

Mental Capacity

What is Mental Capacity?

Mental Capacity is being able to make your own decisions

Someone lacking capacity cannot do 1 or more of the below:

1. Understand information shared with them about a decision.
2. Retain the information long enough to be able to make a decision.
3. Weigh up the available information in order to make the decision.
4. Communicate their decision.

Executive Capacity:

Refers to the ability to transfer their understanding of information to real-life settings and to act on their intentions. It is important to consider this ability, in addition to mental capacity e.g., where a person is at risk of self-neglect.

What can you do?

- Anyone caring for or supporting a person who may lack mental capacity can be involved in assessing capacity i.e., housing/ police. It is not solely the responsibility of health professionals.
- Professionals should keep in mind that an individual's capacity is assessed in relation to that present moment in time and that capacity may fluctuate depending on circumstances.
- If capacity becomes a concern staff must complete a Mental Capacity assessment which is decision specific and supports, the adult with decision making.
- Professionals should apply the MCA principles but keep an open mind, not assuming that people's choices are because of rational thinking. **(SAR Adult V)**
- Professionals who have assessed an individual to have capacity but make unwise decisions should continue to encourage them to make safer/healthier choices.



What have we learnt?

- If an adult has been assessed as lacking capacity to accept/refuse medical treatment, clinicians have responsibility to make a 'best interests' decision.
- Professionals should avoid generalised statements to the effect that an individual has or lacks "mental capacity". This can lead to inaccurate assumptions. **(SAR Angela, Barry, Claire)**
- The first principle, assumption of capacity should not preclude further investigation into a person's circumstances and choices. **(SAR Adult V)**
- Wherever possible, adhering to best practice around MCA specifications is important for two reasons
 1. Creates the best chance for achieving a good quality assessment
 2. If something were to go wrong later, it provides an audit trail to show how/why the decision was made. **(SAR Mrs BB)**

The Mental Capacity Act (MCA)

The MCA 2005 applies to everyone over 16 years old who may lack capacity to make specific decisions about their life.

The aim of MCA is to also protect the rights of individuals by creating a framework for decision making i.e., advocacy. Where someone may lack the mental capacity to decide for themselves.

Why might a person lack capacity?

There are a number of reasons why a person may lack capacity, for example:

- Dementia
- Learning Disability
- Brain Injury
- Mental Health Condition
- A stroke
- Unconsciousness due to an accident/injury
- Substance abuse

The Five Key Principles

1. **Assume capacity:** always start by assuming capacity unless proved otherwise
2. **Practicable Steps:** take all reasonable steps to enable a person to make their own decision.
3. **Unwise Decisions:** you must not assume incapacity, simply because a person makes an unwise decision.
4. **Best Interests:** decisions made on behalf of someone lacking capacity must be in their best interests.
5. **Least restrictive:** the decision made is the least restrictive option.

*SAR = Safeguarding Adults Review

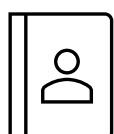
Source: [Join the Safeguarding Adults Reviews \(SARs\) Library network - SCIE](#)

Contact details:

OSAB@oxfordshire.gov.uk

Worried about an adult?

[How to report concerns - Oxford Safeguarding Adults Board \(osab.co.uk\)](#)



Resources

[Mental Capacity Act 2005 at a glance | SCIE](#)
[What makes a good mental capacity assessment \(PDF\)](#)
[Mental Capacity Act \(2005\) – Code of Practice](#)

