



What is...
***the Mental
Capacity Act 2005?***

What is the *Mental Capacity Act 2005*?



- > Mental capacity is whether somebody is able to make important decisions and making sure they get the right support if it's needed.



- > Most people can make decisions on their own but other people might need help to make important decisions.



- > The *Mental Capacity Act* is a law that protects people who are unable to make decisions on their own.

- > When a person is unable to make important decisions for themselves, we use the words “they lack capacity.”

- > A person might make an unwise decision but this does not mean they do not have capacity.

- > If a person lacks capacity then someone else can make the decision for them and they will make sure the decision is in their best interests.

- > This means that the decision will be what is best for that person and not for anyone else.

How does it work?



- > The *Mental Capacity Act* helps people who need help to make decisions. They can be big decisions like where to live and how to spend money. They can also be smaller decisions like what to eat or what to wear.

- > If someone is unable to make a decision, people who know them best should be involved.



- > Doctors and nurses can help with decisions about the person's health. Care workers or family members can help with everyday care decisions.



- > No one can make decisions about sex or marriage for someone else.

For somebody to make a decision they need to be able to:

- > Understand the information they are given.

- > Remember the information for long enough for them to be able to make a decision.

- > Work out what they think about the information.

- > Tell other people about the decision.

Assessing mental capacity



- > The person assessing capacity should use language, signs or pictures that help the person to understand.



- > The person assessing capacity will find out what is important to the person by talking to the person's family and carers or they may ask an Independent Mental Capacity Advocate (IMCA) to be involved.

- > If somebody is not able to move around safely, they may need to be restricted in order to keep them in a safe place. You can read more about this in the Deprivation of Liberty Safeguards (DoLS) leaflet.



- > Decisions about someone's safety must only be made if really needed. For example, if someone is not able to cross a road safely, they should have help to cross.



- > There are special rules if someone has their freedom taken away.

- > If the decision can't be agreed on, the Court of Protection may be asked to help make the decision.

How do I know if things are working well?



- > I am allowed to make my own decisions when possible and given support when needed.

- > I am treated like I have capacity even if someone thinks I have made an unwise decision.



- > I am involved in decisions about me and people listen to my views.



- > People who are important in my life and care for me are asked for their opinion of what they think is best for me.



- > The decisions that other people make about me must be the ones that give me the best quality of life.



- > If I need help to make decisions, I can speak to a professional. This professional is called an 'advocate'.

Practical advice



- > People can learn from experience, therapies and information they are given. This will help them to make a decision.



- > Anybody can assess capacity but sometimes it is important to ask a specially trained person for their advice.



- > A meeting can help find out everyone's views when making big or difficult decisions.



- > Making 'best interest' decisions can be very difficult at times. It might help to write a list of all the choices and decide what is good and bad about each one.



- > Before problems are taken to The Court of Protection, these methods should be tried first:

- Try to sort it out at home.



- Use a complaints procedure where you can tell the person who is in charge that you are not happy about something.



- Ask a mediator to help you make a decision with other people that are involved.



- > More information can be found in the MCA Code of Practice.

Notes

A series of horizontal dotted lines for writing notes.

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