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Understanding
mental capacity
in adult care

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An e-Book for health and social care practitioners who may need to assess capacity and make 'best interest' decisions for the individuals they support.

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Understanding capacity

Mental capacity is the ability to make your own decisions.

Everyone has a right to make their own decisions and should be supported and encouraged to do so. Health and social care practitioners should always start off thinking that the individual they care for can make their own decisions, even if they think it's 'wrong' or 'unwise'.

There are times though, when it would be reasonable to believe that an individual lacks the mental capacity to make a decision.

Common reasons an individual might lack capacity include:

- Dementia
- Intoxication
- Brain damage
- Mental health conditions
- Severe learning disabilities
- Physical or mental conditions that cause confusion, drowsiness, or a loss of consciousness (for example, dehydration)

REMEMBER: Capacity can change and a lack of capacity may be temporary. For example, if someone is recovering from surgery then they are temporarily unable to think / communicate as normal. No one lacks capacity in every area. Someone may be able to choose their meals or pick an outfit, but be unable to make financial decisions.

The Mental Capacity Act

The MCA 2005 applies to England and Wales and it protects people's rights to take decisions where they can, makes sure decisions are taken in people's best interests if they lack capacity, and allows people to plan for lacking capacity (for example, resuscitation or lasting power of attorney).

The 5 principles of the MCA are:

1. Everyone has a right to make decisions if they can
2. If people struggle to make a particular decision, we should offer all the support we can
3. Everyone has a right to make decisions others might not like
4. If we make decisions for people, we must act in their best interests
5. If we make decisions for people, we should chose the least restrictive option, allowing as much freedom as possible



Assessing capacity

If there is a reasonable belief an individual lacks the mental capacity to make a decision, capacity needs to be assessed. The more serious a decision, the more formal the assessment needs to be.

In order to assess capacity, practitioners must answer the following question:

- Does the individual have an impairment or disturbance in the functioning of the mind or brain that may make them unable to make a decision, even if they were supported to do so?

If so, practitioners must conduct a ‘functional test’, which considers whether the individual can:

1. Understand the information relevant to the decision?
2. Retain the information long enough to make a decision?
3. Weigh up the consequences of making the decision?
4. Communicate their decision by any means?

If not, then they can be deemed as lacking capacity.

DID YOU KNOW? According to the Social Care Institute for Excellence (SCIE): ‘The determination of a person’s capacity is made on the balance of probabilities – is it more likely than not that the person lacks capacity?’

Best interest decisions

When we take decisions on an individual's behalf, we must act in their best interests and be able to justify the decision.

'Best interests' means choosing options we think the individual would most likely have chosen for themselves; taking risks if necessary – but not wild risks. For example, letting someone with dementia continue smoking.



Any information about what the person's views might have been about the issue at hand and any relevant advance statement that they made prior to their loss of capacity, should be taken into account when trying to work out what is in their best interests. We should also be sure to read and understand their Care Plan (if they have one)

Best interest decisions

If we are not sure what they would choose for themselves and they have not made any advance statements, relatives, friends, or a Independent Mental Capacity Advocate (IMCA) can help make sure the decision reflects:

- Likes
- Dislikes
- Personal history
- Previously expressed wishes
- Cultural and/or religious beliefs

To ensure decisions are taken in their best interest, individuals with capacity that come into our care should be encouraged to plan ahead by:

- Writing a 'living will' explaining what they would like to happen if they can no longer explain their wishes to us, for example, medical treatments or how they want to be cared for
- Appointing someone with Lasting Power of Attorney who can make decisions about their health and finance. Individuals may chose one person for both roles or two different people.

Restrictive practice

A restrictive practice is an action that stops individuals from doing something they want to do, or forcing them to do something they do not want to do.

Restrictive practices need to be reduced as much as possible in adult care, and positive and proactive approaches should be used instead.

The MCA 2005 provides protection to any individual who is deprived of their liberties to safeguard their health and wellbeing through establishing all support to be the 'least restrictive' option.



Any restriction in place must be proportionate to the need of keeping the individual safe, a last resort when multiple other less-restrictive attempts have not helped, and justifiable if needed to be defended in front of the Court of Protection.

Restraint

Restraint is defined as ‘the act of managing or exerting control by restraining someone or something.’ The MCA 2005 states that someone is using restraint if they:

- Use force – or threaten to use force – to make someone do something they are resisting, or
- Restrict a person’s freedom of movement, whether they are resisting or not

Type of restraint:

- Physical restraint
- Using medication to sedate someone
- Confusing layouts or a lack of accessibility
- Key pad systems, security systems, and locks
- Un/intentionally moving mobility aids out of reach
- Asking individuals to stay seated or in their rooms / beds

The use of restrictive physical interventions has to be justified by there being a likelihood of injury to the individual, others, or serious damage to property.

REMEMBER: There are times when someone, through specific and individual circumstances, presents with behaviour that must be controlled by professionals. We must be sure that this is necessary and in the best interests of the person, and those close to them.

Good practice

An excellent health and social care practitioner:

- Always thinks of the least restrictive option
- Involves relatives, friends, or advocates when appropriate
- Helps people to make decisions and choices when they can
- Always considers the possibility that an individual might have the capacity to make a decision
- Knows about individuals' likes, dislikes, and lifestyle choices so can act in their best interests
- Helps at multidisciplinary team discussions about capacity, risk assessment, and care planning
- Assesses capacity on an ongoing basis and does not assume a lack of capacity in one situation means the individual lacks capacity in all situations
- Shows by their actions an understanding of The MCA and Liberty Protection Safeguards (LPS), knows why they are important, and can explain them



If you enjoyed this e-Book and would like to learn more about the topics covered here, then you may be interested in our Care short courses or using our lesson resources for Health and Social Care qualifications.

Laser Short Courses, including 'The Mental Capacity Act' and 'Care planning', can be found here:

www.lasershortcourses.co.uk/courseList.php

Laser Learning resources are available for qualifications, including Level 2 and 3 Diploma for Care and Level 5 Diploma in Adult Care.

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