



Mental Capacity and Best Interests - Policy

Date of this Policy	Next Planned Review date
13/02/2024	13/02/2025
Policy Owner	Policy Director Lead
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Contents

- 1: Policy Introduction**
- 2: Policy**
 - 2.1: We Will
 - 2.2: You Will
- 3: Monitoring and Compliance**
- 4: Related Legislation and Guidance**
- 5: Other Policy References**
- 6: Training Consideration**
- 7: Associated Documents**
- 8: Appendices**



Printed on: _____ (Date) By: _____ (Name)
Signature: _____

1 Policy Introduction

This policy is in place to ensure all staff are aware of how the Mental Capacity Act 2005 legislation should be used for people accessing our services – the aim is for all to understand what Mental Capacity is, how to determine if somebody has or has not got capacity and the procedures to follow after deciding this.

2 Policy

2.1 We Will

- Ensure there is appropriate training in place for all relevant employees.
- Work alongside all parties to ensure individuals using our services are supported in line with legislation.
- Provide support and guidance to be able to understand the legislation and then apply it to the individuals we support.
- Ensure the resources and tools are in place to assess whether an individual does or does not have capacity.

2.2 You Will

Managers will:

- Follow procedures and guidance when establishing whether an individual has capacity or not.
- Ensure where an individual has been deemed as not having capacity, any decisions made on behalf of that person will be in their best interests, will be the least restrictive choice available, and will be agreed upon by all parties who hold an interest in the individual's welfare.
- Ensure all Mental Capacity Assessments (MCA) and Best Interests (BI) decisions are reviewed annually, or sooner should a change happen.
- Enable the individual to have as much input as possible into decisions regarding their support.
- Ensure staff complete appropriate training.

All staff will:

- Ensure they complete appropriate training.
- Follow support plans in place which will include MCA and BI decisions.
- Enable the individual to have as much input as possible on all decision-making processes.

3 Monitoring and Compliance

The Quality Team will complete annual service reviews and thematic audits which will include mental capacity documents, to ensure the quality of the service being provided is maintained.

4 Related Legislation and Guidance

The Mental Capacity Act 2005 (MCA) is legislation created to empower and protect people who may lack the capacity to make some decisions for themselves; this applies to many individuals accessing our services.

The Mental Health Act 1983 covers the reception, care, and treatment of people with mental health issues, and also includes the management of their property and other related matters.



5 Other Policy References

The Mental Capacity Act 2005 Deprivation of Liberty Safeguards (MCA DoLS) Policy P&S 6.4B, explains what DoLS is, when it should be considered, and how it is applied. The Working with Court Appointed Deputies for Personal Welfare Policy P&S 6.4C, explains what a Court Appointed Deputy is, what their powers and potential responsibilities are, and how to work alongside them to create the best outcomes for the person involved.

The Safeguarding Adults at Risk Policy P&S 2.1, explains how people within our services will be protected against harm, including what measures we have in place and how we will remedy any safeguarding issues that arise.

6 Training Consideration

All employees will receive appropriate training regarding mental capacity/best interests and capacity and consent that is relevant to their role.

7 Associated Documents

- 7.1 Mental Capacity and Best Interests – Guidance, P&S 6.4A.1
- 7.2 Roles in Mental Capacity Assessments, P&S 6.4A.2
- 7.3 MCA Flowchart, P&S 6.4A.3
- 7.4 Record of a Mental Capacity Assessment, P&S 6.4A.4
- 7.5 The Balance Sheet Approach Guidance, P&S 6.4A.5
- 7.6 Record of a Best Interests Decision, P&S 6.4A.6
- 7.7 Checklist for an Individual's Consent to Interventions by a Clinician, P&S 6.4A.7
- 7.9 Mental Capacity Act Policy - Easy Read, P&S 6.4A.8

8 Appendices

- 8.1 Safeguarding Adults at Risk - Policy and Guidance, P&S 2.1
- 8.2 Positive Behaviour Support Policy – Adult Services, ReS 5.1A
- 8.5 Care and Health Support Policy, ReS 5.3
- 8.6 Communication Policy, ReS 5.5
- 8.7 Hesley Group Alternative and Augmentative Communication Policy, ReS 5.5A
- 8.8 Hesley Group Safe Administration of Medicines Policy – EMAR, ReS 5.6E
- 8.9 Deprivation of Liberty Safeguards (DoLS) - Policy, P&S 6.4B
- 8.10 Working with Court Appointed Deputies – Policy, ReS 6.4C
- 8.11 NICE guidance – Decision making and mental capacity, Quality Standard
<https://www.nice.org.uk/guidance/qs194>





- 8.12 Link to Mental Capacity Act 2005
<http://www.justice.gov.uk/guidance/mental-capacity.htm>
- 8.13 Link to Office of the Public Guardian:
<http://www.publicguardian.gov.uk/>
- 8.14 Making Decisions - a guide for people who work in health and social care:
<https://www.gov.uk/government/publications/health-and-social-care-workers>
- 8.15 Making Decisions – a guide for advice workers:
<https://www.ouh.nhs.uk/patient-guide/safeguarding/documents/advice-workers-guide>
- 8.16 Making Decisions about health, welfare or finances mental capacity:
https://assets.publishing.service.gov.uk/government/uploads/system/making_decisions
- 8.17 Making Decisions – a guide for family, friends and other unpaid workers:
<https://www.rdash.nhs.uk/wp-content/uploads/Booklet-2-Family-friends-and-Carers>
- 8.18 Making Decisions – The Independent Mental Capacity Advocate (IMCA) service:
<https://assets.publishing.service.gov.uk/government/uploads/making-decisions>
- 8.19 Advice from Money Helper
<https://www.moneyhelper.org.uk/en/family-and-care/mental-capacity>

