

POLICY ON A PAGE

Mental Capacity Act

1 WHY DO WE NEED THIS POLICY?

The policy provides guidance on application of the Mental Capacity Act (“MCA”) within the Trust. The Mental Capacity Act provides a statutory framework for people who lack capacity to make decisions for themselves, or who have capacity and want to make preparations for a time when they may lack capacity in the future. The legal framework provided by the Mental Capacity Act is supported by the MCA Code of Practice which has statutory force. This means that certain categories of people have a legal duty to have regard to it when working with or caring for adults who may lack capacity to make decisions for themselves.

Most of the provisions of the MCA apply to everyone aged 16 years and over, however there are some exceptions, for example a person must be aged 18 or over to make an Advance Decision to Refuse Treatment or a Lasting Power of Attorney.



2 WHAT DO I NEED TO KNOW?

The MCA has five statutory principles which emphasise the fundamental concepts and core values of the MCA:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person’s rights and freedom of action



4 Understanding the Process

All staff who work with people who are assessed as lacking decision-specific capacity have a legal duty to have regard to the Code of Practice and this policy. This includes health care staff, social care staff, volunteers and others who may occasionally be involved with people who lack capacity such as police, ambulance staff and housing workers.

Robust mental capacity assessments are critical in determining the approach to be taken by practitioners, either to support the decision-making of the person who has capacity or to intervene to protect the best interests of the person who lacks capacity. Staff must be clear on their responsibilities in this regard, including where and how to document the capacity assessment and determination.



3 Quality Standards

All practitioners working with the Mental Capacity Act must ensure they have completed their mandatory MCA e-learning and be familiar with the NICE Guidance on "Decision-making and Mental Capacity".

They must be confident in applying the principles of the MCA in their daily practice including the use and application of Lasting Power of Attorney arrangements and Advance Decisions to Refuse Treatment.

Practitioners must ensure that the views of the patient are sought and clearly recorded. Where the patient is assessed as lacking decision-specific capacity, the views of carers/family and other relevant persons must be sought and clearly recorded.

Practitioners must ensure that capacity assessments are regularly reviewed in line with Trust policy and reflect the patient's current presentation.



5 CONTACT

For queries relating to the Mental Capacity Act, please contact mca@spft.nhs.uk.

