

Mental Capacity Act (2005) Factsheet

The Mental Capacity Act (MCA) is a vital safeguard to protect and support those who lack the capacity to make a specific decision. It has five key principles that form the basis of all actions under the Act:

1. We must always assume that an individual has capacity to make their own independent decisions, unless it is proven otherwise.
2. An individual must be supported to make their own decisions.
3. An individual has the right to make what others may call an 'unwise' decision.
4. If a person is lacking capacity for a specific decision, any decisions made on their behalf must be in their Best Interest.
5. Any decisions made in Best Interest must be the least restrictive option.

To assess whether an individual has capacity to make a specific decision, you must either have reasonable doubt that they do not have capacity and so complete a Mental Capacity Assessment. The assessment must relate to a *specific* decision.

Can the individual make the specific decision for themselves?

- Can they **understand** information relevant to the decision?
- Can they **retain** information relevant to the decision?
- Can they **weigh up** relevant information in order to make the specific decision?
- Can they **communicate** their decision (in any format)?

If the individual is unable to make the decision for themselves, is there an impairment or disturbance in the functioning in the person's mind / brain? Is the person's inability to make the decision *caused by* the identified impairment or disturbance of the brain?

To help you identify and develop questions for an Assessment, we have shared guidance on our webpages found at www.mental-capacity.co.uk. This guidance can be further expanded with our range of training and consultancy packages.

Changes to Deprivation of Liberty Safeguards (DoLs)

Under the MCA, if any individual is lacking capacity for their placement, whether or not they are objecting or had capacity when admitted, they must be placed under the DoLs. This is to protect their Human Rights under Article 5. It is also general good practice in order to safeguard their health and welfare.

However, the DoLs process will soon change to [Liberty Protection Safeguards \(LPS\)](#). With this change there will be increased responsibilities for any placement – whether it be a hospital ward, supported living or a care/nursing home – in the process of assessing and applying for an authorisation.

For more information on LPS and how it will impact you, please visit our website, or contact us via the details found below.