



# 7 minute briefing on What is the Mental Capacity Act

## 1. Mental Capacity Act.

The Mental Capacity Act (MCA) 2005 applies to everyone involved in the care, treatment and support of people aged 16 and over, living in England and Wales who are unable to make all or some decisions for themselves.

## 2. Accountability

All professionals have a duty to comply with the Code of Practice. It also provides support and guidance for less formal carers

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/921428/Mental-capacity-act-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921428/Mental-capacity-act-code-of-practice.pdf)

## 3. The five principles

The Act's five statutory principles are the benchmark and must underpin all acts carried out and decisions taken in relation to the Act

1. Presumption of capacity
2. Supporting to make own decisions
3. Unwise decisions
4. Best Interest
5. Least restrictive

## 4. Assessment

Everyone has the right to make his or her own decisions. Health and care professionals should always assume an individual has the capacity to make a decision themselves, unless it is proved otherwise through a capacity assessment.



## 5. Two Stage Test

Anyone caring for or supporting a person who may lack capacity could be involved in assessing capacity –

Stage 1 - is there an impairment of or disturbance in the functioning of a person's mind or brain

Stage 2 - is the impairment or disturbance sufficient that the person lacks the capacity to make a particular decision

## 7. Best interest

Where capacity is a concern staff must complete a MCA form that is decision and time specific and supports the patient with decision making.

Where someone is judged not to have the capacity to make a specific decision (following a capacity assessment), that decision can be taken for them, but it must be in their best interests.

## 6. Decision making

Just because someone makes what those caring for them consider to be an "unwise" decision, they should not be treated as lacking the capacity to make that decision.

Everyone has the right to make their own life choices, where they have the capacity to do so.