

Mental Capacity Act Factsheet

THE MENTAL CAPACITY ACT 2005

The Mental Capacity Act is a law that was introduced in April 2007 and is often referred to as the 'MCA'. It has a Code of Practice which gives guidance on how it must be applied.

The Act protects the rights of every person over the age of 16 in England and Wales to make their own decisions. However, if a person cannot make the decision because of an impairment in the functioning of their mind or brain, the MCA sets out a process which ensures any decisions made on the person's behalf are in their best interests.

Mental capacity is the ability to make a decision and is **always decision** and **time** specific- so when we assess capacity the assessment is not about a person's ability to make all of the decisions in their lives but is relating to their ability to make a specific decision at that particular time.

Even when a person is assessed as lacking capacity to make a specific decision, **they may still be able to make lots of other decisions in their lives**.

The Act is guided by the 5 statutory principles.

THE FIVE STATUTORY PRINCIPLES OF THE MENTAL CAPACITY ACT

Presume capacity: Every adult has the right to make his/her own decisions and must be assumed to have capacity to do so unless it is proved otherwise.

Less restrictive: decisions must be made or acted in a way that interferes as little as possible with the person's rights and freedoms.

Unwise decisions: unwise decisions do not necessarily mean someone lacks capacity.

Maximise capacity: we must make every effort to encourage and support people to make their own decisions.

Best interests: action or decision must be in the person's best interests.