



MCA14 – MCA2 Sample 4 (Safeguarding Adults Procedures)

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: | Diana | Surname: | Ross |
| Electronic Database No. (& System) | Y0112255 (Carebase) | Date and Time of Assessment | 10 th January 2010 – 14.30pm |
| Date of Birth | 05.08.1937 | Gender: | Female |
| Permanent Address (incl post code) | 25 Surprise Avenue Chelmsford, Essex CM2 4DD | | |
| Home Phone Number | 01236 123456 | | |

| | | | |
|----------------------------------------------------|-------------------------------------------------------------|--------------|--------------|
| Temporary Address (incl. post code) if not at home | Princess Alexia Hospital Harlow, Essex CM15 2PP | | |
| Name of Contact Person | Brigitte Jones | Phone Number | 01236 321654 |
| Nature of this Address | Diana's main residence is 25 Surprise Avenue in Chelmsford. | | |

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 | John Martin | Name | N/A |
| Address incl. post code | 25 Surprise Avenue Chelmsford, Essex CM2 4DD | Address incl. post code | N/A |
| Phone Number | 01236 123456 | Phone Number | N/A |
| Relationship with Individual | Brother | Relationship with Individual | N/A |
| Appropriate to Consult? If not, you MUST record the reason here | John has been charged by the Police for assaulting Diana and therefore he would not be appropriate to consult with regarding what may be in Diana's best interests. | Appropriate to Consult? If not, you MUST record the reason here | N/A |

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

1.4 Decision Maker and Assessor Details

| Assessor 1: The Decision Maker | | Assessor 2 | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------|-------------------------------------------------------|
| Name | Janet Hurry | Name | Samantha Gold |
| 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>JHurry</i> | Signature | <i>SamanthaGold</i> |
| Designation | Social Worker | Designation | Ward Manager |
| Address incl. post code | OAMH Team Staple House Chelmsford, Essex CM2 8UU | Address incl. post code | Princess Alexia Hospital Harlow, Essex CM15 2PP |
| Phone Number | 01236 888999 | Phone Number | 01252 369258 |

| | | | |
|-------------------------------------------|-----------------------|-------------------------------------------|-----------------------------|
| Mobile | 07999 888777 | Mobile | N/A |
| Fax | 01236 999888 | Fax | 01252 258369 |
| Email | Janet.hurry@essex.com | Email | s.gold@harlowhospital.co.uk |
| Established Relationship with Individual? | NO | Established Relationship with Individual? | YES |

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.

| | | |
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| 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 checked="" type="checkbox"/> Mental Health Issues <input type="checkbox"/> Other Cognitive Impairment e.g. stroke | <input checked="" type="checkbox"/> Dementia <input type="checkbox"/> Learning Difficulties <input type="checkbox"/> Acquired Brain Injury | <input type="checkbox"/> Other (please state) |

1.5 The Capacity Assessment

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

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| What is the exact decision to be made, or action to be taken? |
| Diana is currently an inpatient on a Ward at the Princess Alexia Hospital. She wants to go home to her brother, who's been charged with physically assaulting her. He is out on bail at the moment. Diana does not understand the consequences of going home to her brother and the ward staff is questioning her capacity to make this decision. |

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

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 checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

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|---------------------------------------------------------------------|------------------------------|----------------------------------------|
| Does the individual have capacity in respect of the specific issue? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> 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)

Do they understand the information given to them?

Diana did not understand our concerns about her going home. She admitted that her brother hits her when she has been “naughty”, but did not understand that this was wrong. She also did not understand that her poor physical health would prevent her from doing her normal housework, which will aggravate her brother and lead to further assaults.

Can they retain the information long enough to make a decision?

When asked to explain her understanding of why we were assessing her, she talked about many other things, jumping from one topic to the next. She could not retain the information we gave her about the risks of going home for long enough to make an informed decision.

Can they weigh up and discuss the pros and cons of the decision or action?

We explained to Diana why we think it would be in her best interest to stay in hospital and what risks there would be if she went home to her brother, i.e. abuse, risk of self neglect, risk of falling etc. Diana could not use this information to weigh up the advantages and disadvantages and showed no insight or understanding into the risks of going home today.

Can they communicate a decision (by any means)?

Diana was able to communicate, but her speech was incoherent and at times hard to understand. She could however communicate efficiently for us to establish that she truly did lack capacity to understand, retain and weigh up the information to make a decision about going home today.

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

Diana lacks capacity to make a decision about going home to stay with her brother. Long term residential care should be considered, but her capacity will need to be re-assessed for that decision.

Further information:

Diana has a brother who is abusing her and he has been charged by the police. He should thus NOT be consulted in their best interests and as she has no other friends or family to support her, a request for an IMCA should be made as soon as it is practicable to do so. If decisions about long term care need to be made, the involvement of an IMCA should be a high priority and no best interest decision should be made before the IMCA is involved. If there is a risk of depriving her of her liberty, a DOLS authorisation needs to be requested. Moving Diana to temporary care while arrangements for long-term care are made would be in her best interest and permissible under the MCA. If her brother insists on discharge back into his care and this is refused, she would be at risk of a deprivation of her liberty, in which case the managing authority would have to request authorisation under the DOLS procedures.

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.

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|--------------------------------------|---------------------------------------------------------------------|
| Does the individual require an IMCA? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| If not, please give reasons | N/A |
| Date of referral to the IMCA service | January 2010 |

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:

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|--------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| 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 type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Take into account the IMCA's report (if applicable)? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Consulted with any legal representatives (e.g. Donees of LPA, Court of Protection Deputies)? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

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| <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><u>Involved the individual as far as is practically possible?</u></p> <p>Yes - Spoke to Diana at length about the decision regarding going home to her brother who is abusing her. Two nurses who know her well were involved throughout the assessment to help her with this.</p> <p><u>Consulted all relevant records?</u></p> <p>Yes – Read the medical notes and spoke to all ward staff.</p> <p><u>Consulted all appropriate friends / family?</u></p> |
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No - Not appropriate to consult with brother as he has been charged with assaulting her. No other family or friends to consult.

Consulted with the person's generic advocate?

No – No IMCA involved, but referral to IMCA services will be made following this assessment of her capacity.

Consulted with other staff?

Yes - Ward Manager agreed Mrs X lacks capacity and that it would be in her best interest not to go home to her brother. Staff nurse agreed with above.

Considered evidence of the person's past wishes and feelings (including advance decisions/directives)?

Yes - Diana has always lived with her brother and still wants to go home, which she clearly expressed throughout the assessment.

Take into account the IMCA's report (if applicable)?

No – No IMCA involved. Referral to IMCA services will be made following this capacity assessment.

Consulted with any legal representatives (e.g. Donees of LPA, Court of Protection Deputies)?

No – None involved.

| ASSESSOR 1: DECISION MAKER | | ASSESSOR 2 | |
|----------------------------|---------------|--------------|---------------------|
| Name (print) | Janet Hurry | Name (print) | Samantha Gold |
| Signature | <i>JHurry</i> | Signature | <i>SamanthaGold</i> |
| Date | 10.01.2010 | Date | 10.01.2010 |

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.

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

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| Is the individual aware of the advocacy referral? | Yes |
| Is the individual able to make his/her wishes known on the | Yes but cannot make informed decision about relevant issue |

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| referral issue? | |
| Risks/precautions to be taken when meeting individual: | None, Diana is no risk to others |
| Communication needs/preferences: | English |

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| 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 |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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| Any further information? Including copies of relevant information, contact details etc | See Capacity Assessment and Best Interests Checklist |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------|

DO NOT COPY

Where do I send my MCA2 Form?

- In **Southend Local Authority**, copies of ALL completed MCA2 forms should be sent electronically to: sarahrage@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.