



A Guide to the
Mental Capacity Act
(easy read)

Mental Capacity means you can make a particular decision at the time it needs to be made.

No one must judge this because of your age or your appearance, the way you behave, or a condition you may have.

What is the Mental Capacity Act?

- this is a law about making decisions
- it will help you to make decisions for yourself
- it will help you to plan for the future when you might not be able to make your own decisions
- it will also help to protect you if you can't make some decisions for yourself
- it applies to people aged 16 and over.



What does the act say?

There are five important rules everyone must follow when using the Act:

1. start off by thinking that you can make your own decision
2. give you all the support they can to help you make your own decision
3. never say that you can't make a decision just because someone else thinks it's wrong or bad
4. when you can't make your own decision, someone has to make it in the best way for you. There is a list to help them check this
5. when someone makes a decision for you, they should choose something that does not limit your rights or freedom too much.





What does 'capacity' mean?

Capacity means being able to make a decision for yourself. You must be able to:

- understand the information given to you
- remember it long enough to make a decision
- use the information to make a decision
- communicate your decision

Lots of decisions are covered by the Mental Capacity Act. It includes simple things like what to have to eat and more difficult things like where to live and what medical treatment to have.

Some decisions such as marriage, civil partnership, adoption and voting are not covered by the Mental Capacity Act. This means that no one can make this type of decision for you.

Who decides if I lack capacity?

A social worker, carer or medical person may have to decide if you can make the decision yourself.

If it is a decision about medical treatment or going into hospital, a doctor will do this.

If someone needs to make a decision for you, they must be sure that you cannot make the decision yourself.

No one can say that you cannot make the decision yourself just because:

- you have a disability
- you cannot make more complicated decisions
- you have not been able to make decisions like that in the past.



What happens if I cannot make my own decisions?

If you cannot make a decision, someone has to make it for you. They must decide what is in your best interests.

To work out what is in your best interests they must listen to what you want, ask people who know you and make sure you are involved.

They must follow a check list to make sure they do this properly.



Protecting you from ill-treatment or wilful neglect

The Act introduces two new criminal offences:

- ill-treatment of a person without capacity
- wilful neglect of a person without capacity



It is against the law to hurt you like this. Someone who does might go to jail.

If someone is hurting or neglecting you, tell someone you can trust. You or they can call:

If you live in Coventry: 02476 788555 (if under 18 years old)
02476 833003 (if 18 years old or over)

If you live in Warwickshire: 01926 414144 (if under 18 years old)
01926 412080 (if 18 years old or over)

Remember, if it is an emergency, dial 999

Planning ahead

The Mental Capacity Act has a new way you can plan for the future, called a Lasting Power of Attorney (also known as LPA).

This is a legal document where you can say in writing who you want to make decisions for you if you cannot make them for yourself.

You can only make this legal document if you understand what it means.

It can include decisions about:

- **health**, like if you should have an operation
- **welfare**, like deciding which house is best for you
- **property**, like if you need to sell your house
- **money**, like looking after a lot of money



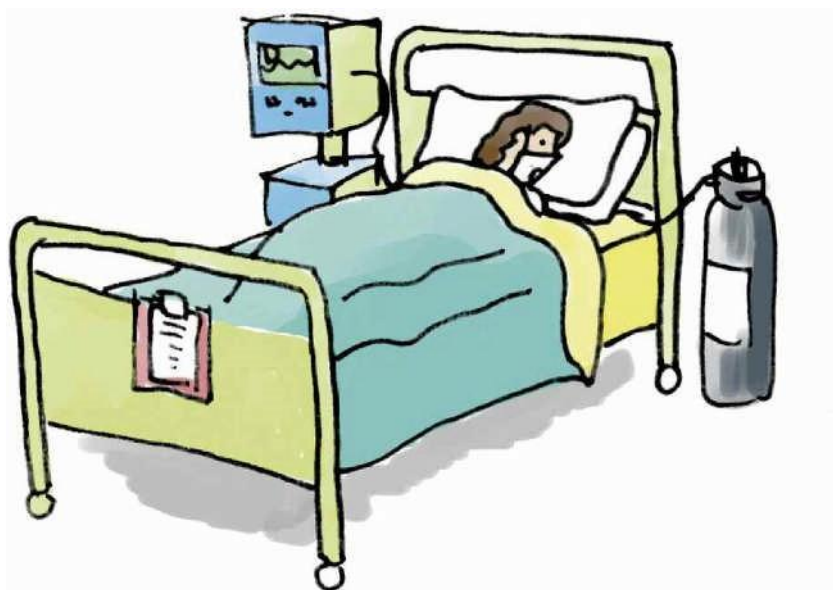
Advance decisions to say no to treatment

An advance decision is when someone who has mental capacity decides that they do not want a particular type of treatment if they lack capacity in the future. A doctor must respect this decision.

An advance decision is about treatment you do not want to have and says when you do not want to have it.

You must be aged 18 or older to do this.





Making advance decisions about life-sustaining treatment

'Life-sustaining treatment' is treatment that is needed to keep you alive and without which, you might die. There are some special rules if you want to make this kind of decision.

This type of advance decision must:

- **be in writing**
- **say that it applies even if your life is at risk**
- **be signed by you (or someone can sign it for you when you are with them)**
- **be signed in front of a witness**
- **be signed by the witness in front of you**



Court of Protection

This is a new kind of court. There will be a judge who will decide what is best after hearing people talk about the case.

People won't always have to go to the court itself to do this. Sometimes the case can be decided by letter.

The court and how it works will be open to everyone. It will deal with everything to do with the Mental Capacity Act.

It will help when you cannot say or decide what to do.

So it might decide about:

- whether you should have an operation, especially if your family and the doctors don't agree and you cannot decide yourself
- how your money should be handled if you cannot decide yourself
- anything else where someone needs to make a decision for you because you cannot decide for yourself, but people cannot agree on what is best.

Deputies

The Court of Protection may make someone a Deputy.

The Deputy can make certain decisions for you if you cannot decide everything for yourself.

The Court will say what the Deputy is allowed to do and what they are not allowed to do. The Deputy must act in your best interests.



Independent Mental Capacity Advocates

The Mental Capacity Act introduced a new person called an Independent Mental Capacity Advocate (also known as an IMCA).

If you need to move to a new home and cannot make this decision yourself and you do not have family or friends to help you decide, an IMCA can help you.

If you need serious medical treatment and cannot make the decision yourself, and you do not have family or friends to help you decide, an IMCA can help you.

They can sometimes help you with other decisions as well.

The Act says what the IMCA must do.



Research

The Mental Capacity Act has very strict rules about research.

The rules are:

- the research work must be safe and must be about the condition you have
- it must be likely to help you or people with conditions like yours
- the risk of harm and hassle to you is as small as possible
- you must be happy to take part – if you show you do not want to take part anymore, the research must stop
- family, carers or an independent person must agree that you can take part in the research and can say no if they think you would have said no.



What if you disagree with the decisions?

If you disagree with any decisions taken about your mental capacity, you can:

- complain
- ask for a meeting
- ask for an advocate
- speak to the Court of Protection.



Where to get more information

You can find more information about the Mental Capacity Act on the NHS website at:

<https://www.nhs.uk/conditions/social-care-and-support-guide/making-decisions-for-someone-else/mental-capacity-act/>

You can also obtain guidance and booklets on the Mental Capacity Act and other relating documents, such as a Lasting Power of Attorney, on the Public Guardian website at:

<https://www.gov.uk/government/organisations/office-of-the-public-guardian>

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