



RGGP Mental Capacity Act (MCA) Toolkit for Adults in England and Wales 2011

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The Mental Capacity Act 2005 was implemented in England and Wales in 2007 to provide the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for themselves.

The safeguards contained within the Act provide a framework for assessment and decision-making as well as defining a process regarding who should be consulted and the time scales for doing so.

This tool kit is designed provide information and support for the application of the Mental Capacity Act to GPs and Primary Care Staff.

Further resources

- RCGP Learning Disabilities resources www.rcgp.org.uk/clinical_and_research/circ/innovation__evaluation/learning_disabilities_resource.aspx
- BMA Safeguarding Vulnerable adults- a toolkit for GPs www.bma.org.uk/ethics/doctor_relationships/safeguardvulnerableadults.jsp
- Dept of Health- Mental Capacity Act Code of Practice www3.imperial.ac.uk/pls/portallive/docs/1/51771696.PDF

Developed by Dr M Houghton, Dr S Chadwick, CIRC, the RCGP Learning Disability Specialist Interest Group and Primary Care Mental Health Forum with help from the NDTi, GMC and Bristol University Norah Fry Research Centre. Based on a Decision Making tool by Hampshire County Council and used with permission.

Bioethics Memory Aid

1. Follow the 5 Principles of the Mental Capacity Act (MCA) 2005
 - **Assume** Capacity
 - **Help** people have capacity in all practical ways before deciding they don't have capacity
 - People are entitled to make **unwise** decisions
 - Decisions for people without capacity should be in their **Best Interests**
 - Decisions for people without capacity should be the **Least Restrictive** possible

Please note, just because a person lacks capacity to make one decision, it doesn't mean they lack capacity to make all decisions. An assessment of capacity should relate to the specific issue under consideration.

2. If Capacity is in doubt carry out 4 point capacity Test (CURB) (page 4)
 - Communicate **(C)** Can the person communicate their decision?
 - Understand **(U)** Can they understand the information given to them?
 - Retain **(R)** Can they retain the information given to them?
 - Balance **(B)** Can they balance, weigh up or use the information?

If the person does not have capacity, can the decision be delayed if the person may regain capacity? If not, move onto BADLIP to consider if a decision can be made after reviewing best interests

3. If the person lacks capacity (BADLIP) (pages 5-8)

Can the decision be delayed if the person may regain capacity?
Even if the person lacks capacity involve the person in the decisions.

B Best Interest. If no capacity can you make a best interest decision?

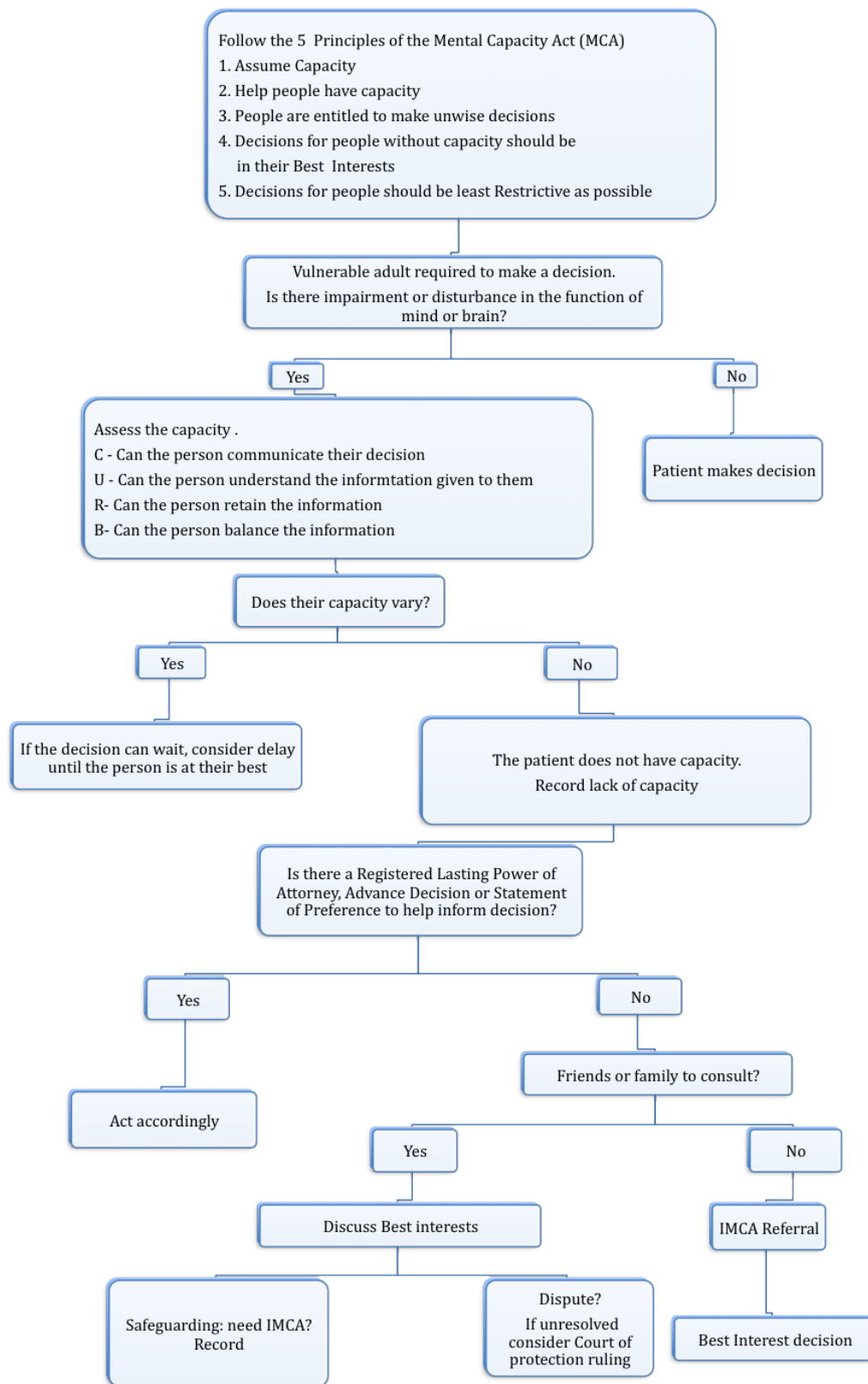
AD Advanced decision.
Is there an Advanced Decision to refuse treatment?

L Lasting power of attorney.
Has Lasting Power of Attorney (LPA) been appointed and registered with the Office of Public Guardian?

I Independent Mental Capacity Advocate (IMCA). If a person is facing a decision about serious medical treatment, has been assessed to lack the capacity to make that decision and has no family or friends who can be consulted about the decision then **an IMCA** must be involved. If person does have family or friends a situation may exist where the person still needs an independent mental capacity advocate.

P Proxy. If unresolved conflicts consider local ethics committee or the Court of Protection appointed deputy.

Mental Capacity Act (MCA) Flowchart



Record of Capacity Assessment Under Mental Capacity Act - CURB

Name of Person being assessed:

Date of birth : ___/___/___ (DD/MM/YYYY) NHS Number: ___ - ___ - ___

Put a cross in boxes * if extra information and record on the supplementary sheet (page 9)

1. Specify decision in question: Who is asking that the decision should be made? Who is asking that capacity be assessed?	* <input type="checkbox"/>
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Assessment Question	Tick your assessment	Tick your assessment
2. Is there an impairment or disturbance in the functioning of mind or brain? (permanent or temporary).	YES <input type="checkbox"/> impairment is present, record symptoms/behaviours, any relevant diagnosis.	NO <input type="checkbox"/> impairment is not present, record evidence.. If NO the person is deemed capable - assessment is complete .
3. If yes: a) With all possible help given is the person able to understand (U) the information relevant to the decision ? Avoid questions inviting yes or no answers. Try "What do you think this decision means? How will this decision affect you? Why do you think this decision needs to be made? "	YES <input type="checkbox"/> able to understand info. Record views/evidence to show they understood it.	NO <input type="checkbox"/> unable to understand info. Record steps taken to explain info and views/evidence why they did not understand it.
b) Are they able to retain (R) the information long enough to make the decision? e.g. "Tell me what you understand by ...? " Remember they only need to retain long enough for you to be sure they have understood.	YES <input type="checkbox"/> able to retain info, record evidence.	NO <input type="checkbox"/> unable to retain information, record any help given and evidence.
c) Are they able to balance (B) or weigh the information as part of the decision making process? "What will happen if you make this decision? What will happen if you do not make this decision?	YES <input type="checkbox"/> able to weigh information, record evidence.	NO <input type="checkbox"/> unable to weigh info record evidence.
d) Are they able to communicate (C) the decision?	YES <input type="checkbox"/> able to communicate, record evidence.	NO <input type="checkbox"/> unable to communicate, record evidence.
Conclusion - If the answer to 2. is YES and the answer to any of 3. a) - d) is NO then the person lacks capacity under the Mental Capacity Act 2005.	Fluctuating Capacity: Always consider whether the person has fluctuating capacity and whether the decision can wait until capacity returns. If this is the case, explain and enter reassessment date in outcome below.	
	Outcome:	
	Name, Role and Signatures of Assessor (s):	
	Date: ___/___/___ (DD/MM/YYYY)	

Best Interests – Checklist for Undertaking Wider Consultation - BADLIP

Name of Person being assessed:

Date of birth : ____/____/____ (DD/MM/YYYY) NHS Number: ____ - ____ - ____

Decision/action being consulted upon:	
Checklist of persons consulted	Date consultations were undertaken
Anyone named by the person lacking capacity or recorded on their support plan as someone to be consulted (specify person/s).	
Anyone, such as a relative, engaged in caring for the person or interested in their welfare (specify person/s) and relationship to the person.	
Any attorney appointed under an Enduring/ Lasting Power of Attorney (specify person/s) and registered with the Office of Public Guardian.	
Any deputy appointed by the Court of Protection.	
<p>Where a person lacking capacity has nobody in the above 4 categories able to represent their interests other than paid carers and faces a decision about serious medical treatment or a change of residence, you will need to consult with an IMCA (Independent Mental Capacity Advocate) to provide representation in the Best Interests process.</p> <p>Where the decision is about care and support that is funded by the local authority the LA will be the decision maker with responsibility for the Best Interests process.</p> <p>In the situation a person does have family or friends a situation may exist where the person may still need an independent mental capacity advocate. The term used in the Mental Capacity Act is that family or friends may not be 'appropriate to consult'.</p>	

Best Interests – Consultation with Patient

Name of Person being assessed:

Date of birth : ____/____/____ (DD/MM/YYYY) NHS Number: ____ - ____ - ____ - ____

<p>Consultation with the person lacking capacity</p>	<p>Supporting evidence (record here or note here where the information is recorded on their case notes and records etc)</p>
<p>What are the issues that are most relevant to the person who lacks capacity?</p>	
<p>Specify their past and present wishes, feelings and concerns in relation to this decision if known.</p>	
<p>What are the person's values and beliefs (eg. religious, cultural, moral) in relation to this decision?</p>	
<p>Does the person have any previously held instructions (e.g. Advance Decisions) relevant to this decision? Give details</p>	
<p>Are there any other "relevant circumstances" that should be taken into account in this case?</p>	

Best Interests – Wider Consultation with Those Involved in the Person’s Support

(e.g. Family member or paid staff) or their substitute decision maker (deputy or person with Lasting Power of Attorney) - Use one sheet per person

Name of Person being assessed:

Date of birth : ___/___/___ (DD/MM/YYYY) NHS Number: ___ - ___ - ___

Person(s) being consulted:	
Name :	
Role:	
Organisation :	
Questions	Views
1. What do you consider to be in the person’s best interests on the matter in question?	
Questions	Views
2. Do you have any information about the person’s wishes, feelings, values or beliefs in relation to this matter?	

Best Interests - Reaching a Decision

Name of Person being assessed:

Date of birth : ___/___/_____ (DD/MM/YYYY) NHS Number: ___ - ___ - _____

NB. Ensure you do not make assumptions about what is in a person's best interests based on their age, appearance, condition or behaviour. (Principle of equal consideration)

Ensure that wherever possible a less restrictive option is chosen, whilst still representing best interests.

Specify the different options that are being considered	Is this in the person's best interests - Y/N	Reasons
1.		
2.		
3.		
<p>If your final decision is at odds with anybody who was consulted please highlight the reasons for your decision. Consider application to the Court of protection if there is dispute.</p>		

Decision maker (s) : Name

Signature:

Role

Organisation

Decision maker (s) : Name

Signature:

Role

Organisation

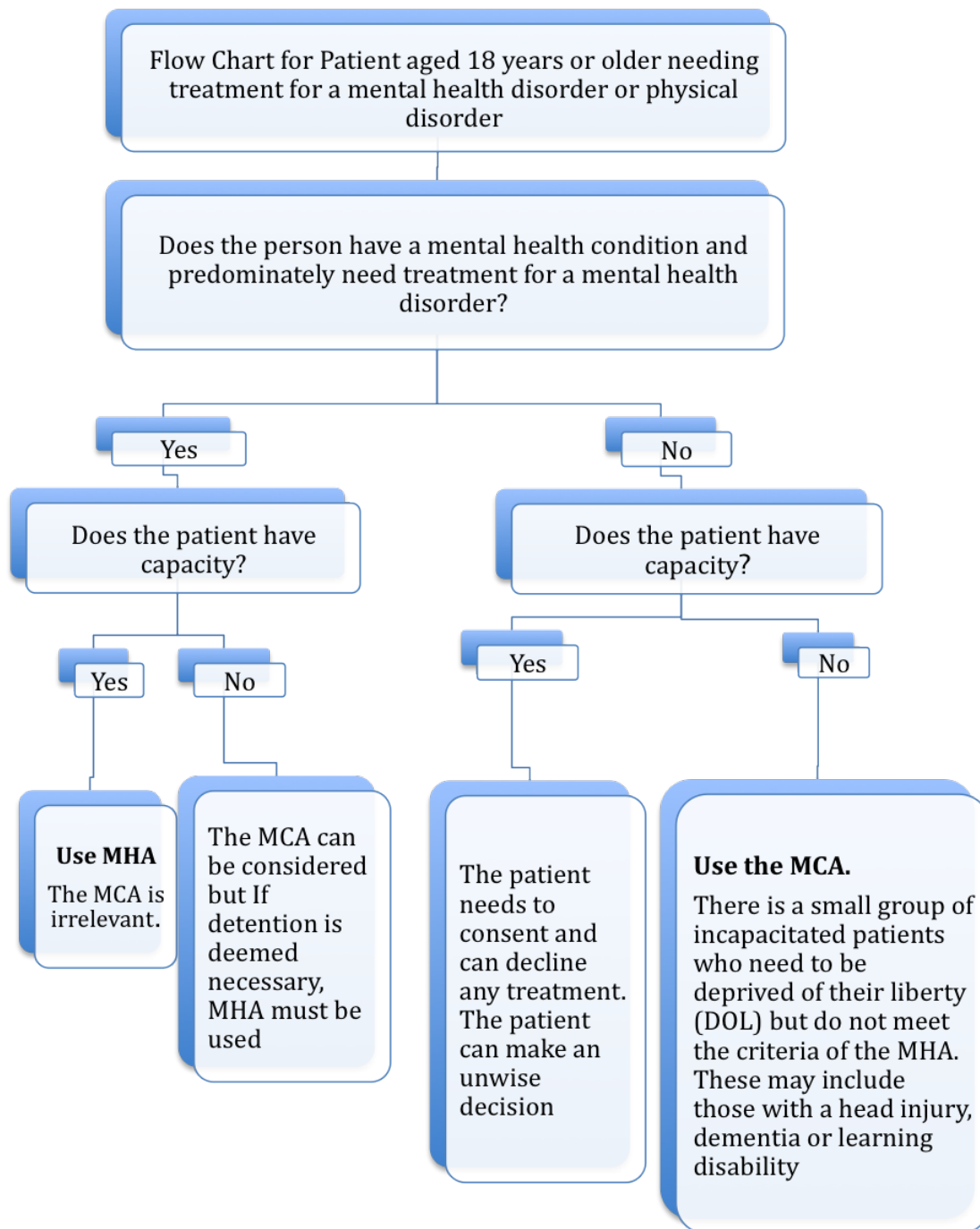
Date : ___/___/_____ (DD/MM/YYYY)

Extra Information Supplementary Sheet

Name of Person being assessed:

Date of birth : ____/____/____ (DD/MM/YYYY) NHS Number: ____ - ____ - ____

Question and page Numbers	Additional information



For further information on Deprivation of Liberty (DOL) Safeguards for vulnerable adults in hospitals and care homes see webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/index.htm

