



MCA14 – MCA2 Sample 6 (Care Review)

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:	Sylvia	Surname:	Burn
Electronic Database No. (& System)	10687589	Date and Time of Assessment	4 th February 2010 – 10.45am
Date of Birth	12-11-1925	Gender:	Female
Permanent Address (incl post code)	Montviolet Residential Home Hartley Gardens Willford SP00 0IY		
Home Phone Number	01288 564321		

Temporary Address (incl. post code) if not at home	N/A		
Name of Contact Person	Janice Curtis – Care Home Manager	Phone Number	01288 564321
Nature of this Address	Sylvia's main residence is Montviolet Residential Home. This Care Home is commissioned by ECC.		

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	N/A	Name	NONE, No other living relatives
Address incl. post code	N/A	Address incl. post code	N/A
Phone Number	Husband just deceased. No other family members.	Phone Number	N/A
Relationship with Individual	N/A	Relationship with Individual	N/A
Appropriate to Consult? If not, you MUST record the reason here	N/A	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	
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1.3 Decision Maker and Assessor Details

Assessor 1: The Decision Maker		Assessor 2	
Name	Julie Clark	Name	Edith Willer
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>Julie Clark</i>	Signature	<i>Edith Willer</i>
Designation	Social Worker	Designation	Senior Care Worker
Address incl. post code	South West Review Team Willford, Essex SP01 0QW	Address incl. post code	Montviolet Residential Home Hartley Gardens Willford SP00 0IW
Phone Number	01288 777888	Phone Number	01288 564321
Mobile	N/A	Mobile	N/A
Fax	01288 225588	Fax	01288 225588
Email		Email	

	Julie.clark@essex.com		edithwiller@montviolet.co.uk
Established Relationship with Individual?	None, decision maker	Established Relationship with Individual?	Key Worker

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
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What is the individual's presenting condition?		
<input type="checkbox"/> Unconsciousness	<input checked="" type="checkbox"/> Dementia	<input type="checkbox"/> Other (please state)
<input type="checkbox"/> Autistic Spectrum Disorder	<input type="checkbox"/> Learning Difficulties	
<input 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

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

What is the exact decision to be made, or action to be taken?
<p>Mrs Burn is an 85 years old lady who was admitted into residential care 16months ago. She has got a diagnostic of dementing illness (Alzheimer's type) and appears to be moving into the more advanced stage of the condition. Her behaviour has given causes for concerns over the past 6 months as she has become more restless, resistive to the delivery of basic care and she requires constant monitoring of her whereabouts for safety reasons. Mrs Burn's husband died a month ago and she has not got any living relatives /friends to support her now. Mrs Burn is due for an annual review of her placement and additional matters linked to her current situation also need to be debated (e.g. disposal of personal items from her property, pet cat taken into cattery etc...) therefore a thorough review of all her care needs need to take place as soon as possible.</p> <p>Mrs Burn is now totally unbefriended and the purpose of this Mental Capacity assessment is to identify whether or not Mrs Burn is able to understand what a care review care is about with the view, if appropriate, to involve an IMCA to support her through the review process.</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 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
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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)

I met with Mrs Burn and her key worker (as the second assessor) in her bedroom mid morning as I was told that this would be the best time of the day in terms of her level of alertness.

Mrs Burn was sitting comfortably in her armchair, she was just finishing a cup of tea and some biscuits left for her mid morning snack. I introduced myself and had a little bit of social conversation before starting to explain the purpose of my visit. Mrs Burn half acknowledged me whilst continuing to drink her cup of tea. She did say hello, however and stated that she had seen me before (which was not the case). After the first preliminaries, I explained who I was and introduced the reason for my visit in simple terms. I explained that a meeting was going to take place to which she would be invited to talk about her life at Montrose residential home and I gave her examples of the areas we would be talking about (food, health, having a pet, activities etc...). On each area, I tried to get some feed back from her using an open ended question, however I had to resort to close questioning in the end as Mrs Burn didn't appear to be engaging in the conversation. Mrs Burn replied to all the closed questions by systematically answering "Yes" when clearly a negative answer would have been more appropriate. There was thus some evidence of lack of understanding of the issues discussed so far. Mrs Burn was not making eye contact with me and her attention was focused on the plate of biscuits in front of her. After a few minutes, she started to reduce to crumbs all the 3 remaining biscuits, working on them with a spoon. When asked what she doing, she explained that she was making pastry and we had a short conversation about this activity (her key worker explained that she was part of the cookery group) before trying to refocus the conversation onto the subject at hand.

This was the ideal opportunity to try to check Mrs Burn's recall in relation to what I had been talking about, however, Mrs Burn was unable to state any of the areas which would be the object of her care review.

The second aspect of the issue we explored in relation to her forthcoming care review was to discuss the lack of family relations/friends available to support her or speak on her behalf at this meeting to review her care needs. She was invited to discuss who she thought she had as a family with prompting from her key worker. In response to direct questions Mrs Burn agreed with the statements that she never had any children and was a single child herself. We tried to establish whether or not she had awareness of her husband's death, but she could not remember his name and displayed no emotional reactions when her key worker gently reminded her about Mr Burn not being here any longer. When asked about whom she liked and supported her in the home, she pointed out to her key worker "saying this one is nice", but could not remember her name. We explained very clearly to Mrs Burn what an advocate(IMCA) is and suggested it might be helpful for Mrs Burn to have an IMCA to support her at her forthcoming care review. Mrs Burn continued to play with the crumbs on her plate and did not reply to this.

After we had talked for about 20minutes with Mrs Burn, Mrs Burn began to display signs of restlessness. She got up from her armchair and went to the wardrobe and to the bathroom. When asked if she needed something she stated that "she was looking for her coat as her mother was waiting at the school gate and she needed to go".

At that point, the assessment was terminated as it was clear that Mrs Burn couldn't cope any longer with the process and carrying on would only have been counterproductive and distressing to her.

All through the assessment, Mrs Burn displayed evidence of significant cognitive impairment in terms of understanding, memory functions, disorientation in time, person and place and an inability to reason due to lack of understanding of the issues discussed in the first instance. All those factors provided clear evidence enabling us to conclude that she lacked mental capacity in relation to the decision regarding her care review and role of the IMCA to support her within the process. Our decision was therefore to commission an IMCA to support her with her forthcoming review.

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If not, please give reasons	
Date of referral to the IMCA service	4 th February 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:

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

**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**

ASSESSOR 1: DECISION MAKER		ASSESSOR 2	
Name (print)		Name (print)	
Signature		Signature	
Date		Date	

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

ALL INFORMATION RECORDED ON THIS FORM IS FICTIONAL – Do Not Copy

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 checked="" type="checkbox"/>
	The decision is about serious medical treatment	<input type="checkbox"/>

Is the individual aware of the advocacy referral?	Unable to understand the role of an IMCA.
Is the individual able to make his/her wishes known on the referral issue?	Unable to give an informed view due to serious cognitive impairment.
Risks/precautions to be taken when meeting individual:	No risks. Attention span quite brief.
Communication needs/preferences:	Presents with dysphasia, but with reasonable range of vocabulary still.

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	Residential home has got comprehensive and informative care plans which will provide adequate background information prior to the review.
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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.