

The logo features a circular graphic on the left composed of a grid of small squares in various colors (pink, purple, orange, yellow). A dark blue triangle points to the right from the center of this circle. To the right of the circle is a dark blue horizontal bar with the text 'MCA TEAM' in white, and a light blue horizontal bar below it with the text 'WEBINAR' in white.

MCA TEAM WEBINAR

Welcome to our 12th Bitesize Mental Capacity Act Webinar
This is an interactive session - please turn off your camera's and mic's
The session will be recorded and is due to start shortly



Housekeeping

Please:

- Get involved – this is an interactive session
 - Use the chat bar and we will be doing a quiz at the start and the end
- This session is being recorded
- Evaluation and certificates will be provided, the certificate will be sent to you once the evaluation form is completed
- Turn off Microphones & Cameras

Mental Capacity Act

Jo Myers & Rachel Wilkinson

Mental Capacity Act Advisors

Mental Capacity Act Team – Dorset Council

MCA Webinar #12

QUIZ!



Mental Capacity Act: Five Statutory Principles

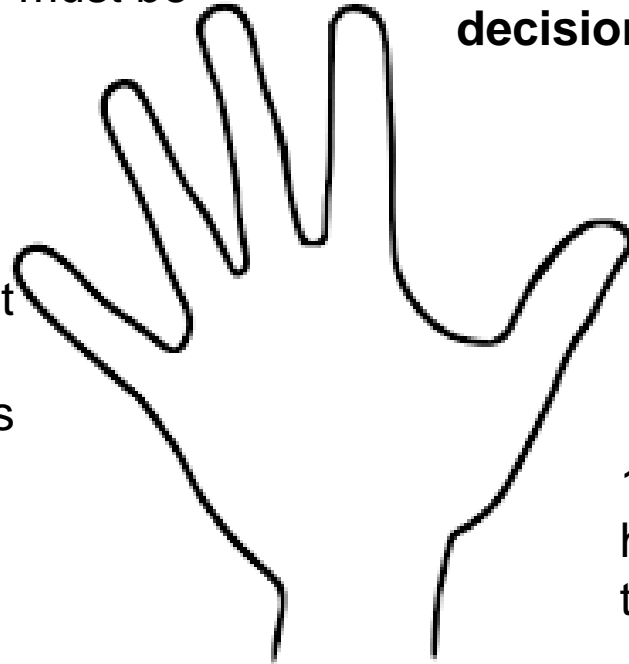
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in their **best interests**.

5. Before the act is done, or the decision made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is **less restrictive** of the persons rights and freedom of action.

3. A person is not to be treated as unable to make a decision merely because they make an **unwise decision**.

2. A person is not to be treated as unable to make a decision unless **all practicable steps** to help them to do so have been taken without success.

1. A person **must be assumed** to have capacity unless it is established that they lack capacity



The Standard Test for Capacity

Does the person have an **impairment** of, or **disturbance** in the **functioning** of the **mind** or **brain**

and

Is there a direct causal link (causative nexus) between this impairment or disturbance and the person being **unable to make the specific decision** when they need to

Causative Nexus

There has to be a direct link in the relationship between elements of the two-stage test of mental capacity.

It must be demonstrated that the nature of the mental disorder has had a specific impact upon someone failing to use information in reaching their decision.

To have capacity to make a decision a person must be able to:



Understand the information relevant to the decision (including the reasonably foreseeable consequences of making or not making the decision) and



Retain that information (long enough to make the decision) and



Use or weigh up the information (as part of the decision making process) and



Communicate the decision (in any recognisable way)

Failure on any one point means the person lacks capacity

And remember it must be..



Time specific

&



Decision
specific

Capacity assessments are everyone's business

- The decision maker has to be satisfied that the person lacks capacity
- The person assessing capacity has to know enough about the decision to be able to inform the person about the decision (maximise capacity)
- Nurses, doctors, psychologists, speech and language therapist, carers, social workers, occupational therapists, physiotherapists etc (this is not an exhaustive list)
- For important day to day care needs, carers will be expected to undertake capacity assessments

Relevant Information for Specific Decisions

Essex39 Chambers Guidance

Residence

Care

Contact

Media

Sex

Residence – Relevant Information

- (a) The two (or more) options for living.
- (b) Broad information about the area.
- (c) The difference between living somewhere and just visiting it.
- (d) The activities that the person being assessed would be able to do if he lived in each place;
- (e) Whether and how the person being assessed would be able to see friends and family if he lived in each place;
- (f) The payment of rent and bills.
- (g) Any rules of compliance and/or the general obligations of a tenancy.
- (h) Who they would be living with at each placement;
- (i) The sort of care they would receive in each placement;
- (j) The risk that a family member or other contact may not wish to see the person being assessed should they choose a particular placement against their family's wishes

Residence – Not relevant Information

- (a) The cost of the placement and/or the value of money.
- (b) The legal nature of the tenancy agreement or licence;
- (c) The consequences on the nature of the relationship of the person under assessment with a contact or family member in the long term (10 to 20 years) should the former choose to live independently.

Care – Relevant Information

- (a) With what areas the person under assessment needs support;
- (b) What sort of support they need;
- (c) Who will provide such support;
- (d) What would happen without support, or if support was refused.
- (e) That carers may not always treat the person being cared for properly, and the possibility and mechanics of making a complaint if they are not happy.

Care – Not Relevant Information

- (a) How care is funded;
- (b) How overarching arrangements for monitoring and appointing care staff work;
- (c) why having a support worker is important to access the community;
- (d) the importance of structure and routine in a person's day;
- (e) the importance of regular access to the local community to build and maintain confidence in daily life and independence and to avoid a deterioration in anxiety;
- (f) the importance of developing relationships with others outside of close family to build and maintain his confidence in daily life and independence and to avoid a deterioration in anxiety, to avoid a dependency upon close family members and to develop the person's own interests and opportunities for a social life with peers;
- (g) the opportunities that may be available to engage in training, education, volunteering or employment.

Contact - Relevant Information

- (a) Whom the contact will be with.
- (b) In broad terms, the nature of the relationship between the person under assessment and the contact in question;
- (c) What sort of contact the person under assessment could have with each of the individuals with whom they may have contact.
- (d) The positive or negative aspects of having contact with each person.
- (e) What a family relationship is and that it is in a different category to other categories of contact.
- (f) Whether the person with whom contact is being considered has previous criminal convictions or poses a risk to the protected party.

Contact – Not Relevant Information

- (a) The nature of friendship and the importance of family ties.
- (b) The long term possible effects of contact decisions.
- (c) Risks which are not clearly in issue in the case. Therefore a consideration of financial abuse or assault when there is no indication of its likelihood would be irrelevant.

Media - Relevant Information

- (a) That information and images (including videos) which you share on the internet or through social media could be shared more widely.
- (b) That It is possible to limit the sharing of personal information or images (and videos) by using 'privacy and location settings' on some internet and social media sites.
- (c) If you place material or images (including videos) on social media sites which are rude or offensive, or share those images, other people might be upset or offended.
- (d) Some people you meet or communicate with ('talk to') online, who you don't otherwise know, may not be who they say they are ('they may disguise, or lie about, themselves'); someone who calls themselves a 'friend' on social media may not be friendly;
- (e) Some people you meet or communicate with ('talk to') on the internet or through social media, who you don't otherwise know, may pose a risk to you'
- (f) If you look at or share extremely rude or offensive images, messages or videos online you may get into trouble with the police, because you may have committed a crime.

Media – Not Relevant Information

“it is widely known that internet-use can be addictive; accessing legal but extreme pornography, radicalisation or sites displaying inter-personal violence, for instance, could cause the viewer to develop distorted views of healthy human relationships, and can be compulsive. Such sites could cause the viewer distress. I take the view that many capacitous internet users do not specifically consider this risk, or if they do, they are indifferent to this risk. I do not therefore regard it as appropriate to include this in the list of information relevant to the decision on a test of capacity under section 3 MCA 2005.”

Sex - Relevant Information

- (a) the sexual nature and character of the act of sexual intercourse, including the mechanics of the act;
- (b) the fact that the other person must have the capacity to consent to the sexual activity and must in fact consent before and throughout the sexual activity;
- (c) the fact that P can say yes or no to having sexual relations and is able to decide whether to give or withhold consent.
- (d) that a reasonably foreseeable consequence of sexual intercourse between a man and woman is that the woman will become pregnant;
- (e) that there are health risks involved, particularly the acquisition of sexually transmitted and transmissible infections, and that the risk of sexually transmitted infection can be reduced by the taking of precautions such as the use of a condom.

Sex - Not Relevant Information

- (a) The identity of the sexual or marriage partner.
- (b) An understanding of what is involved in caring for a child (should a protected person become pregnant).
- (c) The risk that may be caused to herself through pregnancy, or the risk to future children.
- (d) The fact that the opportunity for sexual relations with a specific partner will be limited for some time to come into the future.
- (e) The ability to understand or evaluate the characteristics of some particular partner or intended partner.

QUIZ!



More information:

Further dates and previous recordings:

There is no August Webinar

7 th	September 2021	2pm – 3pm
9 th	November 2021	2pm - 3pm
7 th	December 2021	2pm - 3pm

Useful resources:

- [SCIE advice re COVID, MCA and Best interests](#)
- [SCIE introduction to MCA](#)
- [39 Essex resources](#)
- [Relevant Information for different categories of decision](#)

Feedback

THANK
YOU!

Please ensure this address is correct, the certificate will be emailed to it...

Mental Capacity Act training evaluation

About you Feedback 1 Feedback 2

Name

Anna Smith

Email address

anna.smith@dorsetcouncil.gov.uk

Course date

25/08/2020

Course title

Mental Capacity Act and Human Rights during the Pandemic

✕ Cancel

Next >

Your feedback is important to us
Click [here](#) to let us know how this went
and suggest topics for the next one.

The course was:
**Mental Capacity Act Assessments –
Interactive Session**