



Mental Capacity NCF

November 8 2016

Aims for this session:

- Refresh our understanding of mental capacity
- Identify decisions with differing impact
- Build confidence in assessing capacity
- Equip to train and up-skill colleagues



Desired outcomes for your service:

- *Embedded MCA understanding and practice*
- *Empowered and protected customers*
- *Satisfied regulators: Effective services*



What is the Mental Capacity Act 2005 (“MCA”)?

1.

Start off by thinking that the individual can make their own decision.

2.

Give all practicable support to enable the person to make their own decision.

3.

Never say someone can't make a decision just because someone else thinks it's wrong or bad

4.

When an individual can't make their own decision someone has to make it in the best way for them.

5.

When someone makes a decision for a person they must consider if there is a less restrictive option, i.e. one that does not limit their rights or freedom more than necessary.

Who can assess mental capacity?

Dialogue

Does Sarah have capacity to manage her finances?

Discussion

Feedback

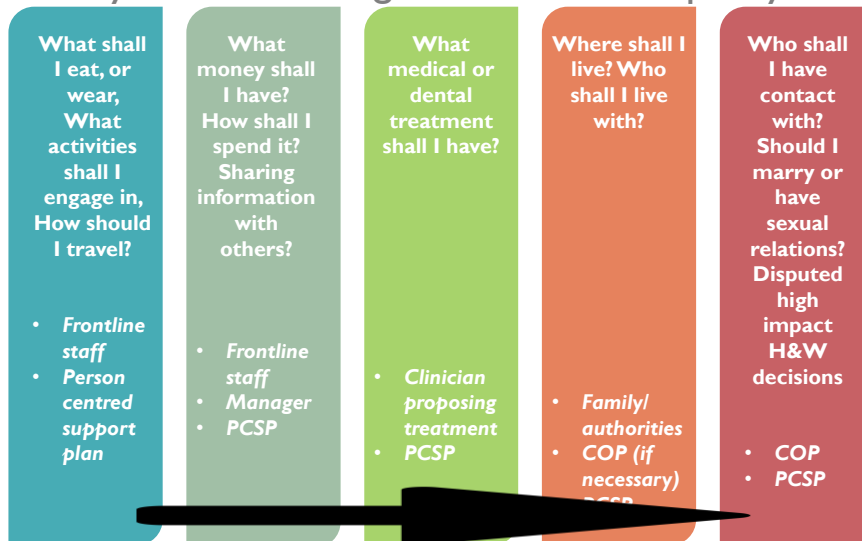


Different kinds of decisions

Consider the impact	low/medium/high	who should assess capacity?
What shall I eat, what should I wear today?		
What shall I spend my money on?		
Should I have this medication, this operation, this treatment?		
Where shall I live, who shall I live with?		
Should I marry or have sexual relations (with this person) or have life sustaining treatment?		

Who should assess capacity for each decision?

For your service: eg. who assesses capacity?



Should this be referred "upwards"

For your service: eg. who assesses capacity?

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You need to:

- **Consider your own service**
- **Identify the range of applicable decisions**
- **Decide who is authorised to assess capacity in each domain**
- **Incorporate into your policies/induction/training**

Who shall
have
contact
with?
Should I
carry or
have
sexual
relations?
Disputed
high
impact
I&W
decisions

• PCSP

• PCSP

For each **specific decision** at the **relevant time**:

Consider	Yes or no?
Is there any impairment/disturbance in the functioning of the person's mind or brain?	No? The person makes their own decision Yes? Move on to the next questions
Can the person?	
• Understand the information relevant to the decision?	If the answer to any one of the 4 questions
• Retain that information (long enough to make the decision)?	is "No", the person lacks capacity to make
• Use or weigh the information to make the decision?	the decision
• Communicate their decision?	

Case study:

Joshua

- Is going out for the day, and
- Wants to wear his favourite shorts, T shirt and flip flops

Background information:

It is mid-January and there is a covering of snow. Joshua has a learning disability and communicates non-verbally. Your task is to help Joshua prepare

Use the 5 principles of the MCA and the MCA two-stage test and discuss how you would approach your task. 

Joshua: Discuss with the CQC inspector

Joshua

- Tell me about Joshua?
- Can Joshua make decisions himself?
- Explain to me how you help Joshua to make his own decisions.
- What do you do if you think Joshua might not be able to make a particular decision?



Case study:

Clem

- Has dry skin and applies prescribed cream each night
- Clem's daughter also wants Clem to have an over-the-counter cream that she has purchased applied every morning

Background information:

Clem is unhappy about this but does not want to upset her daughter. The daughter tells you she has power of attorney and you are to apply the cream. Clem is 86 and has difficulty with her short term memory.

Use the 5 principles of the MCA and the MCA two-stage test and discuss how you would approach your task.



People claiming authority:

- "Next of Kin"
- Appointees
- Attorneys and Deputies
- Court of Protection order



Important steps:

- *Check the scope of their authority (EPA, LPA, Deputyship/COP order)*
- *Retain a copy in the PCSP*
- *NB You should still consider assessing capacity yourself*

MCA: What do you need to do now?

1.

Learn the 5 principles

Apply them

Know the capacity test.

Apply it

ALL DAY
EVERY DAY

2.

Think about the people you support

Consider the decisions they need to make

ASSESS

RECORD &
SHARE

3.

Think about your staff

When & how should they assess capacity?

TRAINING:
Induction,
refresher,
regular 121s

4.

Think about your policies

Apply them

Complete the template forms

EVERY TIME

5.

Think about your culture

Embed MCA

Talk about it
Share stories

Apply it

ALL DAY
EVERY DAY



Any questions?

If further questions arise, please contact Sheree Green of Anthony Collins Solicitors
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