

Banking on good decisions

How can the Mental Capacity Act help you with your bank, building society or post office account?

Easier Read version



This booklet explains how a law called the Mental Capacity Act 2005 can help people with learning disabilities deal with their money when they go into banks, building societies and post offices.

Acknowledgements

The Foundation for People with Learning Disabilities would like to thank the following for the comments, advice and expertise they gave in drafting this booklet:

Lesley Dean and Jane Livingstone at the Association for Real Change

North Herts People First

2 Paynes Park
Hitchin
Herts
SG5 1EH
0146 242 2055
advocacy@nhpeoplefirst.freeserve.co.uk

Values Into Action

Oxford House
Derbyshire Street
London
E2 6HG
0207 729 5436
general@viauk.org
www.viauk.org

This work has been commissioned by the Department of Health and Social Care Institute for Excellence as part of a programme of work on implementing the Mental Capacity Act 2005.



social care
institute for excellence



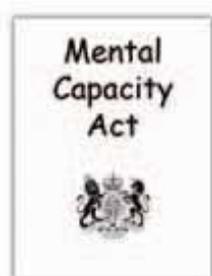
Who is this booklet for?



This booklet has been written for **people with learning disabilities** who have a **bank account, building society account or post office account**. It is also for people who want to open an account.

In this booklet we will just use the words 'bank account' and 'banks'. When we say this we mean building societies and post offices too. Words that are underlined are explained more in the 'What the words mean' section.

What is the Mental Capacity Act?



The Mental Capacity Act (MCA) is a new law that **started in 2007** in England and Wales.

Mental capacity means the **ability to make a decision for yourself**.



The MCA says you should **get support** if you need it to **make your own decisions**. You could lose mental capacity to make a decision because of an illness, injury or disability.

The MCA says what must be done if another person has to make a decision for you. It applies to nearly all decisions for people over the age of 16.

Having an account with a bank, building society, or post office



Some people use banks, building societies and Post Office Card Accounts to **keep their money safe**.

To open an account or to do other things you may sometimes have to go into your bank, building society or Post Office.

Why is the Mental Capacity Act important for people using banks?



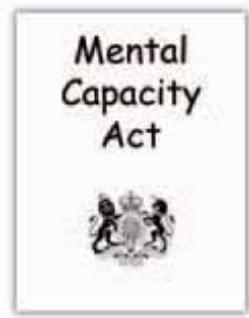
The Mental Capacity Act may need to be used if you want to **open a bank account** or **take out money** from a bank account.

Staff working in a bank have to follow the Mental Capacity Act.

Learning disabilities and dealing with your money



Sometimes people with learning disabilities have found it difficult to open bank accounts and to use their bank accounts. Staff may think the person cannot manage their account, even if they can.



People with learning disabilities should **not be treated unfairly** as customers. It is against the Disability Discrimination Act.

If staff in a bank think that you do not have the mental capacity to make a decision about your money, they might be worried about serving you.

If this happens the Mental Capacity Act says the staff **must be able to say why they think you cannot make a decision about your money**.

When might the Mental Capacity Act be used?



- when you want to **open** a new bank account
- when you want to **pay money into** an account at the bank counter
- when you want to **take out money** at the bank counter
- when you want to **talk** about other services like borrowing money
- when you want to **arrange** for someone else to use your account
- when you have **given permission** to someone else to use your account

How does the Mental Capacity Act support people to make their own financial decisions?

The MCA has 5 main points. These must **always** be used. They are:



1. Start off by thinking that **everyone has capacity** (can make their own decisions)



2. Give the person all the **support** they need and **information** about the decision in a way that they can **understand** (easy read, pictures, symbols, photos, tapes, videos)



3. **Nobody** should be **stopped** from making a decision just because **other people think** it is wrong or bad



4. If other people think that a person **lacks capacity** (can't make their own decision) they must act in the person's **best interests**

5. Anyone who acts or **decides something for another person** who lacks capacity must try to **limit their freedom and rights** as little as possible.

Text reproduced with permission,
Values Into Action 2007.

As a customer of a bank you should expect that:



- bank staff will usually **assume you have capacity** and can make your own decisions
- bank staff will make sure you have **all the information you need** to make the decision
- bank staff will make sure the **information is given to you in a way that you can understand**. If you have difficulties with reading, hearing or speech, you may need information in different ways.

Remember:



- it is a good idea to **get someone you trust** to help you to understand information or make a decision. This could be a relative, friend or advocate
- bank staff have a **responsibility to keep your money safe** so may be worried if you seem not to have the capacity to make a decision.

How does someone know if I have mental capacity?



If you are **unwell, distressed or confused**, your mental capacity may be affected. If you are going into a bank to deal with your money, it's important that you do this when you are feeling well.



To find out if you have mental capacity you **must be able** to:

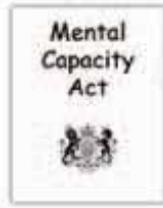
1. **understand** the information you need for the decision
2. **understand what will happen** if you make the decision, or if you don't make the decision
3. **remember** the information to make your decision
4. **use** the information to make your decision
5. **communicate** your decision.



If the bank staff really think that you cannot make a decision, they may be worried about serving you.

They must not decide that you lack capacity just because of your age, your appearance, your behaviour, illness or disability.

What happens if I believe I have capacity to make decisions about my money but the bank staff don't agree?



If the bank staff **think you do not** have the capacity to make a decision about your money they **may be worried** about serving you.

You can ask to **speak to the manager**. If you are familiar with MCA you can tell the manager and the staff why you believe you have capacity.

If they are **still unsure** about serving you then you can ask to **make an official complaint**.

What happens about decisions that need to be made about money if I cannot make the decision myself?



Sometimes you may be very **unwell or confused** and because of this **unable to make a decision** yourself. Perhaps you could **delay** making the decision until you feel better and can make it yourself.

Only someone with the **legal power** to do so can make decisions about someone else's money.

If the decision **needs to be made by someone else**, the MCA says that the decision must be made in your **best interests**.

What are best interests?



The MCA says that a decision about someone's best interests **must** take account of these things:

- the person's **wishes and feelings, beliefs and values**
- any **written statements or plans** made by the person
- **anyone** the person said should be asked
- the views of **other people who care** about the person, such as close family and friends
- the **views of the person** if they can give them (even if they can't actually make the decision).

The decision made must be made in a way that **affects** your **rights and freedoms** as **little** as possible.

How does the Mental Capacity Act let me give permission to someone else to make decisions about my money?

Calendar						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			



You can **give permission to someone else** to make a decisions about your money with a **Lasting Power of Attorney**. It lets you choose **someone else** to look after your money. The person you choose is called an **attorney**.

It can be used when you **still have capacity**. You can also **give permission** for the **attorney** to **make decisions in the future** if you are not able to.

This is a **legal** procedure and you will **need** the help of someone you **trust**.

Are there other ways I can give permission to someone else to make decisions about my money?



There are different ways of letting **other people** make decisions about **your** bank account or your money.

One way is something called an **ordinary power of attorney**. This is a legal document letting **someone else** look after your money. The person you choose is called an **attorney**.

Calendar						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

It will usually last for a set amount of time. You **must** have capacity to set up an **ordinary power of attorney**.

There are also **easier ways** to let people make decisions about your money or your bank account.



Here are three ways you can do this at your bank.

One way to do this is with a **direct debit**.

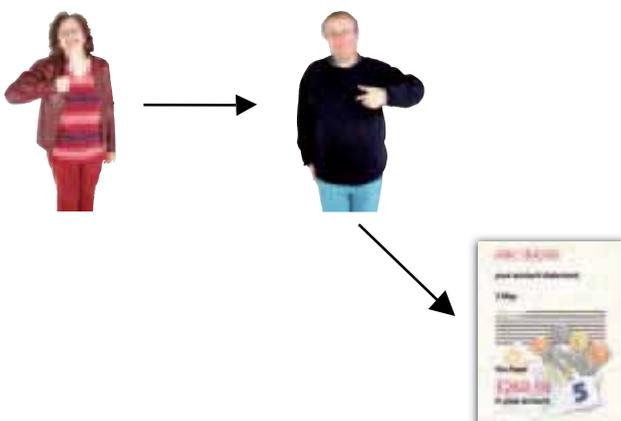
A **direct debit** tells your bank to let a business **take money out** of your bank account on a **set date**.



People often use a **direct debit** to pay bills.

Another way to do this is with a **joint account**.

A **joint account** is an account you **share with someone else**. They can do all the things with the account that you can.



You can also set up a **third party mandate**.

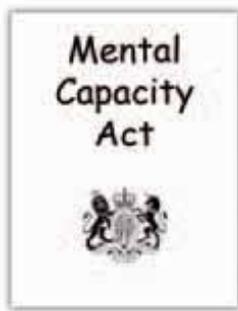
This means that you give **permission to someone else** to use your account but only **to do the things you let them do**.

What to do if you want more information or would like to make a complaint about a bank, building society or post office:



If you have concerns or want to make a **complaint** about the **service** you have received from a bank, building society or post office you should **ask the staff** how you can do this.

If you have concerns or just want **more information** about the **Mental Capacity Act** you should **contact** the **Office of the Public Guardian**.



The Public Guardian is an **official** who has particular **responsibilities** under the MCA. You can **contact** the Office of the Public Guardian below:



The Office of the Public Guardian

Archway Tower

2 Junction Road

London

N19 5SZ

Phone: 0845 330 2900

Fax: 0207 664 7705

Email: customerservices@publicguardian.gsi.gov.uk

Website: www.publicguardian.gov.uk

What the words mean

Attorney

is a person that someone has chosen to make decisions for them.

Best Interests

when decisions are made for someone they must be made in their best interests. This means that what is decided must be best for that person and not what someone else wants.

Direct Debit

is a way of letting businesses take money out of your account on a set date. These are often used for things like paying bills.

Disability Discrimination Act

is the law that says you should not be treated unfairly because you have a disability.

Freedom and Rights

is your ability to choose what you want for your life.

Joint Account

is a bank account that you share with someone. Both people have the same powers over the account.

Lasting Power of Attorney

is the power that you can give another person to make decisions for you in the future if you lose mental capacity. The other person is the attorney. You can also limit what kind of decisions they are allowed to make for you.

Mental Capacity

means that you are able to make decisions for yourself.

Mental Capacity Act

is the new law in England and Wales that says what support a person should get to make decisions. It also says what happens if someone has to make a decision for someone else.

Office of the Public Guardian

is the Government office that supports the Public Guardian.

Ordinary Power of Attorney

is similar to a Lasting Power of Attorney except that it is for a set period of time instead of in the future.

Public Guardian

this is an official who has particular responsibilities under the Act.

Third Party Mandate

is when you choose someone to have access to your bank account. They can only do the things that you let them do.

This booklet explains how a law called the Mental Capacity Act 2005 can help people with learning disabilities deal with their money when they go into banks, building societies and post offices.

It is an Easier Read version of a booklet produced by the Mental Health Foundation. The Mental Health Foundation and the Foundation for People with Learning Disabilities are part of the same charity.

If you would like to find out more about our work, please contact us:

Mental Health Foundation
Foundation for People with Learning Disabilities
Sea Containers House
20 Upper Ground
London SE1 9QB
020 7803 1100

www.mentalhealth.org.uk
www.learningdisabilities.org.uk

The Foundation for People with Learning Disabilities is part of the Mental Health Foundation, registered charity number 801130.