

WHERE CAN I FIND OUT MORE?

For more information about the Mental Capacity Act please contact your **ward team** or the Mental Capacity Act and DoLS Adviser in the **Safeguarding Office**, on 020 8970 5719.

I FEEL WORRIED ABOUT SOMEONE ASSESSING MY MENTAL CAPACITY

If the mental capacity assessment and best interest decision are making you anxious or concerned, please let a member of staff know. This will enable us to offer as much support as possible.

If you would like this information in an alternative format, or if you need help with communicating with us, please let us know. You can call us on 01708 435 454 / 020 8970 8234 or email bhrut.pals@nhs.net. If you are deaf or unable to communicate with us using telephone or email, we have a text service which can be contacted on 07800 005 502

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MENTAL CAPACITY ACT AND BEST INTEREST DECISIONS

MENTAL CAPACITY ACT 2005 (MCA)

The MCA applies in England and Wales to people over 16 who are unable to make all or some decisions. It sets out who can make decisions for you, in which situations and how they lawfully go about this.

WHAT IS MENTAL CAPACITY?

Mental capacity is the ability to make a decision.

The MCA says that people must always start by assuming you have capacity to make a specific decision. This may be an everyday decision such as choosing what to have for dinner, or a more significant decision such as whether to have surgery or not.

WHAT IS A MENTAL IMPAIRMENT?

There are many different reasons why someone has a mental impairment. Some are temporary e.g. due to an infection or drug/alcohol use. Others are longer lasting or permanent e.g. an enduring brain injury or dementia.

The effect of a mental impairment on a person's ability to make a decision is very individual. It may also change or fluctuate depending on their health at the time.

MENTAL CAPACITY ASSESSMENT

If you have a mental impairment at the moment, staff may need to assess your capacity to make a specific decision.

You must be supported as much as possible to show that you can make the decision. Examples of support could be:

- Being provided with clear information about the decision you need to make.
- Having someone you trust with you at the assessment.
- Ensuring you can hear the questions you are being asked.
- The assessment being delayed until your health improves.

The assessment will see if you are able to do four things:

1. Understand the decision which needs to be made.
2. Remember information long enough to use it to make a decision.
3. Weigh up the information you have been given - see what the positives and negatives are when you make a decision.
4. Communicate your decision to others – if you cannot speak at the moment there may be another way you can do this.

INDEPENDENT MENTAL CAPACITY ADVOCATE (IMCA)

If you have no one else to support you apart from paid staff and you have a serious treatment or accommodation decision to make, you have a legal right to be referred to an IMCA.

Queen's Hospital -

Mind 01708 560 660 / 0207 510 1081
havering.advocacy@mithn.org.uk

King George Hospital -

Voiceability 0300 303 1660
helpline@voiceability.org

CAN I APPEAL?

If you do not agree with the 'best interest' decision, you can talk with your care team to try to resolve this informally.

If this is not successful, you have the right to contact the **Court of Protection** - 0300 456 4600 or by e mail
courtofprotectionenquiries@justice.gov.uk.

I WOULD LIKE TO SEE WHAT HAS BEEN WRITTEN ABOUT MY MENTAL CAPACITY

If you wish to see your patient record, a request in writing must be made to the Subject Access Requests Team at BHRUT.