

# A guide to the Mental Capacity Act 2005

## What is mental capacity?

When we talk about mental capacity, we mean the ability to make a decision.

A person could have capacity for some decisions and not others; for example someone may not be able to make decisions about spending their money but may have the ability to decide what they want to eat.

Capacity can change over time. Someone may temporarily lose capacity to make a decision when ill, but regain it when recovered. Some mental capacity may deteriorate over time.

## What is the Mental Capacity Act?

The Mental Capacity Act is designed to protect and empower people who may lack the mental capacity to make their own decisions about their care and treatment. It applies to people aged 16 and over.

# 5 key principles of the Act

- 1** **Presumption of capacity**  
Every person is presumed to have capacity to make every decision for themselves until proven otherwise.
- 2** **Support in making decisions**  
Individuals should be supported to make decisions in the way most suited to them eg. with support from additional information or with the use of communication aids.
- 3** **Everyone is entitled to make their own decision**  
Someone doesn't lack capacity simply because it may be an unwise or unusual decision.
- 4** **Acting in a person's best interests**  
Those making a decision on behalf of someone else must be able to demonstrate it's in the individual's best interest.
- 5** **As little restriction as possible**  
When making a best interest decision on behalf of someone else, the least restrictive option should be chosen.

# How is mental capacity determined?

In order to make a particular decision, a person must:

- be able to understand the information relevant to the decision
- retain that information long enough to make a decision
- weigh up the pros and cons regarding the decision
- be able to communicate their decision in some way

They must be given any available support to help them with this.

## Decisions that cannot be made on behalf of another person

Decisions about the best interests of someone else in the following cannot be made on behalf of someone else:

- sexual relationships
- marriage
- divorce
- voting

# How does this impact your care?

Services you come into contact with should comply with the principles of the Mental Capacity Act by treating everyone they are supporting on the basis they are able to make their own decisions.

For people on the autistic spectrum this may mean needing visual aids to help understand information and support ensuring you can communicate your preferences.



**HEAR ME, SEE ME**

## For more information

[www.autism.org.uk](http://www.autism.org.uk)

<https://www.mind.org.uk/information-support/legal-rights/mental-capacity-act-2005/about-the-mental-capacity-act/>

<https://www.nhs.uk/conditions/social-care-and-support-guide/making-decisions-for-someone-else/mental-capacity-act/>

email: [enquiries@autismbeds.org](mailto:enquiries@autismbeds.org)

