they communicate a decision (by any means)? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Does the individual have capacity in respect of the specific issue?

Yes No

Write below the details of the discussion

YOU MUST PROVIDE SUFFICIENT EVIDENCE TO EXPLAIN YOUR ANSWERS TO THE ABOVE QUESTIONS
(continue on a blank sheet of paper if necessary)

We met with Jimmy after he had eaten his lunch at a day centre he visits most days (5 days a week). This is a time of day where staff at the day centre report Jimmy is usually settled and more receptive to visitors. Jimmy has a severe learning disability and thus has an impairment of the mind or brain. This assessment seeks to consider whether Jimmy has the capacity to consent to dental treatment at the present time

Jimmy did not appear to recognise either myself (his SW) or Dr Bashir – his dentist, but when I asked if he was in any pain in his mouth, Jimmy nodded. This was the only moment in our meeting where Jimmy really acknowledged our presence or appeared to understand and comprehend what we were saying.

Jimmy would not settle and frequently got up and left the room we were meeting in – being brought back by one of the staff from the centre on three occasions. Dr Bashir had brought a picture of some teeth with him and tried to explain that some of Jimmy's teeth were sick and needed to be taken out. Jimmy made no response and appeared much more interested in Dr Bashir's red scarf – trying to reach it and put it on. We then showed Jimmy a tooth brush and asked him if he knew what it was for. Jimmy threw the toothbrush on the floor and again walked out of the room. A member of the care staff brought Jimmy back and asked

Jimmy if he could show him what to do with the toothbrush. Jimmy put the toothbrush back on the table. During the next 5 minutes we used a combination of pictograms, makaton and verbal conversation to seek to engage with Jimmy and to explain he needed to have some teeth out. Dr Bashir had brought with him a dental “doll” with teeth which he had used with other service users with learning disability but Jimmy was clearly not interested and it was not possible to ascertain if Jimmy understood any of the information we had provided to him. Jimmy got up and left the room for a fifth time and we decided it was inappropriate to continue with the assessment as Jimmy was appearing more and more agitated.

We concluded Jimmy’s assessment as it appeared to both assessors that Jimmy had not understood the information provided and was unsettled by our visit. It was evident that Jimmy would not be able to retain the information, nor weigh up the pros and cons or reach a decision about whether to consent to the dental treatment. It was thus evident that Jimmy did not have the capacity to understand the need for dental treatment nor the ability to consent to dental treatment.

Previous psychological and psychiatric reports confirm that it would be reasonable to anticipate Jimmy would lack the capacity to consent to dental treatment.

If the answer to ONE OR MORE of the above questions is ‘No’ then the person lacks capacity in regard to this issue. If the answer to all of the questions is ‘Yes’, then the person has capacity.

1.6. Does the Individual Require an IMCA?

- If the individual is unbefriended and the decision is about a change of accommodation, or serious medical treatment, you MUST involve an IMCA.
- If a friend or family member exists, but they may not act in the individual’s best interests (for example because they are the alleged victim or abuser in a Safeguarding Adults investigation) you MAY involve an IMCA.
- If the individual is unbefriended and a health or social care review is being carried out, you MAY CONSIDER involving an IMCA as good practice.

| | |
|--------------------------------------|--|
| Does the individual require an IMCA? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| If not, please give reasons | This decision is consent to treatment however there is no information that suggests his mother would not advocate effectively and appropriately for him or act in his best interests. |
| Date of referral to the IMCA service | N/A |

If the individual requires an IMCA, use Part 3 to make the referral and STOP HERE until the IMCA report has been received. If not, complete part 2.

PART 2 – Best Interests (compulsory if the person lacks capacity)

2.1 In order to make sure that the final decision is the least restrictive option, and is in the person’s best interests, consider the following factors. Have you:

| | |
|--|---|
| Involved the individual as far as is practically possible? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Consulted all relevant records? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Consulted all appropriate friends / family? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Consulted with the person’s generic advocate? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

| | |
|--|---|
| | |
| Consulted with other staff? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Considered evidence of the person's past wishes and feelings (including advance decisions/directives)? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Take into account the IMCA's report (if applicable)? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Consulted with any legal representatives (e.g. Donees of LPA, Court of Protection Deputies)? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

| |
|--|
| <p>What is your best interests decision, after consideration of all the relevant factors? YOU MUST PROVIDE SUFFICIENT EVIDENCE TO EXPLAIN YOUR ANSWERS TO THE ABOVE QUESTIONS</p> |
| <p>A best interests meeting was held on 21st February between the GP, Jimmy's mother, care staff from his residential unit (Jo Chang and keyworker Karen Stephens), Jimmy's SW (Andy Peters) and his dentist (Dr Bashir) all attended.</p> <p>Jimmy lacks capacity to consent to dental treatment that is strongly recommended by the dentist Dr Bashir - who advises that the decay and infection in Jimmy's teeth must be causing significant pain and poses potential serious risks to his health. Dr Bashir believes at least three teeth may need to be removed and others may require fillings.</p> <p>The senior care staff in Jimmy's residential unit (Unit Manager – Jo Chang and Deputy Manager key worker Karen Stephens) confirms that Jimmy's behaviour in recent weeks has changed quite significantly with an increase in aggressive outbursts. They hypothesise that this could be linked to him experiencing pain from his teeth and there are no other explanations for the change in his behaviour that have been suggested.</p> <p>Jimmy's mother and sister both agree that Jimmy should be provided with urgent dental treatment. Jimmy's mother is applying to the Court of Protection to be appointed as a Deputy for Jimmy (this application is in progress and not finalised) and she believes the dental treatment is essential. Jimmy's father died six years ago. Jimmy's mum states that if she was appointed as a Deputy today, she would consent to the treatment and to the use of a general anaesthetic as she believes this is the best option</p> <p>Jimmy's GP supports the need for Jimmy to access urgent dental treatment and proposes that either a sedative – such as valium is prescribed prior to Jimmy being given an oral anaesthetic – or a serious consideration is given to the use of a general anaesthetic to enable the dental work to be carried out more effectively.</p> <p>All those present agreed that urgent dental care is in Jimmy's best interests. The meeting considered the options regarding how the dental treatment can best be given including use of full or general anaesthetic or sedation and oral sedation. Jimmy has previously been quite distressed and difficult to manage when he required dental treatment, trying to climb out of the dentist's chair when the drill is turned on, lashing out and risking further damage to his teeth (and to others).</p> <p>After weighing up all the risks, professionals and Jimmy's mother all agree that although there is always a risk in giving anyone a general anaesthetic, it would be in Jimmy's best interests if he did received a general anaesthetic on this occasion before this dental treatment commenced. This approach would be on balance less restrictive and less distressing for Jimmy than any other alternatives that would allow the dentist to examine his mouth and carry out necessary dental treatment. The use of a general anaesthetic would enable the dentist to safely remove all three infected teeth (all together) and to do a number of other minor procedures (such as fillings) and other oral health care. The GP advised that the provision of a general anaesthetic was no greater for Jimmy than a member of the general population but that the risk of continuing to have a mouth full of severely infected teeth was significant</p> <p>It is agreed that it is in Jimmy's best interests to undertake this operation at the earliest opportunity and the dentist (Dr Bashir) advises that this will be possible the following day.</p> <p>Everyone agrees that a general anaesthetic (a restraint) will be a proportionate response to the likelihood of significant harm if dental treatment does not urgently occur and that the use of the anaesthetic and the provision of dental treatment are in Jimmy's best interests.</p> |

| ASSESSOR 1: DECISION MAKER | | ASSESSOR 2 | |
|----------------------------|----------------------------|--------------|------------------------------------|
| Name (print) | Dr Bashir (dentist) | Name (print) | Andy Peters (social worker) |
| Signature | <i>AJBashir</i> | Signature | ANDYPETERS |
| Date | 20.02.2010 | Date | 20.02.2010 |

PART 3: Referral for an IMCA (Compulsory if IMCA is required)

This section must be attached to Part 1 of the MCA2 form. It identifies whether an IMCA is required & records the decision-maker's instructions to the IMCA provider.

| | | |
|---------------------------------|--|--------------------------|
| Why is an IMCA required? | This is a safeguarding adults investigation | <input type="checkbox"/> |
| | The decision is about a change of accommodation (provided by NHS or local authority) | <input type="checkbox"/> |
| | A health or social care review is being planned | <input type="checkbox"/> |
| | The decision is about serious medical treatment | <input type="checkbox"/> |

| | |
|---|--|
| Is the individual aware of the advocacy referral? | |
| Is the individual able to make his/her wishes known on the referral issue? | |
| Risks/precautions to be taken when meeting individual: | |
| Communication needs/preferences: | |

| | |
|----------------------------------|--|
| Does the individual have: | <input type="checkbox"/> Registered Enduring Power of Attorney <input type="checkbox"/> Enduring Power of Attorney <input type="checkbox"/> Lasting Power of Attorney (health & welfare) <input type="checkbox"/> Lasting Power of Attorney (property & affairs) <input type="checkbox"/> Other – such as Ordinary Power of Attorney or Appointeeship <input type="checkbox"/> Court Appointed Deputy (property & affairs) <input type="checkbox"/> Court Appointed Deputy (personal welfare) <input type="checkbox"/> Advocate already involved <input type="checkbox"/> Advance Decision <input type="checkbox"/> Advance Directive / Living Will |
|----------------------------------|--|

| | |
|---|--|
| Any further information? Including copies of relevant information, contact details etc | |
|---|--|

Where do I send my MCA2 Form?

- In **Southend Local Authority**, copies of ALL completed MCA2 forms should be sent electronically to: sarahrange@southend.gov.uk. Telephone: 01702 534404.
- In **Essex Local Authority**, copies of MCA2 forms completed by Essex County Council Teams should be sent electronically to: adult.safeguards@essex.gov.uk or faxed to 01245 550355 (confidential fax). If you require guidance or need some advice, please ring 01245 434861.
- In **Thurrock Local Authority**, copies of ALL completed MCA2 forms should be sent electronically to: safeguardingadults@thurrock.gov.uk
- In **All NHS Trusts**, copies of MCA2 forms should be sent to the appropriate MCA Lead.
- **All IMCA Requests** (Essex Local Authority or All NHS Trusts) must be sent either electronically to adult.safeguardsunit@essex.gov.uk, by fax 01245 550355 (confidential fax) or by post to the Adult Safeguards Unit, County Hall, Chelmsford, Essex, CM1 1YS.

Guidance for Completing the MCA2 Form

All adults (16 and over) are presumed to have capacity.

Therefore assessments of capacity must only be conducted where there are doubts about an individual's ability to make a specific decision, or consent to a specific action.

The only way to prove a lack of capacity is by carrying out a capacity assessment.

Assessments of capacity for significant decisions should be conducted by two people:

- **One assessor must be the decision maker**
- **One assessor must be a registered qualified professional (this can be the same person)**

Wherever possible, one person must also have an established relationship with the individual. However if a decision needs to be made urgently, the assessment can be made solely by the decision maker.

Assessments must be done as soon as possible, unless you can evidence that it is in the individual's best interests to wait (if for example, the decision isn't an emergency, and you believe that they may be more receptive to information at a later time of the day).

This form will assist you in carrying out the assessment of capacity. If you need further information, visit www.essex.gov.uk or call the Essex County Council Adult Safeguards Unit on 01245 434 861.

MCA2 assessments of capacity are entirely separate to either discharge care planning or decisions that an adult is medically fit for discharge.

Assessments of capacity must be recorded immediately on the MCA2 form, signed and dated by both people who have jointly undertaken the assessment.

Assessing Capacity

Care should be taken to ensure that all practicable (do-able) steps are taken to facilitate an individual's optimum performance in this assessment; including provision of communication aides. Where an interpreter is required, this should be a professional interpreter.

Remember that you must **evidence** your findings in each question – for example, how did you *know* that the individual could / couldn't understand the information you gave them? What did they say / do to make you reach that conclusion?

A positive answer must be achieved for all parts of question 1.5 to conclude that the individual has capacity. If a conclusion about an individual's capacity in respect of a specific decision can not be reached, assessors working within Essex Local Authority Boundaries can request a consultation (second opinion) through the Adult Safeguards Unit. Assessors from other Local Authorities should consult their line manager or seek legal advice.

For more technical guidance concerning assessing capacity, see MCA19.

Making a Best Interests Decision

If the individual does not have capacity, they cannot consent, therefore decisions about proceeding will need to be made on the basis of the individual's best interests. Consultation must occur where appropriate with any person holding Lasting Power of Attorney; Enduring Power of Attorney, Court Appointed Deputy, IMCA, Family & friends.

Decisions made by the Decision Maker in an individual's **best interests** must be the **least restrictive** possible.

It is legally the sole responsibility of the Decision Maker to determine if the individual has capacity in respect of the specific question detailed in section 6 "Reason for Capacity Assessment above" (*Note a positive answer must have been achieved for all parts of question 8*). If a conclusion about an individual's capacity in respect of a specific decision can not be reached, assessors working within Essex Local Authority Boundaries can request a consultation (second opinion) through the Adult Safeguards Unit. Assessors from other Local Authorities should consult their line manager or seek legal advice.

The best interests decision and the assessment as a whole should show that the decision maker has made a decision on the best available evidence and has taken into account conflicting views.

The MCA provides legal protection from liability for carrying out care if:

- The principles of the MCA have been observed
- The decision maker can demonstrate they assessed capacity
- The decision maker reasonably believes the person lacks capacity with regard to the decision
- The decision maker reasonably believes the action is in the best interests of the person

Ordinarily a person representing the interests of the person should be consulted before making a decision. However, in emergency situations it will be often in the best interests of the person to provide urgent care without delay.

If there is a dispute then it should be clearly identified. If there is a dispute then the following things can assist the decision maker:

- Involve an advocate who is independent of all parties involved
- Get a second opinion
- Hold a case conference
- Go to mediation
- An application can be made to the Court of Protection for a ruling

The IMCA Service

IMCAs are mental capacity advocates for people who do not have mental capacity to make the decision in question. They will represent the person when there is no-one else to do so, and after investigation, will make a recommendation to the decision maker detailing what they think should be done in the person's best interests.