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Background

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.

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The 5 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

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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

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Making Decisions

The 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.

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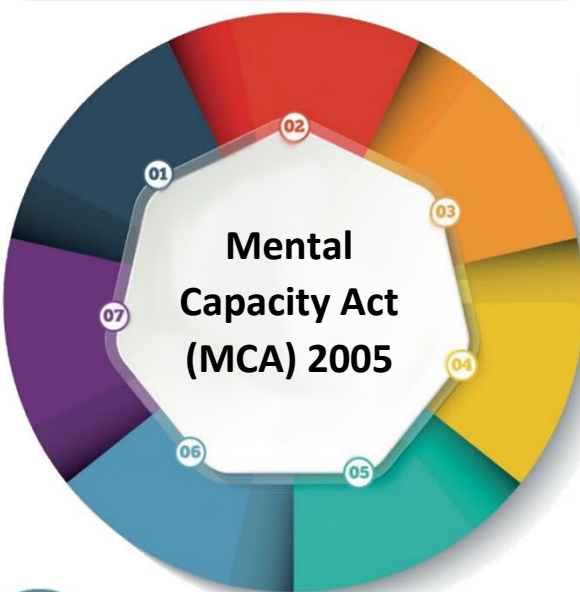
Further info

More information and can be found in the MCA resource and practice toolkit and via the links below.

<https://www.procedureonline.com/resources/mentalcapacity/>

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

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

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Things to consider

Some people will experience fluctuating capacity.

Some people will be able to make some decisions for themselves but may need support with others.

A person's behaviour may give an indication that they lack mental capacity despite what they say.

Consider whether someone is putting themselves at risk due to an apparent 'unwise decision'.

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Assessment of Mental Capacity & causative nexus

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?