



Assistive Living
Training and Skills

Introduction to Consent and Mental capacity.

Delyth Meirion-Owen & Alexandra Swift.



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Aims of the session

1. To gain an understanding of valid consent .
2. To describe the different forms of consent .
3. To explore the link between mental capacity and valid consent.





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What is Informed Consent ?

For consent to be valid, it must be voluntary and informed, and the person consenting must have the capacity to make the decision. These terms are explained below:

Voluntary – the decision to either consent or not to consent to treatment must be made by the person themselves, and must not be influenced by pressure from medical staff, friends or family.

Informed – the person must be given all of the information in terms of what the treatment involves, including the benefits and risks, whether there are reasonable alternative treatments and what will happen if treatment doesn't go ahead.

Capacity – the person must be capable of giving consent, which means they understand the information given to them, and they can use it to make an informed decision. NHS Choices 2017



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Mental Capacity Act (MCA) 2005

- “The MCA has been in force since 2007 and applies to England and Wales. The primary purpose of the MCA is to promote and safeguard decision-making within a legal framework. It does this in two ways:
- By empowering people to make decisions for themselves wherever possible, and by protecting people who lack capacity by providing a flexible framework that places individuals at the heart of the decision-making process.
- By allowing people to plan ahead for a time in the future when they might lack the capacity, for any number.”
Scie 2017



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The Mental Capacity Act (MCA) 2005 5 Key Principles

Principle 1: A presumption of capacity .Every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise. This means that you cannot assume that someone cannot make a decision for themselves just because they have a particular medical condition or disability.

Principle 2: Individuals being supported to make their own decisions. A person must be given all practicable help before anyone treats them as not being able to make their own decisions. This means you should make every effort to encourage and support people to make the decision for themselves. If lack of capacity is established, it is still important that you involve the person as far as possible in making decisions.

Principle 3: Unwise decisions. People have the right to make decisions that others might regard as unwise or eccentric. You cannot treat someone as lacking capacity for this reason. Everyone has their own values, beliefs and preferences which may not be the same as those of other people.

Principle 4: Best interests. Anything done for or on behalf of a person who lacks mental capacity must be done in their best interests.

Principle 5: Less restrictive option . Someone making a decision or acting on behalf of a person who lacks capacity must consider whether it is possible to decide or act in a way that would interfere less with the person's rights and freedoms of action, or whether there is a need to decide or act at all. Any intervention should be weighed up in the particular circumstances of the case.



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Two-stage functional test of capacity

In order to decide whether an individual has the capacity to make a particular decision you must answer two questions:

Stage 1. Is there an impairment of or disturbance in the functioning of a person's mind or brain? If so,

Stage 2. Is the impairment or disturbance sufficient that the person lacks the capacity to make a particular decision?

The MCA says that a person is unable to make their own decision if they cannot do one or more of the following four things:

- understand information given to them
- retain that information long enough to be able to make the decision
- weigh up the information available to make the decision
- communicate their decision – this could be by talking, using sign language or even simple muscle movements such as blinking an eye or squeezing a hand.

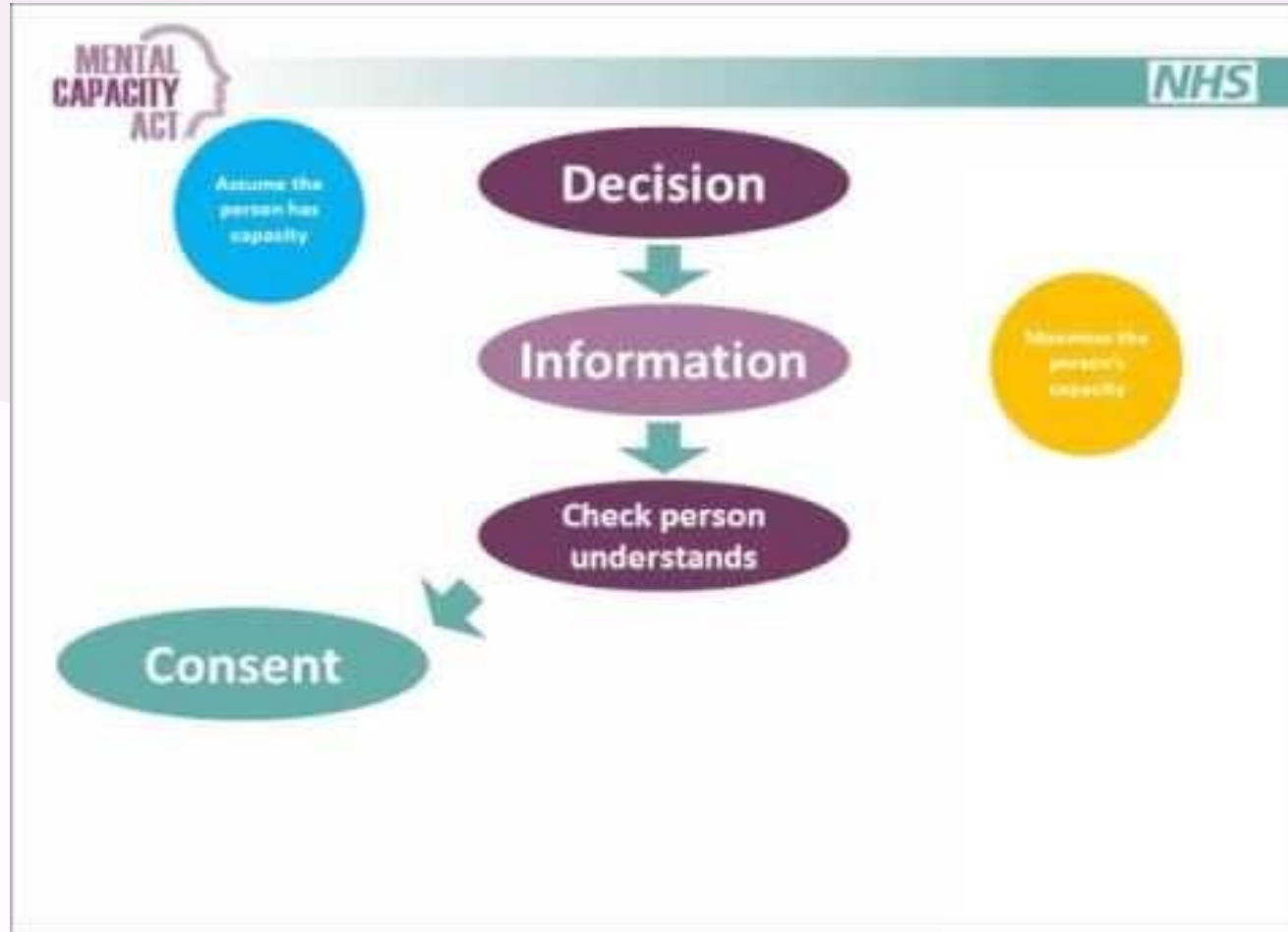


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Assessing Capacity



Mental Capacity Act. Best Practice Consent & Best Interests Decision Making Process NHS BSC Clinical Commissioning Group, 2015.





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Mental Capacity Act: Respecting the right to make unwise decisions



Mental Capacity Act Best Practice Deprivation of Liberty

NHS BSC Clinical Commissioning Group. 2015.



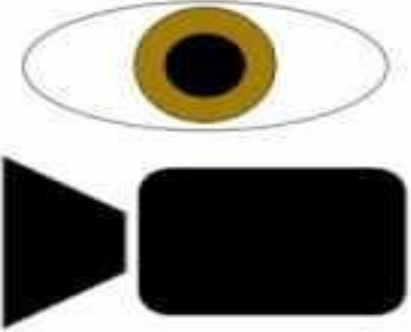

MENTAL CAPACITY ACT

NHS

Deprivation of liberty

A person is deprived of their liberty if...

...they are under continuous supervision and control.



ALTAS Access to Nursing Professional Guidance

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<https://padlet.com/owend2/29z9786ayxjp>



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Reference List

HFT. *Assessing someone's capacity to make a decision*. Online Available at .
<https://www.youtube.com/watch?v=2E7O0xgEdoc> Accessed 02 11 17

NHS BSC Clinical Commissioning Group. 2015. *Mental Capacity Act Best Practice Consent & Best Interests Decision Making Process*. Online .Available at <https://www.youtube.com/watch?v=e3nM1Hk6Zj4> Accessed 02.11.17.

NHS BSC Clinical Commissioning Group.2015. *Mental Capacity Act Best Practice Deprivation of Liberty*. Online .Available at .<https://www.youtube.com/watch?v=dA3E5PAs7V4> .Accessed 02 11 17



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Useful Websites

<https://www.nhs.uk/conditions/Consent-to-treatment/Pages/Introduction.aspx>

<https://www.gov.uk/government/publications/reference-guide-to-consent-for-examination-or-treatment-second-edition>

<https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>

<https://www.gov.uk/government/publications/the-nhs-constitution-for-england>

<https://www.mind.org.uk/information-support/legal-rights/mental-health-act-1983/#.Wfeydt9LHIU>

<https://www.nhs.uk/Conditions/Consent-to-treatment/Pages/Capacity.aspx>



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Useful Websites

<https://www.scie.org.uk/mca/introduction/>

<https://www.scie.org.uk/mca/practice/>

<https://www.scie.org.uk/mca/practice/assessing-capacity/>

<https://www.scie.org.uk/mca/dols/>

<https://www.scie.org.uk/mca/introduction/mental-capacity-act-2005-at-a-glance#01>