

Care and Support -

The Mental Capacity Act Explained

Every day we make decisions about lots of things in our lives. Some people may have difficulties making some or all of the decisions they need to make, this could be because they have:

- a learning disability
- dementia
- a mental health issue
- a brain injury or
- had a stroke.

The ability to make decisions is called mental capacity. Lincolnshire County Council, like all organisations who become involved in peoples everyday affairs is required to follow the Mental Capacity Act, which protects vulnerable people who lack the capacity to make important decisions themselves.

The Mental Capacity Act

The Mental Capacity Act relates to people aged 16 and over in these situations. It may also affect their families, carers, health and social care staff, and other people who may have contact with them. It covers all sorts of major decisions where a person may lack capacity, for example decisions about money matters, social care or medical treatment, as well as everyday decisions. Also, we might want to plan ahead in case we lack mental capacity in the future e.g. because of an accident.

What does this mean to me?

If you are unable to make some decisions the Act explains the following key points:

- We start with the presumption that you do have capacity to make decisions and only assess your capacity where it looks you may not have capacity.

- You should have as much help as possible to make your own decisions.
- How an assessment of capacity should be made about whether you are able to make a particular decision at a particular time.
- Even if you do not have the capacity to make a very complicated decision for yourself this does not mean that you are unable to make more straightforward decisions.
- If someone has to make a decision on your behalf you must still be involved in this as much as possible.
- Anyone making a decision on your behalf must do so in your best interests.

Lasting Power of Attorney (LPA)

If you want to plan ahead for the future you can arrange for someone you know and trust to be given a Lasting Power of Attorney. This empowers them to make decisions about your finances and property or your health and welfare should you ever lack the capacity to make these decisions yourself.

The Office of the Public Guardian supports and promotes decision making for those who lack capacity or would like to plan for their future.

For more details about how to make an LPA visit www.justice.gov.uk/forms.opg

Please note -An LPA must be registered with the Office of the Public Guardian before it can be used and they charge for doing this.

Advance Decisions

The Act also enables you to make an Advance Decision to 'refuse treatment' if there is a particular medical treatment you would not wish to receive at a time in the future when you may lack capacity to refuse it.

If you are a family, friend or unpaid carer the Act:

- will help you understand how and when you can act on behalf of someone who lacks capacity to make decisions – and the safeguards and limitations if you are doing this

- says that you should be consulted by professionals, for example when a doctor makes a decision about treatment for a family member who lacks capacity.

If you work in health and social care the Act:

- provides a framework for assessing a person's mental capacity and determining their best interests if they lack capacity to make a decision
- has safeguards and limitations for when you are working with someone who lacks the capacity to consent to care or treatment.

If you work in the legal, banking or advice sectors the Act:

- creates a single, coherent framework for dealing with mental capacity issues and an improved system for settling disputes, dealing with health and welfare issues, and the financial affairs of people who lack capacity.

Independent Mental Capacity Advocate (IMCA)

In the past, many people who lacked the capacity to make decisions for themselves may not have been listened to. IMCAs ensure the rights of those with nobody else to speak for them.

They are an independent safeguard to support people who lack capacity to make important decisions who have no one to appropriately consult regarding certain decisions. Local authorities and/or the NHS must instruct and consult an IMCA when making certain decisions for a person who lacks mental capacity.

Total Voice, an independent provider of professional advocacy services to people in a range of healthcare settings, now provides this service on behalf of Lincolnshire County Council.

IMCAs are provided for anyone who has no one able to support and represent them, and who lacks capacity to make a decision about a long-term care move, serious medical treatment, adult protection procedures or a care review. Additionally an IMCA may be involved in any adult protection investigation, even if the victim has family/friends with whom the service can consult.

Please note – Advocacy is taking action to help people to express their views and wishes, secure their rights and have their interests represented. It also provides support to access information and services and to explore choices and options.

Who to contact

The Customer Service Centre is the first point of contact for all adult social care referrals and general enquiries. They provide a service from 8am to 6pm, Monday to Friday.

You can contact them on **01522 782155**

To find out more about the Mental Health Capacity Act visit:

The Office of the Public Guardian webpages at

www.publicguardian.gov.uk

Alternative Formats

If you would like to request a copy of our fact sheet Care and Support -The Mental Capacity Act

Explained - Who decides when you can't? in an alternative language or format please call **01522 782060**

Polish

Informacja ta jest również dostępna w innym języku i formacie. Jeśli masz jakiegokolwiek pytania, prosimy zadzwonić pod numer wyżej

Russian

Эта информация также доступна на другом языке и формате. Если у вас есть какие-либо вопросы, пожалуйста, позвоните по номеру выше

Portuguese

Esta informação está também disponível em outro idioma e formato. Se você tiver alguma dúvida, por favor ligue para o número acima

Latvian

Šī informācija ir pieejama citā valodā un veidā arī. Ja jums ir kādi jautājumi, lūdzu, zvaniet uz numuru, iepriekš

Lithuanian

Ši informacija taip pat buvo pateikta kita kalba ir forma. Jei turite kokių nors klausimų, prašome skambinti numeriu aukščiau

Slovak

Táto informácia je k dispozícii aj v inom jazyku a formáte. Ak máte nejaké otázky, zavolajte prosím na číslo vyššie