



## MCA14 – MCA2 Sample 5 (Serious medical 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:	Bobby	Surname:	Buttons
Electronic Database No. (& System)	Y0112233 (Carebase)	Date and Time of Assessment	25 <sup>th</sup> January 2010 – 11.30am
Date of Birth	06.03.1945	Gender:	Male
Permanent Address (incl post code)	Lavender Cottage Blossom Lane Colchester, Essex CO5 3YY		
Home Phone Number	01266 222111		

Temporary Address (incl. post code) if not at home	N/A		
Name of Contact Person	Mary Mittens	Phone Number	01266 111666
Nature of this Address	Health Centre		

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

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> White British              | <input checked="" 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	Bessie Blueberry	Name	N/A
Address incl. post code	Lavender Cottage Blossom Lane Colchester, Essex CO5 3YY	Address incl. post code	N/A
Phone Number	01266 222111	Phone Number	N/A
Relationship with Individual	Partner	Relationship with Individual	N/A
Appropriate to Consult? If not, you MUST record the reason here	Yes	Appropriate to Consult? If not, you MUST record the reason here	N/A

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. John Seed	Name	Jenny Plum
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>JSeed</i>	Signature	<i>JennyPlum</i>
Designation	GP	Designation	Community Nurse
Address incl. post code	Colchester Admiral Hospital Colchester, Essex CO1 5HH	Address incl. post code	Colchester Admiral Hospital Colchester, Essex CO1 5HH
Phone Number	01266 777888	Phone Number	01266 414141
Mobile	N/A	Mobile	N/A
Fax	01266 225588	Fax	0126 225588
Email		Email	

	John.seed@colchester.co.uk		Jenny.plum@colchester.co.uk
Established Relationship with Individual?	Yes, Dr Seed has known Bobby for 6 months	Established Relationship with Individual?	No

**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
---	---	-----------------------------

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

**1.5 The Capacity Assessment**

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

<b>What is the exact decision to be made, or action to be taken?</b>
<p>Mr Buttons was a company director till he retired two years ago when he was also diagnosed with advanced prostate cancer.</p> <p>He has recently completed a course of radiotherapy for a hot spot on his spine. Mr Buttons was seen in surgery last week for a review of his medication. During the consultation Mr Buttons mentioned that he was aware he had advanced disease and he did not want to go into hospital for any more treatment. We also discussed the prospect of Mr Buttons taking a holiday in the next two weeks.</p> <p>I was called out for a home visit today as Mr Buttons has become confused, agitated and bed bound. Bessie also reports that Mr Buttons unable to move his legs and has not passed urine</p> <p>Emergency admission to hospital for further investigations, fluids and??? Radiotherapy.</p>

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?	<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)

Following examination I have made a provisional diagnosis of spinal cord compression as well as hypocalcaemia. I am aware of the wishes of Mr Buttons however in this case if my diagnosis is accurate (needs special tests to confirm) emergency treatment will enhance the quality of his remaining life. Untreated Spinal Cord compression can lead to paralysis.

Bobby is unable to make a decision for himself and appears not to understand what I am saying even when I have repeated this information a number of times even tried writing this on a pad. I have tried to ask him to blink, squeeze my fingers if he understands what I am saying and asking him to go to hospital even though this was not what he wanted.

I have consulted with Bessie she understands why I am suggesting that Bobby goes into hospital even though this is against his wishes and agrees to allow me to call the ambulance.

In the situation that Bessie did not agree with my decision which was taken in the best interests of Bobby I could have overruled this as she did not have Donees of LPA, Court of Protection Deputies.

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		
Date of referral to the IMCA service		

***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 checked="" type="checkbox"/> Yes	<input 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)?	N/A	
Consulted with any legal representatives (e.g. Donees of LPA, Court of Protection Deputies)?	N/A	

**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**

**My Best Interests decision is that Mr Buttons be admitted to hospital as an emergency for assessment and treatment. Neither the assessment nor the treatment can be conducted at home due to the nature of the equipment needed (scanners/radiotherapy machines).**

**Left untreated Mr Buttons may end up being paralysed and bed bound for the rest of his life. The condition may be revisable if the diagnosis is confirmed and treatment started as soon as possible.**

**From my knowledge and experience of this gentleman (he is very active both physically as well as socially). He has kept up his hectic schedule of chair of various committees, etc. he will not be able to cope being in a state of being totally dependent when he could have made a decision to have treatment to reverse the problems.**

ASSESSOR 1: DECISION MAKER		ASSESSOR 2	
Name (print)	Dr John Seed	Name (print)	Jenny Plum
Signature	<i>JSeed</i>	Signature	<i>JennyPlum</i>
Date	25.01.2010	Date	25.01.2010

### **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.

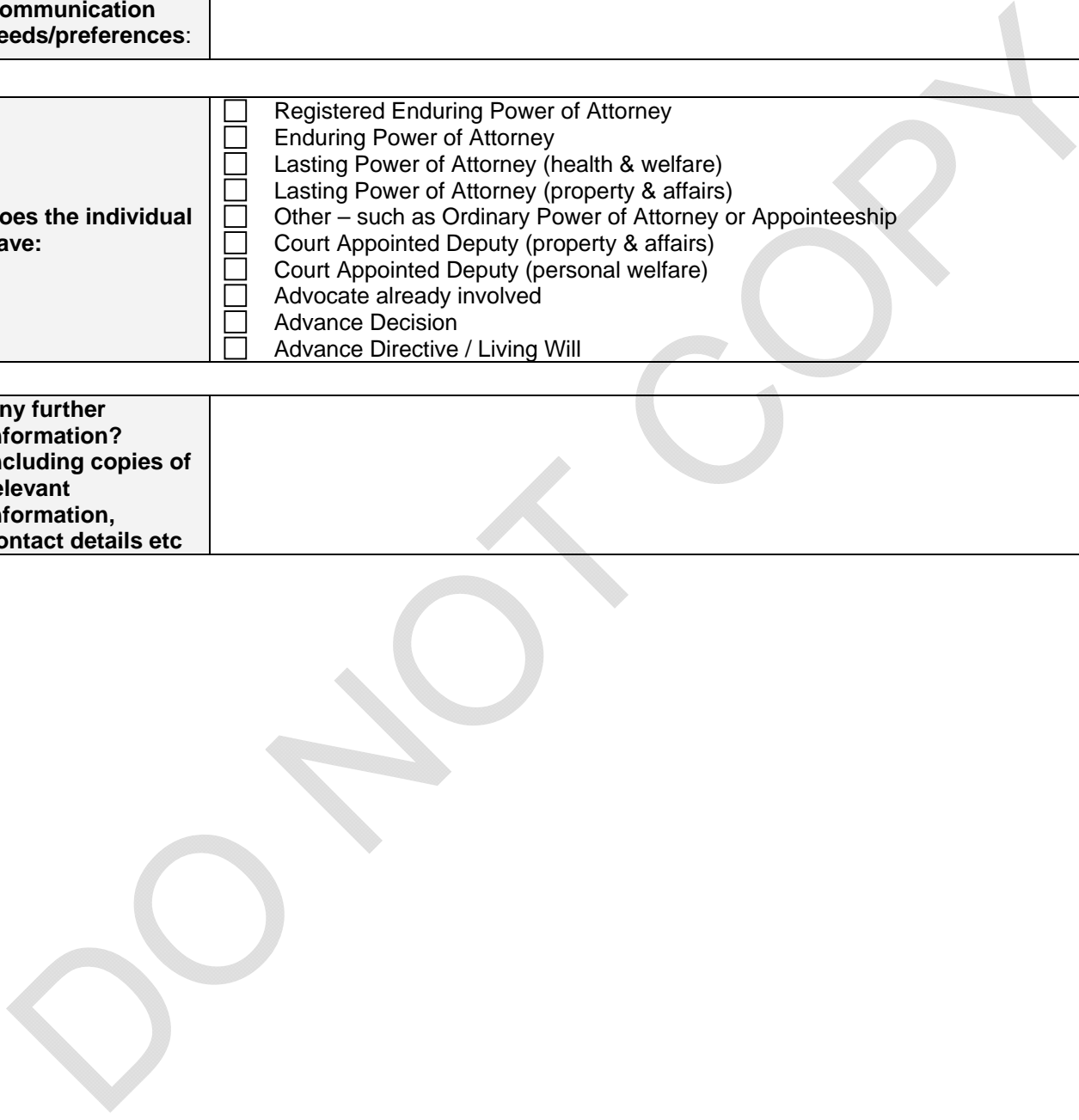
<b>Why is an IMCA required?</b>	This is a safeguarding adults investigation	<input type="checkbox"/>
	The decision is about a change of accommodation (provided by NHS or local authority)	<input type="checkbox"/>
	A health or social care review is being planned	<input type="checkbox"/>
	The decision is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

<b>Is the individual aware of the</b>	
---------------------------------------	--

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](mailto: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](mailto: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](mailto: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](mailto: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](http://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.