

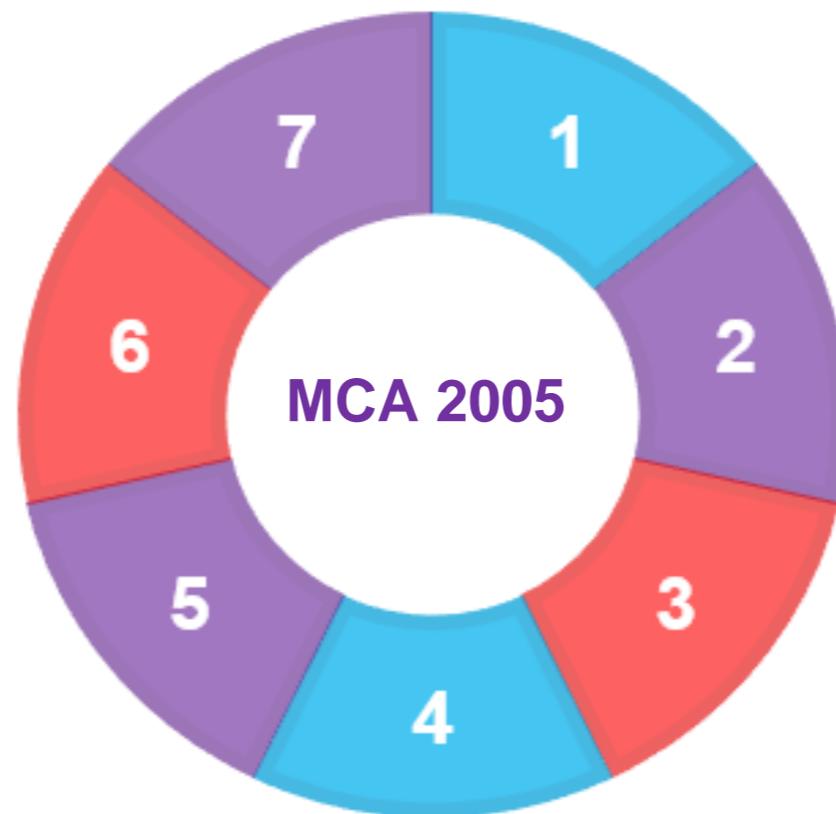
## 7 MINUTE BRIEFING

### Mental Capacity Act 2005



**KNOWSLEY  
SAFEGUARDING  
ADULTS BOARD**

PREVENTION THROUGH PARTNERSHIP



#### 7. Considerations and Further Info

- Some people will experience fluctuating capacity.
- Some people will be able to make some decisions for themselves but not others
- A person's behaviour may give an indication that they lack mental capacity despite what they say.
- If someone is putting themselves at risk due to an apparent 'unwise decision'

[Mental Capacity Act: making decisions - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Mental Capacity Act \(MCA\) and DoLS | SCIE](#)

#### 1. The Mental Capacity Act 2005

The MCA 2005 applies to everyone over 16 years who may lack capacity to make specific decisions about their life. These decisions can range from simple, everyday things to more complex life changing matters such as where they live or receiving treatment.

The MCA protects the rights of individuals by creating a framework for decision making where someone may lack the mental capacity to make the decision for themselves.

#### 2. What is Mental Capacity?

Mental capacity is the ability to make your own decisions at any given time or situation.

There are many reasons why someone may lack mental capacity to make decision for themselves, examples include:

- Dementia
- A learning disability
- A brain injury
- A mental health condition
- A stroke
- Unconsciousness due to accident / injury
- Alcohol / drug use

#### 3. 5 Principles of MCA

1. **Assume capacity:** always start by assuming capacity unless proved otherwise
2. **Practicable Steps:** take all reasonable steps to enable a person to make their own decision.
3. **Unwise Decisions:** you must not assume incapacity, simply because a person makes an unwise decision.
4. **Best Interests:** decisions made on behalf of someone lacking capacity must be in their best interests.
5. **Least restrictive:** the decision made should be the least restrictive option.

#### 4. Decision Making

MCA states that a person can make a decision for themselves if they can do the following:

- Understand the information given to them;
- Retain the information long enough to make the decision;
- Weigh up the information available to make the decision;
- Communicate their decision.

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 decision.

#### 6. Best Interest

Where capacity is a concern staff must complete a Mental Capacity Act form that is decision and time specific and supports the person with decision making.

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

The Best Interest decision is made by people who know the person, for example, family, advocates and professionals working with the person.

#### 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