



Trainer and Assessor Handbook
Level 3 Award in the Awareness of the Mental Capacity Act
2005.

Cloverleaf Advocacy
1st Floor
9 Wellington Road
Dewsbury
West Yorkshire
WF13 1HF

Contents

The workbook is laid out in 7 sections

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AWARENESS OF THE MENTAL CAPACITY ACT 2005

Introduction

This handbook has been produced to support tutors to deliver training and assessors to assess the unit 'Awareness of the Mental Capacity Act 2005' when accredited it is the Level 3 Award in the Awareness of the Mental Capacity Act 2005.

In order to deliver this course it is essential to familiarise yourself with the Mental Capacity Act Code of Practice. The Code of Practice (CoP) supports the MCA and provides guidance to all those who care for and/or make decisions on behalf of adults who lack capacity. The Code includes case studies and clearly explains in more detail the key features of the MCA.

<http://webarchive.nationalarchives.gov.uk/+/http://www.justice.gov.uk/docs/mca-cp.pdf>

Before you start working with the Trainer Handbook you should advise the participants that they will be allowed time throughout the day to reflect on their own practice and complete the learning outcomes.

Meeting with other colleagues will provide an ideal opportunity to share views on the Mental Capacity Act 2005.

Awareness of the Mental Capacity Act 2005 Level 3

Learning outcomes <i>The learner will</i>	Assessment criteria <i>The learner can:</i>
<p>1. Understand the importance of the Mental Capacity Act 2005</p>	<p>1.1 Explain why legislation is necessary to protect the rights of individuals who may lack the capacity to make decisions for themselves</p> <p>1.2 Describe the factors which may lead to an individual lacking the capacity to make a particular decision for themselves</p> <p>1.3 Explain how the Mental Capacity Act 2005,</p> <ul style="list-style-type: none"> – empowers people to make decisions for themselves – protects people who lack capacity by placing them at the heart of the decision making process <p>1.4 Describe why effective communication is important when working with a person who may lack capacity to make a particular decision for themselves</p>
<p>2. Understand the key elements of the Mental Capacity Act 2005</p>	<p>2.1 Define the 5 statutory principles included in the Mental Capacity Act 2005</p> <p>2.2 Describe when a worker must comply with the Mental Capacity Act 2005</p> <p>2.3 Explain how the Mental Capacity Act 2005 gives legal protection to workers providing care and treatment for someone who lacks capacity</p> <p>2.4 Explain 'capacity' as defined in the Mental Capacity Act 2005</p> <p>2.5 Explain 'best interests' as defined in the Mental Capacity Act 2005</p> <p>2.6 Explain what actions needs to be taken to ensure a worker acts in an individual's 'best interests'</p> <p>2.7 Identify whose responsibility it is to assess 'capacity' and 'best interests'</p> <p>2.8 Identify the type of 'day to day' decisions a worker may find themselves making on behalf of a person who lacks capacity to make those decisions themselves</p>

	<p>2.9 Explain the circumstances when an Independent Mental Capacity Advocate (IMCA) should be appointed</p> <p>2.10 Explain how the Mental Capacity Act 2005 can assist a person to ‘plan ahead’ for a time when they may not have capacity to make certain decisions</p>
<p>3. Understand ‘restraint’ as defined in the s6(4) Mental Capacity Act 2005</p>	<p>3.1 Identify the range of actions that amount to restraint</p> <p>3.2 Identify the factors which make restraint lawful under the Mental Capacity Act 2005</p> <p>3.3 Describe the circumstances where the restrictions or restraint being used amount to a person being ‘deprived of their liberty’</p> <p>3.4 Describe the actions that are necessary to ensure that a person is lawfully ‘deprived of their liberty’</p> <p>3.5 Explain why a worker should raise their concerns with their supervisor / manager when they think a person may be being ‘deprived of their liberty’</p>
<p>4 Understand the importance of complying with the Mental Capacity Act 2005 Code of Practice when working with individuals who lack capacity</p>	<p>4.1 Explain the legal status of the Mental Capacity Act 2005, Code of Practice</p> <p>4.2 Explain the purpose of the Mental Capacity Act 2005, Code of Practice</p> <p>4.3 Explain how the Mental Capacity Act 2005 Code of Practice effects the day to day activities of a worker when making decisions for individuals who lack the capacity to make those decisions for themselves</p>

Guidelines for trainers

The following are good practice recommendations for delivering training:

Getting started:

- Get there early!
- Ensure the room is set up for your preferred style of training
- Check that the equipment is working
- Check the lighting and temperature of the room is correct
- Check details of the venue's health and safety procedures such as fire exits and fire assembly points

On the first day:

- Introduce yourself and the course
- Provide a brief overview of venue rules and facilities: fire exits, smoking restrictions and toilets
- Special requirements and assistance: Put in place any special requirements requested pre-course.
- Check whether any delegates have special requirements such as wheelchair access, support workers, signers or any other appropriate forms of assistance and aids which might assist a person with a disability. These may not have been captured at course enrolment
- Agree and set ground rules for the training
- Deliver at least one ice breaker to build rapport and a sense of connection/trust within the group

(Introductory ice-breakers are an important way to introduce participants to each other and to begin the building of rapport. This is essential in creating a safe space for participants to test out their learning and knowledge and ask questions. Most trainers will already have a number of tried and tested ice breaker exercises that they have used before: Appendix 1 gives examples)

- Provide a programme and brief outline of the taught sessions



You will need to encourage learners to have access to the Mental Capacity Act 2005, Code of Practice to assist them in completing the Workbook. An electronic version is available at the web site listed above.

Where there is information in the Mental Capacity Act 2005, Code of Practice that will assist learners in completing the Workbook reference to the relevant part of the Code of Practice will be included in the Workbook in the following way:

- (5.1 MCA CoP) – means the relevant information will be found in Chapter 5 of the Code of Practice at paragraph

References to the Mental Capacity Act 2005 will be as follows:

- (s5 MCA) – means Section 5 of the Mental Capacity Act 2005.

Social Care Institute of Excellence (SCIE): E- Learning – Mental Capacity Act

SCIE have produced a set of e-learning resources which covers a wide range of information relating to the Mental Capacity Act 2005 including:

- supporting people to make their own decisions
- making day-to-day decisions about care and support
- best interests decisions about day-to-day care and support
- making more complex decisions
- more complex best interests decision making
- what to do when there is disagreement
- planning for the future
- a guide to the deprivation of liberty safeguards

The e-learning uses a range of learning methods including text, case scenario and quizzes.

The information is available in both and electronic and text format and can be accessed through the following web link:

<http://www.scie.org.uk/publications/elearning/mentalcapacityact>

At various points in the Workbook learners will be encouraged to look at the 'SCIE e-learning MCA' website to assist them in completing particular exercises.

Where further information is available on a particular 'topic in either the MCA CoP or the SCIE MCA e-learning website learners will see the following box.

For further information on 'this topic'

- *MCA CoP*
- *SCIE e-learning*

MENTAL CAPACITY ACT 2005 (MCA)

MCA Quiz

Tutors should consider using this quiz at the beginning of the session. The quiz is intended to provoke thought and discussion with respect to issues related to mental capacity/best interest decisions and associated themes and topics. At this stage we do not expect learners to have the knowledge base to correctly answer all of the questions. However, we will be revisiting the quiz at the end of the course to evaluate your learning.

Exercise 1

1. The Mental Capacity Act applies to anyone of any age at any time?

True or false

Answer: FALSE

The Mental Capacity Act only applies to adults (18yrs or older). The statutes reflect the law to protect people once they have lost capacity. Clearly the Act allows people to plan before this happens for example by writing an advanced directive or appointing a Lasting Power of Attorney.

2. Capacity should only consider one persons opinion?

True or False?

Answer: False

3. It is alright to presume a person lacks capacity if they are of a certain age and have dementia?

True or false?

Answer: False

4. Capacity once lost cannot be recovered?

True or false

Answer: FALSE

Capacity may be lost temporarily e.g due to an illness. Once recovered from the illness or cause of temporary loss of capacity, the person may now have regained capacity and be able to make their own decisions again. With some conditions capacity can fluctuate over time. Reviewing the Case Examples will help to explain this.

5. If a person makes really unwise decisions, that is evidence that the person lacks capacity?

True or False

Answer: FALSE

6. If a person cannot make a decision without help, they lack capacity

True or false

ANSWER: False

7. A person without mental capacity can automatically be physically restrained under the MCA:

True or false

ANSWER: False

8. If you suspect a person lacks capacity, but they are in agreement with your decision, you will not need to assess their capacity

True or False

Answer: False

9. A person with enduring power of attorney can decide where the donor should live

True or False

Answer: False

10. The person who chairs a best interest meeting will always be the decision maker

True or False

Answer: False

Exercise 2

Learners to work in pairs to generate a definition for the term Capacity. Share with the group. A thought provoking exercise which will feed into the section around definition of capacity later in the training.

INTRODUCTION TO THE MENTAL CAPACITY ACT 2005 (MCA)

Two million people in England and Wales are thought to lack capacity to make decisions for themselves. These individuals are amongst the most vulnerable in society. In the past such people have often not been listened to, and their rights to make decisions may not have been recognised.

Before the MCA came into force understanding of the law amongst those working with individuals who lacked capacity was limited. There were no procedures that needed to be followed when someone was making a health and care decision on behalf of a person who lacked capacity.

There was a general concern that the rights of individuals who lacked capacity to make health and care decisions for themselves were at the risk of being abused.

The Government addressed these matters with the introduction of the MCA (2005).

Lord Falconer in the Foreword to the MCA 2005, Code of Practice said the aim of the act was:

“To empower people to make decisions for themselves whenever possible, and protect people who lack capacity by providing a flexible framework that places them at the very heart of the decision making process”.

The MCA is a comprehensive legal framework for decision making for people aged 16 and over in England and Wales who lack capacity to make particular decisions for themselves. In Scotland, decision-making is covered by the Adults With Incapacity (Scotland) Act 2000. In Northern Ireland, decision-making is governed by the common law.

Accompanied by a statutory Code of Practice (CoP) MCA was based on existing common law and good practice. MCA puts the needs and wishes of a person who lacks capacity at the centre of any decision making process- *“enabling and supportive, not restrictive or controlling”*

Under the MCA a person is presumed to make their own decisions *“unless all practical steps to help him (or her) to make a decision have been taken without success”.*

Every person should be presumed to be able to make their own decisions. You can only make a decision for someone else if all practical steps to help them to make a decision have been taken without success. For example, someone might have the capacity to walk into a shop and buy a CD but not to go into an estate agent and purchase a property.

For further information on why a person may lack the capacity to make a particular decision:

- *SCIE e-learning MCA: Module 1 Supporting people to make their own decisions’ - Section 1 Introduction*
- *MCA CoP – 4.11 to 4.12, Chapter 4 How does the act define a person’s capacity to make a decision and how should capacity be assessed*

Sadly concerns about the treatment of people who lack capacity continue to arise:



- ***“the care fails to recognise the humanity and individuality of the people concerned and to respond to them with sensitivity, compassion and professionalism”*** (Care and Compassion?, Report of the Health Service Ombudsman Report, 2011)



- ***“the story it tells is first and foremost of appalling suffering of many patients”*** (Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, 2013, ‘The Francis Report’)

Scenario 1

Doreen is an older woman with a severe learning disability who has recently moved from long-term hospital accommodation to her own home in the community. Following her move it is discovered that she has been suffering from an untreated problem with her throat for many years, which has led to issues with swallowing and reflux. In order to investigate further it is necessary for Doreen to have a gastroscopy. Doreen does not communicate verbally and needs total support in all areas of her life to make her needs known. She has no contact with any family members. The consultant in charge of Doreen’s care has asked her support staff to sign a consent form for this treatment.

Explain why legislation is necessary to protect the rights of Doreen who may be deemed as lacking capacity?

Describe the factors that need to be considered in this scenario in order to assess Doreen’s capacity.

What support may be given to Doreen to help her become involved in this decision?

Explain how the Mental Capacity protects Doreen by placing her at the centre of the decision making process?

Have you any other concerns about this scenario?

Real outcome:

Doreen did not have capacity to make this decision due to her severe learning disability and inability to understand the information required. The decision maker was the consultant (reluctantly!) as he/she was responsible for administering the treatment. However, he/she should not have asked support staff to sign a consent form as no person is legally able to do this for another adult. The consultant must make a best interest decision and proceed accordingly after consulting all parties. In this case Doreen had no family so it was necessary to consult with those that knew her well (staff, advocate, community nurse). It might be appropriate to refer to an Independent Mental Capacity Advocate (IMCA) but in this case it was not necessary as the decision was minor in nature

For further information on the background to the MCA:

- *SCIE e-learning MCA: Module 1 Supporting people to make their own decisions’.*
Section 1 - Introduction

The Act was introduced as a safeguard to protect the rights of people to plan and direct their own lives it also protects people who can't make decisions for themselves or lack the mental capacity to do so.

People's rights to make their own decisions, where possible, have not always been respected.

People may have been written off as 'incapable' following diagnosis of a learning disability, Dementia, Brain injury, Others have assumed they could make decisions for them, without giving much thought to what that person might want.

The MCA changes this by saying that we must always assume that people can make their own decisions, even if they have a condition that could make it difficult for them.

The MCA is intended to be enabling and supportive of people who lack capacity, not restricting or controlling of their lives. It aims to:

- protect people who lack capacity to make particular decisions
- maximise their ability to make decisions and to participate in decision-making, as far as they are able to do so.

The act places each individual at the heart of the decision-making process.

It aims to ensure that individuals are supported as much as possible to make their own decisions they participate as much as possible if any decisions have to be made on their behalf.

The provision of relevant information is essential for any type of decision making, no matter how simple the decision or capable the decision maker. To make an informed decision people will need to understand what the risks and benefits are likely to be.

For example, in simple decisions like choosing what to have for breakfast the person would need to know what food is available before making that decision. If they choose yogurt, but have a lactose intolerance, they need to understand the consequences of that choice. However we can all make unwise choices!

If the decision is more complex and concerns consent to medical treatment, the doctor will need to explain what is involved in the proposed course of treatment, why it is considered necessary, any alternatives there may be, and the consequences of consenting to, or refusing consent to, treatment.

KEY ELEMENTS OF THE MENTAL CAPACITY ACT 2005

PURPOSE OF THE MENTAL CAPACITY ACT 2005

The Mental Capacity Act (MCA) was introduced in England and Wales in 2007 to provide a framework for making decisions on behalf of others. It tells us what to do if we are involved in the care, treatment or support of people aged 16 and over who may lack capacity to make a decision.

The MCA applies to any person who is carrying out an action or making a decision on behalf of an individual they believe lacks capacity to make that decision.

2.3 - Section 5 of the Act allows carers, healthcare and social care staff to carry out certain tasks without fear of liability. These tasks involve the personal care, healthcare or treatment of people who lack capacity to consent to them. Decisions can range from medication administration to choice of diet or activity. The aim is to give legal

backing for acts that need to be carried out in the best interests of the person who lacks capacity to consent. The following steps list all the things that people providing care or treatment should bear in mind to ensure they are protected by the Act.

Acting in connection with the care or treatment of someone who lacks capacity to consent.

- Is the action to be carried out in connection with the care or treatment of a person who lacks capacity to give consent to that act?
- Does it involve major life changes for the person concerned?
If so, it will need special consideration.
- Who is carrying out the action? Is it appropriate for that person to do so at the relevant time?

PROTECTION FOR ACTIONS CARRIED OUT UNDER THE AUTHORITY OF THE MENTAL CAPACITY ACT 2005

S5 MCA provides the legal backing for carers (including unpaid carers), healthcare and social care staff to carry out certain tasks providing they have a reasonable belief that:

- the person lacks capacity to make that decision
- that it is in the persons best interests for the action to be carried or decision made
- an appropriate (proportionate) response
- less restrictive options would not be appropriate

These can be decisions about:

- 'day-to-day' matters like what to wear, or what to buy when doing weekly shopping

Or

- Major-life changing events such as whether the person should move into a care home or undergo a major surgical operation (1.8 MCA CoP)

2.2 Describe when a worker must comply with the Mental Capacity Act 2005

2.3 Explain how the Mental Capacity Act 2005 gives legal protection to workers providing care and treatment for someone who lacks capacity

2.8 Identify the type of 'day to day' decisions a worker may find themselves making on behalf of a person who lacks capacity to make those decisions themselves.

THE MENTAL CAPACITY ACT 2005, CODE OF PRACTICE

The Code of Practice provides guidance to anyone who is working with and / or caring for adults who may lack capacity to make particular decisions. It describes your **responsibilities** when acting or making decisions on behalf of individuals who lack the capacity to make those decisions for themselves.

The Code explains how the law about decision making should be put into practice. The Code explains how the MCA works on a day-to-day basis and provides guidance to those working with people who may lack capacity. The Code explains the key features of the MCA in more detail, as well as some of the practical steps that people using and interpreting the law need to take into consideration. If you work with people who lack capacity and you are a professional and/or you are paid for the work you do then you have a legal duty to have regard to the Code. It is also relevant to unpaid carers who will be helped and guided by it.

Whilst the Code of Practice is not legally binding it is more than mere guidance. Paid carers must be aware of the Code of Practice when acting or making decisions on behalf of someone who lacks mental capacity. Workers should be able to explain how they had regarded the Code of Practice. If they do act against the advice given they must be able to explain why they have done so. It is strongly recommended that care workers, where possible seek advice before doing this and if it is still appropriate to act in a way that conflicts with the guidance provided make a record of their reasons for doing this.

4.1 Explain the legal status of the Mental Capacity Act 2005, Code of Practice

4.2 Explain the purpose of the Mental Capacity Act 2005, Code of Practice.



It is important you know where to access a copy of the Mental Capacity Act 2005, Code of Practice.

For further information on the MCA 2005, Code of Practice:

- SCIE e-learning MCA: 'Module 1 Supporting people to make their own decisions'. Section 1, Introduction
- MCA CoP – Introduction; 1.1 to 1.7, Chapter 1,

Scenario 2

Joe is a 42 year old man with Down's Syndrome. He has a supported living tenancy and shares his home with one other person. Joe and his housemate receive support from a provider during the day but not in the evenings and at night. Recently Joe has been frequenting a local pub where he has made friends with a group of men. He has become involved in their business and delivers packages for them during the day for which he receives a small amount of money.

Joe does not know what these packages contain but believes that they are washing machine spares. Joe's support staff have spoken to him about these activities and have told him that he must stop. They have tried to ban him from going to the pub. Joe says that the men from the pub are his friends and he can do what he likes.

What are the issues?

Describe why effective communication is important when working with Joe in order to make decisions for make himself

Explain how in this situation the MCA gives legal protection to you as workers providing care and treatment Joe.

Explain how the MCA empowers Joes to make decisions for himself

Explain how the MCA code of practice may affects your day to day activities when making decisions for individuals who lack capacity to make decisions for themselves.

Real life outcome:

Joe has a learning disability so there were concerns about his ability to make the best decision. However, he was able to identify the issues involved and showed some understanding of the consequences of his actions. The Mental Capacity Act advises that individuals are able to make 'unwise decisions' and ones that we would not always agree with. It was decided that Joe did have capacity and was making an unwise decision in this case. Support staff disagreed and, although their opinions were taken into account, it was felt that their actions were designed to limit Joe's independence rather than protect him. It is important to recognise that Joe might be placing himself at risk and even involving himself in illegal activities. It was necessary, therefore, to consider the issues under safeguarding procedures and to involve the Police. Joe was visited by a social worker and police officer who talked to him about the risks he might be placing himself under and that he might be arrested for his actions. Joe agreed to stop delivering the parcels but wanted to remain friends with the men in the pub.

THE STATUTORY PRINCIPLES

Section 1 of the MCA sets out the five 'statutory principles'. These are the **values** that underpin the MCA.

The Act has 5 principles that must be followed:

-
- **Presumption of capacity** (section 1(2) MCA). Every adult has the right to make their own decisions if they have the capacity to do so. Family carers and healthcare or social care staff must assume that a person has the capacity to make decisions, unless it can be established that the person does not have capacity
- **Maximising decision making capacity** (section 1(3) MCA). People should receive support to help them make their own decisions. Before concluding that someone lacks capacity to make a particular decision, it is important to take all possible steps to try to help them reach a decision themselves.
- **Right to make unwise decisions** (section 1(4) MCA). People have the right to make decisions that others might think are unwise. A person who makes a decision that others think is unwise should not automatically be labelled as lacking the capacity to make a decision.
- **Best interests** (section 1(5) MCA). Any act done for, or any decision made on behalf of, someone who lacks capacity must be in their best interests.
- **Least restrictive option** (section 1(6) MCA). Any act done for, or any decision made on behalf of, someone who lacks capacity should be the least restrictive option possible.

The MCA applies to everyone who works in health and social care and is involved in the care, treatment or support of people who are unable to make all or some decisions for themselves.



It is **essential** that you apply the Statutory Principles when making decisions on behalf of a person who lacks capacity

2.1 Define the 5 statutory principles included in the Mental Capacity Act 2005

For further information on the statutory principles:

- *SCIE e-learning MCA: 'Module 1 Supporting people to make their own decisions'. Section 3 – The five principles of the MCA*
- *MCA CoP – Chapter 2*

Hints/answers

Five statutory principles of Mental Capacity Act

1. *Assume capacity*
2. *Support people to make their own decisions*
3. *People can make unwise decisions*
4. *Best interests*
5. *Limit restrictions*

CAPACITY TO MAKE A DECISION

What is mental capacity?

Having mental capacity means that a person is able to make their own decisions.

Presuming capacity

When might you need to consider a person does not have mental capacity?

What does the MCA mean by 'lack of capacity'?

In terms of the MCA (2005) '**lack of capacity**' means that a person is **unable to make a specific decision at the time it needs to be made** (4.4 MCA CoP). A person may lack capacity to make a particular decision but have the capacity to make other decisions.

To determine if a person lacks capacity the MCA set out a **two stage test**:

- **Stage 1** - does the person have an impairment or disturbance in the functioning of their mind or brain?
- **Stage 2** – does that 'impairment or disturbance' mean that they are unable to make a specific decision at the time they need to make that decision?

It is important to remember that because a person has "an impairment or disturbance of their brain or mind" it **doesn't** automatically mean that they lack capacity to make a particular decision.

The Mental Capacity Act (s2, s3 MCA) says that a person lacks capacity to make a particular decision if, at the time, because of an impairment or disturbance in the functioning of the brain or mind, they cannot do **one or more** of the following four things:

- Understand information relevant to the decision
- Retain information relevant to that decision
- Use or weigh up that information as part of the decision making process
- Communicate their decision.

Every effort should be made to provide information to a person in a way that is most appropriate to help them understand the decision under consideration. You should not assess someone's capacity to make a particular decision until they have been given relevant information about that decision.

Relevant information must include:

- the likely consequence of the action or decision that is being proposed
- the likely consequence if the action or decision being proposed is not made

A person may well need more time to take in and consider information relating to a complex decision than they would need to make a day to day decision.

Day-to-day decisions can sometimes be taken for granted and it is easy to make them on behalf of others without giving them the chance to choose for themselves.

Just because people need help to make a decision or to communicate their choice, it does not mean that they are unable to make it.

For example, in day-to-day decisions like choosing what to have for breakfast, the person would need to know what food is available before making that decision. If they choose toast, but have a wheat allergy, they need to understand the consequences of that choice.

The person must be able to retain the information long enough to make an effective decision.

When supporting someone else to make a decision, remember to stop and think, 'If it was me, what would I need to know?'

Use or weigh up that information as part of the decision making process

For someone to have capacity they need to be able to weigh up the information they have been given and use it to reach a decision. A person may be able to understand information but may lack the capacity to weigh up that information. For example:



A person with a deep rooted fear of dental treatment may understand they need treatment but not be able to make a decision about having treatment because of their high level of anxiety.



Similarly a person with anorexia nervosa may understand the consequences of not eating but the compulsion not to eat may be too strong to ignore.



Some people with brain injury or organic brain disease may act impulsively regardless of the information they have been given.

Scenario 3

Mrs Brown has been admitted to hospital following a fall at home. She is 85 years old and lives on her own. Up until this point she has managed independently with some support from her daughter (who lives 50 miles away) and her neighbours. The fall has resulted in a marked reduction in Mrs Brown's mobility and currently she is unable to weight bear, requiring full support with her personal care needs. At times she is also getting confused. Mrs Brown has been assessed by a physiotherapist who feels that the best option would be for her to move into a nursing home. Mrs Brown's daughter supports this recommendation as she feels that she would not be able to offer her mother the support she needs if she returned home. However, at this stage Mrs Brown has not been assessed by a social worker and there is the potential for her needs to be met at home with a package of care. Mrs Brown has stated that she does not want to go into a nursing home.

Identify whose responsibility it is to assess capacity in relation to Mrs Brown?

Identify the type of day to day decision you may find making on behalf of Mrs Brown if she is unable to make those decision herself?

Explain how the MCA can assist a person to plan ahead for a time when they may not have capacity to make a certain decisions

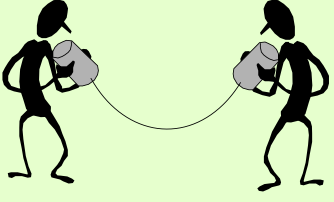
Real life outcome:

Mrs Brown did have the capacity to decide where she lived. However, she was not able to move home immediately as she was not well enough. A period of time in rehab was identified for further assessment of her needs and to identify whether a package of care at home would be successful. The assessor in this case could be the social worker (considering future accommodation) or the consultant (identifying health needs) but actually was a combination of both. Mrs Brown's daughter was involved but it was made clear to her that, as her mother had capacity, she could not dictate circumstances. However, it was necessary to consider the daughter's input as a potential future carer for Mrs Brown. Other professionals were also involved: nursing staff, physiotherapist etc.

4.3 Explain how the MCA 2005 CoP effects the day to day activities of a worker when making a decisions for individuals who lack capacity to make those decisions for themselves.

Communicate their decision

People communicate their wishes in many different ways. These methods of communication will be best known by family, friends and carers who know them well so involvement and inclusion of them is key. Many people whom the Act is intended to benefit will experience specific communication or cognitive problems. It is therefore important that we find appropriate ways to support their individual communication and help them to make decisions for themselves wherever possible. Communication is a two-way process and in order to share information with others we need good communication skills. Good communication depends on a whole combination of things, such as health, environment, physical comfort, energy levels or mood. Because of this, we need to consider factors such as those below.



GOOD COMMUNICATION

- *How interested and motivated they are to communicate*
- *How well the person can hear*
- *How well the person can see*
- *How well they can express themselves to others*
- *How well they can understand what is happening*

1.4 Describe why effective communication is important when working with a person who may lack capacity to make a particular decision for themselves

The factors you should consider in your assessment would include whether the person's has the capacity to understand and weigh up factors relating to:



- the nature of the decision
- the reason why the decision is needed
- the likely effects of deciding one way or another or making no decision at all

A person's capacity to make a decision may fluctuate. There are many reasons why a person may fluctuate in their capacity to make a decision, including:



- their capacity is better at certain times of the day than others
- they have a serious mental illness which at times affects their capacity to make decisions
- they may be experiencing the effects of medication

Does a person need to be able to understand and weigh up factors to have capacity?

In a recent court case in which there was a dispute about whether a person had capacity, the judge said:

‘It is not necessary for a person to demonstrate a capacity to understand and weigh up every detail of the respective options, but merely the salient factors’.

Clearly the most important, or relevant, factors relating to day-to-day decisions would be less complex than those relating to a life changing decision. The factors you should consider in your assessment would include whether the person has the capacity to understand and weigh up factors relating to:

- the nature of the decision
- the reason why the decision is needed
- the likely effects of deciding one way or another or making no decision at all

What to do if a person’s capacity to make a decision fluctuates?

A person’s capacity to make a decision may fluctuate. There are many reasons why a person may fluctuate in their capacity to make decisions including:

If at the time a decision needs to be made you feel they lack capacity consider if you can delay making the decision until they do have capacity. If this is not possible a decision will have been made on the basis of a ‘best interests’ assessment (see 3.7 – The Best Interests Principle).

The person’s views on the decision when they had capacity would be a factor you would take into consideration in making your best interests assessment.

2.4 Explain ‘capacity’ as defined in the MCA 2005

Whose responsibility is it to assess capacity?

The person who assesses an individual’s capacity to make a decision will usually be the person who is directly concerned with the individual at the time the decision needs to be made. For most day-to-day decisions this will be the person caring for them at the time a decision needs to be made. This means that different people will be involved in assessing capacity to make different decisions at different times. For most day-to-day decisions this will be the person caring for them at the time a decision needs to be made.

If you decide that a person lacks capacity to make a decision before carrying out any act in relation to the care and treatment of that person you must also have a reasonable belief that the action you propose to take is in their ‘best interests’

For more complex decisions the person with responsibility for making the decision may seek the opinion of other professionals to assist with their capacity assessment.

Revisit the definition you wrote at the beginning of the training session and now define capacity as it is defined in the Mental Capacity Act 2005

1.1 Explain why legislation is necessary to protect the rights of individuals who may lack the capacity to make decisions for themselves

1.2 Describe the factors which may lead to an individual lacking in capacity to make a particular decision for themselves

1.3 Explain how the MCA 2005:

- Empowers people to make decisions for themselves
- Protects people who lack capacity by placing them at the heart of the decision making process

For further information on what the act means by 'lack of capacity', the test of capacity and 'inability to make a decision':

- *SCIE e-learning MCA: 'Module 1 Supporting people to make their own decisions'. Section Two – Capacity and Decision Making*
- *MCA CoP – 4.3 to 4.9, 4.11 – 4.12 and 4.14 to 4.23, Chapter 4*

Hints/Answers

Mental Capacity means the ability to make a decision and to take actions.

If a person has been assessed as lacking the capacity to make a particular decision, the Act sets out who can take decisions in which situations and how they should go about this.

The person who assesses an individual's capacity to make a decision will usually be the person who is directly concerned with the individual at the time the decision needs to be made. This means that different people will be involved in assessing capacity to make different decisions at different times. For most day-to-day decisions this will be the person caring for them at the time a decision needs to be made.

THE BEST INTERESTS PRINCIPLE

Any person, including carers, healthcare and social care staff, making a decision or carrying out an action on behalf of a person who lacks capacity has to have a reasonable belief that it is in the person's best interests for the action to be carried or decision made. A decision about what is in a person's best interests should not be based merely on their age, appearance or behaviour.

Best Interests Assessments

The MCA does not define 'best interests' because what is in a person's best interests will vary from individual to individual. The CoP does provide a checklist of factors to be addressed when assessing what is in a person's best interest's assessment (see MCA CoP, Chapter 5, Quick Summary). These include:

- encouraging the person to participate in the decision making
- ensuring that all interventions are within an anti-oppressive and anti-discriminatory framework
- identifying all relevant circumstances that the person would take into consideration themselves if they had capacity
- trying to find out the persons views
 - their past and present wishes and feelings
 - their beliefs and values
- considering whether the person capacity fluctuates– if this is a possibility can the decision wait until then?
- decisions concerning life sustaining treatment must not be motivated by a desire to bring about the person's death
- consulting others, if it is practical and appropriate, for their views about the person's best interests. In particular try to consult:
 - anyone previously named by the person as someone to be consulted on either the decision in question or a similar matter
 - anyone engaged in caring for the person
 - close relatives, friends or others who take an interest in the person's welfare
 - any attorney appointed under a Lasting Power of Attorney (See Section 4 - Other areas covered in the MCA)
 - any deputy appointed by the Court of Protection (See Section 4 - Other areas covered in the MCA)
- Notes to tutor the list touches on topics not covered in this qual. There is no requirement to go in to further detail. Sign post students if they show an interest

Having considered all these factors you then make a judgement as to what is in the person's best interests. When carrying out a best interest's assessment it is important to consider how a person's emotional needs can be met as well as looking at ways in which they can be protected from risk.

One useful way of carrying out a best interests assessment is to write the assessment down in the form of a 'balance sheet' where you put the arguments supporting the decision on one side of the sheet (benefits, advantages), and the arguments against the decision (disadvantages, harms, risks) on the other. This can be a very helpful way of carrying out a best interest's assessment where the arguments in favour and against a particular decision are closely balanced or complex.

Before undertaking any assessment of mental capacity and considering making a best interest decision it is important to establish who is responsible for making the decision. Care workers will assist people who lack

mental capacity to make a wide range of daily decisions like what to wear or what to eat and drink. Usually it is easy to work out who is responsible for more complex decisions. For example a solicitor would decide if a person has the mental capacity to make a will or a lasting power of attorney. A surgeon would consider if someone had capacity to decide whether to have an operation etc.

One useful way of carrying out a best interests assessment is to write the assessment down in the form of a 'balance sheet' where you put the arguments supporting the decision on one side of the sheet (benefits, advantages), and the arguments against the decision (disadvantages, harms, risks) on the other. This can be a very helpful way of carrying out a best interest's assessment where the arguments in favour and against a particular decision are closely balanced or complex.

When the checklist is complete it is not appropriate to just count the number of items that favour or go against a particular action. Sometimes more weight should be given to one reason. Example without the operation the person will almost certainly die within a short period of time. More weight should always be given to a person's known present and past wishes.

2.5 Explain '**best interests**' as defined in the Mental Capacity Act 2005

2.6 Explain what actions needs to be taken to ensure a worker acts in an individual's '**best interests**'

2.7 Identify whose responsibility it is to assess '**capacity**' and '**best interests**'

For further information on what to consider when decision if an action is in a person's 'best interests':

- *SCIE e-learning MCA: 'Module 3, - Best Interests decision making about day-to-day care and support'. Section 3, How do we make Best Interests decisions?*
- *MCA CoP – Quick Summary, Chapter 5,*

Hint/Answers

- What are the person views?
- Talk to others.
- What is relevant?
- Think about alternatives

We make a best interests decision by putting all the information we learn together and deciding what is best for the person.

This may seem a lot to take in all in one go, but remember, most of us are making best interests decisions all the time, for example:

- Should someone go out or not?
- What should they have for their dinner?
- What clothes should they wear?

If you are unsure about what is in a person's best interests, you should consult your manager.

The Act says that if we make a decision in the 'reasonable belief' that what we are doing is in the best interests of the person who lacks capacity, then we have complied with the best interests principle.

We can never be 100 per cent certain that we have got it right. But by following the best interests checklist we can take practical steps to find out what we think is the best thing to do for the person concerned. Taking these steps will help us show we reasonably believe the decision is in the person's best interests.

Independent Mental Capacity Act Advocates (IMCA)

The Mental Capacity Act 2005 introduced the role of the independent mental capacity advocate (IMCA).

IMCAs are a legal safeguard for people who lack the capacity to make specific important decisions: including making decisions about where they live and about serious medical treatment options. IMCAs are mainly instructed to represent people where there is no one independent of services (unpaid), such as a family member or friend, who is able to represent the person. Other reasons that may make a person not appropriate to consult include those with a history of abuse towards the person, would cause distress to the person if they knew about the consultation, is unavailable, has limited knowledge of the person, is unwilling or unable to act including due to a mental disorder.

When there is no one appropriate to consult an IMCA **must** be instructed

- a) If a decision is to be made about an admission to hospital for more than 28 days or more or a care home from more than 8 weeks.
- b) Except in an emergency a decision is to be made about serious medical treatment. Serious medical treatment includes withholding treatment.

Can be instructed

- c) To support a person at care reviews (care homes only).

Whether or not there is a person who is suitable to consult. An IMCA can be instructed where the person is unable to understand the safeguarding process or is unlikely to understand any part of a protection plan

The IMCA will

- be independent of the person making the decision
- provide support for the person who lacks capacity
- represent the person without capacity in discussion to work out whether the proposed decision is in their best interests

- presents a report including information the IMCA considers the decision maker should consider
- comment on the mental capacity assessment

The IMCA can challenge capacity assessments or decisions and if necessary place such matters before the Court of Protection but should always try to negotiate an agreement.

If you were an IMCA what sort of things might you have to consider?

If you are providing care or support to a person without capacity who you think meets the criteria for an IMCA to be appointed you should discuss your views with the NHS body or Local Authority concerned with the person.

2.9 Explain the circumstances when an **Independent Mental Capacity Advocate (IMCA)** should be appointed

Scenario 1 b

Doreen is an older woman with a severe learning disability who has recently moved from long-term hospital accommodation to her own home in the community. Following her move it is discovered that she has been suffering from an untreated problem with her throat for many years, which has led to issues with swallowing and reflux. In order to investigate further it is necessary for Doreen to have a gastroscopy. Doreen does not communicate verbally and needs total support in all areas of her life to make her needs known. She has no contact with any family members. The consultant in charge of Doreen's care has asked her support staff to sign a consent form for this treatment.

Explain why Doreen's circumstances justifies a referral for an IMCA

Real outcome:

Doreen did not have capacity to make this decision due to her severe learning disability and inability to understand the information required. The decision maker was the consultant (reluctantly!) as he/she was responsible for administering the treatment. However, he/she should not have asked support staff to sign a consent form as no person is legally able to do this for another adult. The consultant must make a best interest decision and proceed accordingly after consulting all parties. In this case Doreen had no family so it was necessary to consult with those that knew her well (staff, advocate, community nurse). It might be appropriate to refer to an Independent Mental Capacity Advocate (IMCA) but in this case it was not necessary as the decision was minor in nature.

Hints/Answers

Where there are no family members or friends to consult, an independent mental capacity advocate (IMCA) may need to be involved.

IMCAs are a legal safeguard for people who lack the capacity to make specific important decisions, including making decisions about where they live and about serious medical treatment options.

An IMCA must be instructed for people lacking capacity, who have no family or friends to represent them, whenever:

- *Serious medical treatment is being proposed*
- *Accommodation (or a change of accommodation) in hospital or a care home is being arranged, and*
- *The person will stay in hospital longer than 28 days, or*
- *They will stay in the care home for more than eight weeks.*

An IMCA may be instructed to support someone who lacks capacity to make decisions concerning:

- *Care reviews, where there are no family or friends available to be consulted*
- *Adult protection cases, whether or not family, friends or others are involved.*

RESTRAINT

For many people the mention of restraint conjures up a picture of people in health and social care settings being tied in chairs or held down with force. These are examples of physical restraint, but people can also be restrained through the use of medication, key pad systems or reminders to stay sitting down.

Some people think that you can never restrain a person who lacks capacity. This is not correct. Where possible we should try to avoid restrictions and restraint. However sometimes restraint will be in a person's best interests.

The MCA (s6 MCA) provides the lawful authority for a person who lacks capacity to be restrained if:

- the person using the restraint believes it is necessary to restrain a person to prevent harm
and
- the act is a proportionate response to
 - the likelihood of the person suffering harm
 - the seriousness of that harm

Section s6 (4) MCA states that someone is using restraint if they:

- use force - or threaten to use force – to make someone do something if they are resisting
or
- restrict a person's liberty or movement ***whether or not the person resists***

Restraint will not be lawful if it is inappropriate or it leads to a person who lacks capacity being deprived of their liberty where that deprivation of liberty has not been separately authorised (For further information on deprivation of liberty see section 3.10).

3.1a Identify the range of actions that amount to **restraint**

3.1b What action do you take within your daily tasks that is restraint?

3.2 Identify the factors which make **restraint** lawful under the Mental Capacity Act 2005

For further information on how restraint see:

- *SCIE e-learning MCA: 'Module 3: Best Interests Decisions about day to day care and support'. Section 4, Using Restraint*
- *MCA CoP – 6.40 – 6.44, Chapter 6*

Hints/Answers

The Mental Capacity Act says that restraint is when:

- *Someone uses force - or threatens to use force - to make a person do something they are resisting, or when*
- *Someone restricts a person's freedom of movement, whether they are resisting or not.*

DEPRIVATION OF LIBERTY SAFEGUARDS (DoLS)

The human rights convention says that every person has the right to liberty. Liberty means being free to do the things you want to do and live where you want to live. Deprivation of liberty means to take someone's freedom away.



There is no clear legal definition of deprivation of liberty.

The Deprivation of Liberty Safeguards are an important way of protecting the rights of vulnerable people who are, or may become deprived of their liberty within the meaning of Article 5 of the European Convention on Human Rights, in a hospital or care home.

Article 5 of the European Convention on Human Rights (ECHR)

The ECHR is a treaty to protect human rights and freedoms. All public bodies have to comply with the ECHR. Article 5 of the ECHR is the 'right to liberty and security', it says:



No one shall be deprived of their liberty unless it is “in accordance with a procedure prescribed by law” Art 5, 1(a)

Everyone who is deprived of their liberty shall be “entitled to take proceedings by which the lawfulness of their detention shall be speedily decided by a court” Art 5, (4)

There are some circumstances in which depriving a person who lacks capacity of their liberty is necessary to protect them from harm, and is in their best interests.

The DoL Safeguards is a process by which a series of independent assessments are carried out to ascertain whether deprivation of liberty is in a person's best interests.

What is deprivation of liberty?

The Mental Capacity Act 2005, Deprivation of Liberty Safeguards Code of Practice lists the following as factors that are relevant in identifying when care and / or treatment may amount to a deprivation of liberty:

- restraint is used, including sedation, to admit a person to an institution where that person is resisting admission.
- staff exercise complete and effective control over the care and movement of a person for a significant period.
- staff exercise control over assessments, treatment, contacts and residence.
- a decision has been taken by the institution that the person will not be released into the care of others, or permitted to live elsewhere, unless the staff in the institution consider it appropriate.
- a request by carers for a person to be discharged to their care is refused.
- the person is unable to maintain social contacts because of restrictions placed on their access to other people.
- the person loses autonomy because they are under continuous supervision and control.

What should I do if I feel that a person without capacity is or may become deprived of their liberty?

The first thing that should happen is that you should raise your concerns with the manager of the hospital ward or care home concerned. They should then review the care plan to see if it possible to provide care in a less restrictive manner i.e. in a way that does not amount to a Deprivation of Liberty. If this is not possible a request should be made to the Supervisory Body for a DoLS assessment to be carried out.

Why do I need to know about the Deprivation of Liberty Safeguards?

Although you may have no responsibility to request a DoLS assessment, if you feel the level of restrictions placed on a person who lacks capacity may amount to a deprivation of liberty it is **essential** that you discuss your concerns with your manager or the hospital ward or care home concerned.

Mental Capacity Act 2005, Deprivation of Liberty Safeguards – Code of Practice

The Ministry of Justice has produced a Code of Practice on the Deprivation of Liberty Safeguards. The Code of Practice can be access at the following web link:

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476

Scenario 4

Mental Capacity Emily's safety

Watch the tube video which explores a range of issues around Emily and her safety.

<http://m.youtube.com/watch?v=O1YCN63jQs4>

Discuss the following:

The range of actions proposed for Emily that could amount to restraint?

Describe the circumstances were the restrictions or restraint being used would have amounted to Emily's liberty being deprived?

Explain why you should raise your concerns with your supervisor/manager when you think a person is being deprived of their liberty

Identify whose responsibility it is to assess best interest

Hints/Answers

The Deprivation of Liberty Safeguards (DOLS) is another way people can lose their freedom. They can only be used with people who lack capacity to decide about their care or treatment.

Deprivation of liberty can only be authorised under the safeguards if the person is being treated or cared for in a hospital or care home. If a person was being deprived of their liberty in their own home, including a supported living service, an application would need to be made to the Court of Protection to authorise this.

The item list below shows the main conditions that need to be met for a deprivation of liberty to be authorised.

- *Over 18*
- *Mental disorder*
- *Lacks capacity*
- *Deprived of their liberty*
- *Best interests*

3.3 Describe the circumstances where the restrictions or restraint being used amount to a person being **'deprived of their liberty'**

3.4 Describe the actions that are necessary to ensure that a person is lawfully **'deprived of their liberty'**

3.5 Explain why a worker should raise their concerns with their supervisor / manager when they think a person may be being **'deprived of their liberty'**

For further information on how what might amount to 'deprivation of liberty' see:

- *SCIE e-learning MCA: 'Module 8 – A guide to the Deprivation of Liberty Safeguards'. Section 1 Introduction*
- *MCA CoP – 6.52, Chapter 6*

Hints/Answers

Concerns may sometimes be raised that a person is being deprived of their liberty without a standard authorisation. Concerns might be raised by:

- *Relatives*
- *Friends*
- *Care home or hospital staff*
- *An advocate*

In situations where someone is concerned about the care of an individual, the concerned person should talk to the managing authority. It is a good idea to put concerns in writing.

Deprivation of liberty is serious and the managing authority must respond, normally within 24 hours, in writing.

Contact details for supervisory body can be found on the Department of Health website. There are also templates available to download for writing a letter to the supervisory body.

OTHER AREAS COVERED BY THE MCA 2005

This section outlines planning for future care included in the MCA

None of us can be sure what the future holds for us and we do not know if the time may come when we are unable to make decisions for ourselves. For example, we may have a road accident or an illness such as dementia or Alzheimer's disease, or a stroke.

The Act offers us a way to plan and prepare for a time when we may lack capacity to act for ourselves. Most people want to know that if this happens to them then they can be confident that their wishes will be taken into account.

- Lasting Power of Attorney
- Statement of wishes and preferences
- Advance decisions to refuse medical treatment

A lasting power of attorney is a legal document that lets you appoint someone (known as an 'attorney') to make decisions on your behalf.

It could be used if you became unable to make your own decisions.

There are 2 types:

- health and welfare
- property and financial affairs

You can choose to make 1 type of lasting power of attorney or both.

You may need to have a deputy appointed instead of making a lasting power of attorney, if you aren't able to make decisions on your own.

An LPA must be registered with the Officer of the Public Guardian (OPG).

An LPA is only usable, and the attorney(s) able to make decisions on the person's behalf,

- once it has been registered and
- when the person has lost capacity to make decisions for themselves.

a) Advance Decisions to Refuse Treatment

The MCA (s24 MCA) allows a person over 18 while still capable to complete an advance decision to refuse specified medical treatment at a time in the future when they may lack capacity to consent or refuse that treatment. A valid and applicable advance decision has the same effect as a decision made by a person with capacity - healthcare professionals must follow the decision.

If the advance decision refuses life-sustaining treatment it must,

- be in writing
- be signed and witnessed
- state clearly that the decision applies even if life is at risk.

Anyone providing care or treatment to someone who lacks capacity should attempt to find out whether that individual has completed an LPA / Advance Decision to Refuse Treatment. Failure to comply with an LPA or a valid and applicable 'Advance Decision' could result in a claim that you have acted unlawfully.

b) Statement of wishes and preference

A person with capacity may express their wishes and preferences about such things as the medical treatment they would like to receive, where they would prefer to live and the care they would prefer to receive. If written down this is sometimes known as a 'written statement of wishes and feelings, beliefs and values'.

Unlike an advance decision to refuse medical treatment a statement of wishes and preferences is not legally binding on a person who is making decisions on behalf of a person who lacks capacity.

However, in making a best interests decision we have to find out a person's views 'A statement of wishes' and preferences is an ideal way for a person with capacity to make clear their views on how they would wish to be cared for or treated should they lose capacity.

If you are providing care or treatment to someone who is likely to lose capacity at some time in the future it may well be worth discussing with them the value of completing a statement of their wishes and preferences.

2.10 Explain how the Mental Capacity Act 2005 can assist a person to 'plan ahead' for a time when they may not have capacity to make certain decisions

For further information on how to plan ahead for when a person may lose capacity:

- *SCIE e-learning MCA: 'Module 1 Supporting people to make their own decisions'. Section 5, Making Decisions for the Future*
- *MCA CoP – 7.1 to 7.4, Chapter 7; Quick Summary, Chapter 9*

This section is NOT a learning outcome in the qualification; however is an important intrinsic part of the MCA.

THE COURT OF PROTECTION

The current Court of Protection was set up by the MCA. It is a specialist court that deals with decision making for adults who may lack capacity to make specific decisions for themselves.

An application to the Court of Protection may be necessary for

- particularly difficult decisions
- disagreements that cannot be resolved in any other way
- situations where on-going decisions may need to be made about the personal welfare of a person who lacks capacity to make decisions for themselves

What powers does the Court of Protection Have?

The Court of Protection may,

- make declarations, decisions and orders on financial and welfare matters affecting people who lack, or are alleged to lack, capacity
- appoint deputies to make decisions for people who lack capacity to make those decisions
- remove deputies or attorneys who act inappropriately
- hear cases about LPA's

Please refer to the quiz and see if you would change any answers to give you an opportunity to reevaluate your answers.

This now concludes the basic awareness of the MCA. You should now be able to apply your knowledge in to best practice to ensure when working with individuals that all needs are holistically addressed. Where it has been determined the individual lacks capacity you are aware of the appropriate action required.

“One must assume that a person has the capacity to make decisions, unless it can be established that the person does not have capacity!”.

The aim of this Workbook is to assist you in achieving this objective when working with people who lack capacity.

7. RESOURCES

- The Mental Capacity Act 2005, Making Decisions: A Guide for people who work in Health and Social Care
<http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/ogp-603-0409.pdf>
- The Mental Capacity Act 2005, Code of Practice
<http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/mca-code-practice-0509.pdf>
- SCIE e-learning package 'Mental Capacity Act 2005'
<http://www.scie.org.uk/publications/elearning/mentalcapacityact>
- AMCAT - Assessment of Mental Capacity Act Tool is an electronic tool to help develop your skills in carrying out a Capacity Assessment. The tool can be accessed at the following web link:
<http://www.amcat.org.uk>
- BRIDGET - Best Interests Determination General Research and Evaluation Tool is an electronic tool you can use to help develop your skills in carrying out in making a best interest's decision. The tool can be accessed at the following web link <http://www.bestinterests.org.uk>

Appendix 1

Ice breakers

Three things we have in common?

Ask participants to split into groups of three or four and find three things that they have in common that do not include reference to IMCA, advocacy work or the way they travelled to the venue. This helps find common interests and speeds building up of relationships/trusts.

The little known fact?

Ask participants to share their name, role in the organisation and one little known fact about themselves. This little known fact can become a humanising element that can break down differences in future interaction.

True or false?

Ask participants to introduce themselves and make three or four statements about themselves, one of which is false. Now get the rest of the group to vote on which fact is false. As well as the group getting to know each other as individuals, this ice breaker helps to start interaction. This ice breaker works best with small groups.