

Adult Social Care Understanding Mental Capacity

What is the Mental Capacity Act and what does it do?



Coventry City Council

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○ What is the Mental Capacity Act and what does it do?

The Mental Capacity Act 2005 is the law in England and Wales that supports and protects people who cannot make decisions about their lives because they 'lack capacity' or 'lack mental capacity'.

People who have a learning disability, mental health problem, dementia or an injury to the brain may lack mental capacity.

People who lack capacity to make decisions for themselves can be vulnerable, so the Mental Capacity Act protects people who lack capacity and those who need to help them make decisions or make decisions on their behalf, in their "best interests"

The Mental Capacity Act;

- **says who can and should make decisions on behalf of people who lack capacity**
- **protects the people needing support to make decisions**
- **protects the people who help them to make decisions**

Decisions can be big or small - from what to wear, letting carers help people wash/bath, letting carers help with eating, having someone to look after money, deciding where to live, whether to stay out at the pub late or deciding what to do about a health problem.

The Mental Capacity Act covers specific decisions to be made at specific times.



○ The Five Principles of the Mental Capacity Act

The Mental Capacity Act is based on five key principles which must be followed in all cases.

1. The Right to Make Decisions

People have the right to make decisions for themselves.

The Act says that if there is not clear evidence that the person cannot make their own decision it must be assumed that they are able to make their own decisions. (see leaflet 2. What is a mental capacity assessment?)

- **Some people can make all decisions about their lives**
- **Some people can make some decisions about their lives**
- **Some people are not able to make any decisions about their lives.**

The Mental Capacity Act is for people who can make some decisions and people who cannot make any decisions.

Being unable to make a decision due to a mental illness, disturbance or disability of the brain or mind is called “lacking mental capacity”.

Everyone is different and every decision is different.

So, although someone may not be able to make a big decision about moving house, they may need help or need this decision to be made for them, the same person may be able to decide what they would like to do in their new house every day or what they want to wear.

The Mental Capacity Act says that everyone must be allowed to make decisions on their own/with support or by someone acting in their best interests depending on the type of decision and the person’s ability to make the decision (see Leaflet 2. What is a mental capacity assessment?)



2. The Right to Have Support.

People must be given every support to make their own decisions, if they need it. Before deciding that someone does not have the capacity to make their own decision all reasonable help and support should be given to help the person to make their own decision and communicate the decision.

Some people will need extra support to make a decision. This might include communicating with them in a way that suits them – for instance sign language or using pictures with someone who knows them well.

3. The Right to Make Unwise Decisions

People have the right to make decisions that may appear to be unwise. It is alright for a person to make an unwise decision as long as they understand what they are doing.

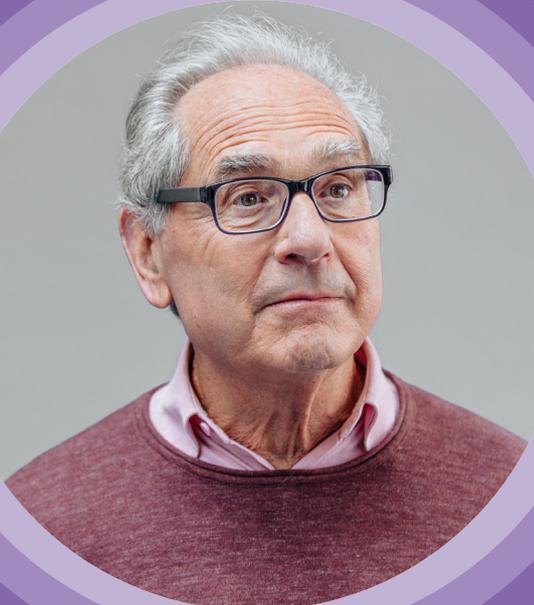
An unwise decision may be something like walking in the rain, spending too much money on a new television, staying up until 4am, or smoking 20 cigarettes a day.

If the person is able to decide these things, understand the decision that they are making and what it means – the Mental Capacity Act says that they must be allowed to go ahead even if family members, friends, healthcare or social care staff are unhappy with the decision

4. Best Interests

When someone is unable to make the decision for themselves the Mental Capacity Act says that other people can make the decision on their behalf as long as the decision is in their “best interests” and not anyone else’s.

To help decide what is in a person’s best interests the Mental Capacity Act provides guidance and a checklist that all decision makers must use (see Leaflet 3. Best Interests)



5. Least Restriction.

When a decision is made for a person it must be the one that least restricts the person's freedom.

For instance, a man likes to go out walking but he regularly falls and injures himself. The options discussed are for him to stay inside or to be provided with protective clothing.

The option should be to provide the protective clothing – which is the least restrictive option, so that the man can continue to go outside whilst being kept safe.

The full set of Understanding Mental Capacity leaflets and further information is available at umccoventry.co.uk



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