

MENTAL CAPACITY ACT FACTSHEET

DECISION MAKERS- Who decides?

What does “decision-maker” mean?

The Mental Capacity Act does **not** require certain qualifications / professional roles to undertake assessments.

The capacity assessment must be done by the person who is proposing to undertake an action or make a decision and it is **this person** who is the decision-maker.

So who could be the decision-maker?



The person who is the decision maker always depends on the type of decision being made.

For example-

- Family members and informal carers will be decision-makers for actions that they undertake.
- A care assistant will be the decision-maker if the decision is, for instance, about what clothes to put on that morning. They would not be expected to complete a formal capacity assessment, but to have a **‘reasonable belief’** that the person lacks capacity for those decisions.
- Health care professionals are the decision-makers for actions they are responsible for.
- A doctor or other health professional will be the decision-maker about someone’s capacity for the treatment they are prescribing, or initiating a care pathway.
- A nurse will be the decision-maker about the treatment or care that they are delivering or administering.
- A social care professional will be the decision-maker about a move into residential care or commissioning a package of care.

Determining who the decision-maker is depends on the decision and the context, and not on the circumstances of the individual.

