

MCA5 - Guide to Mental Capacity Act

The 5 Statutory Principles

Principle 1 - A Presumption of Capacity

Every individual (aged 16 and above) has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise. This means that you cannot assume that someone cannot make a decision for themselves just because they have a particular medical condition or disability.

Principle 2 - Individuals being supported to make their own decisions

A person must be given all practicable help before anyone treats them as not being able to make their own decisions. This means you should make every effort to encourage and support people to make the decision for themselves. If lack of capacity is established, it is still important that you involve the person as far as possible in making decisions.

Principle 3 - Unwise Decisions

People have the right to make what others might regard as an unwise or eccentric decision. Everyone has their own values, beliefs and preferences which may not be the same as those of other people. You cannot treat them as lacking capacity for that reason.

Principle 4 - Best Interests

If a person has been assessed as lacking capacity then any action taken, or any decision made for, or on behalf of that person, must be made in his or her best interests.

Principle 5 - Less Restrictive Option

Someone making a decision or acting on behalf of a person who lacks capacity must consider whether it is possible to decide or act in a way that would interfere less with the person's rights and freedoms of action, or whether there is a need to decide or act at all. In essence, any intervention should be proportional to the particular circumstances of the case.

Assessing Capacity for Day-to-Day Decisions – MCA1

MCA1 - A Day-to-Day Decision

A day-to-day decision is one repeated frequently about an aspect of daily living such as washing or showering, dressing, nutrition or diet, changing of incontinence pads or toileting. Assessments of capacity for a day-to-day decision can be made by one individual (the decision maker) and documented on the MCA1 form. This assessment must be repeated if there is any suggestion capacity in relation to a specific decision has changed and should be reviewed in every review. Service users may have several MCA1 assessments on file as each decision will require a separate assessment.

Assessing Capacity for Significant Decisions – MCA2

MCA2 - A Significant Decision

An assessment of capacity for a significant decision must be undertaken jointly by two people, one of whom must be the decision maker and one of whom (where-ever possible) should have an established relationship with the individual. One of those conducting the assessment must be a registered qualified professional such as SW, Nurse, OT, Medic, Chartered Psychologist, and UKCP Psychotherapist.

Completed MCA2 assessments MUST be sent to your local agency lead. Examples of significant decisions include:

- Capacity to manage finances or to decide who will be a donee of LPA
- Capacity to consent to a change of accommodation or informal admission to a hospital or placement in a care home
- Capacity to consent to confidentiality being breached with another agency
- Capacity to consent to treatment

Professionals must use their judgement to decide if a decision is significant and the MCA2 process must be followed.

Independent Mental Capacity Advocate (IMCA)

The Mental Capacity Act (2005) includes a statutory duty to provide an individual with an IMCA if they lack capacity to make a decision about:

- Change of accommodation
- Medical Treatment

Where they have no-one who is able to advocate for them (they are unbefriended) or there is a Safeguarding Investigation in process and friend/family are part of this investigation (either as their alleged abuser or alleged victim).

Individuals should also be offered an IMCA if they are having a care review, they lack capacity and are unbefriended (have no-one able to advocate for them).

To access an IMCA, a completed MCA2 must be sent to the Adult Safeguards Unit at County hall, Chelmsford

Contact Us

For guidance or advice, please contact the
Adult Safeguards Unit

Telephone: 01245 434861 (Ednet: 40861)

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Website: www.essex.gov.uk