

## 7 Minute Briefing – Mental Capacity Act 2005 (MCA)

### 1. Introduction

The MCA 2005 applies to everyone over 16 years who may lack capacity to make **specific decisions** about their life. These decisions can range from simple, everyday things to more complex life changing matters such as where they live or receiving treatment.

The MCA protects the rights of individuals by creating a framework for decision making where someone may lack the mental capacity to make the decision for themselves.

### 2. The 5 Principles of the Mental Capacity Act

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 should be the least restrictive option.

### 3. Why may someone lack capacity.

There are many reasons why someone may lack mental capacity to make decision for themselves, examples include:

- Dementia
- A learning disability
- A brain injury
- A mental health condition
- A stroke
- Unconsciousness due to accident / injury
- Alcohol / drug use

### 4. Making Decisions

MCA states that a person can make a decision for themselves if they can do the following:

- Understand the information given to them;
- Retain the information long enough to make the decision;
- Weigh up the information available to make the decision;
- Communicate their decision.

### 5. Assessment

The assessment consists of 2 questions:

1. Is there an impairment of, or disturbance in the functioning of a person's mind or brain?
2. Is the impairment or disturbance the reason the person lacks the capacity to make the particular decision?

### 6. Things to consider

- Some people will experience fluctuating capacity.
- Some people will be able to make some decisions for themselves but not others
- A person's behaviour may give an indication that they lack mental capacity despite what they say.
- If someone is putting themselves at risk due to an apparent 'unwise decision'

### 7. Further information

<https://safeguardingadults.salford.gov.uk/professionals/mcadols-resources/>

<https://www.gov.uk/government/collections/mental-capacity-act-making-decisions>

<https://www.scie.org.uk/mca>