

# Mental Capacity Act - 10 Key Points for Staff



East London  
NHS Foundation Trust

The Mental Capacity Act 2005 is a law that protects and supports people who do not have the ability to make decisions for themselves. This could be due to a mental health issue or learning disability which is why it is important for all our staff.

1. It is your business. Everyone involved in providing care needs to understand the MCA.
2. Mental capacity is the ability to make a decision.
3. There are five principles underlying the MCA.
  - **Presume** patients can make a decision for themselves unless you have shown otherwise.
  - **Support** them to make their own decision as much as you can.
  - Remember that people have the right to make an **unwise decision** without lacking capacity.
  - Always act in your patient's **best interests** if they cannot make a decision for themselves.
  - Any action you take must be the **least restrictive** effective option (the Deprivation of Liberty Safeguards – DoLS – provide more detail).
4. The MCA applies to all service users in England and Wales aged 16 and over.
5. **You can only assess capacity about specific decisions.** There is no such thing as 'general capacity'.
6. The MCA covers decisions about **all aspects of care and treatment.** This might be everything from deciding what to wear, to deciding whether to have major surgery.
7. There are four things you need to assess to check someone's capacity:
  - do they understand the information needed to make a decision
  - can they retain that information
  - can they weigh up different information
  - can they communicate what their decision is
8. There must be an **impairment of/or disturbance in the functioning of a person's mind or brain.**
9. 'Best interests' must take into account **what the service user thinks and wants even if they lack capacity.** It must not be just what you think is best. Involve family and friends in the process.
10. Mental capacity can **fluctuate.** If someone lacked capacity to decide about something in the past, never assume that they still do.

If you need further support please contact the Trusts MCA Team:  
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