



Havering
LONDON BOROUGH

Mental Capacity Act (2005)
Havering Dementia Liaison Officer
Jenny Gray

The Mental Capacity Act (2005)

The Mental Capacity Act came fully into force in October 2007 in England and Wales

What does the Mental Capacity Act cover?

- Independent Capacity Advocacy Service
- Lasting powers of attorney for finance, health and social care decisions
- Advanced decisions to refuse treatment
- New rules on capacity and research
- New criminal offence of wilful neglect

Other things the Act introduces

The Act sets out the rules on:

- A new Code of Practice, this will tell people how to make sure they are following the Act
- A new Court of Protection
- A new Office of the Public Guardian
- Acts in connection with care and treatment -
(best interests principles)

Five key principles

The Act is underpinned by five key principles:

- A presumption of capacity
- Individuals supported to make decisions
- Unwise decisions can be made
- Best Interests
- Least restrictive option

What is the Capacity Test, and who does it?

- The Capacity Test is done by the person who makes the decisions about the patient's care
- It is both issue and time specific
- You are checking the four criteria as set out by the Act

Criteria for the Capacity Test

This is a two stage test:

1. Is there an impairment of, or a disturbance in, the functioning of the person's mind or brain?
2. If so, is the impairment or disturbance sufficient to cause the person to be unable to make that particular decision at the relevant time?

What does it mean “unable to make a decision?”

If someone cannot :

- Understand the information relevant to the decision
- Retain that information (long enough to discuss it)
- Use or weigh that information as part of a process of making the decision, or
- Communicate their decision (whether by talking, sign language, or any other means)

Do I have to contact the IMCA service?

Yes, under the law, the IMCA service must be contacted if the patient is:

- Lacking capacity and over 16
- No-one else to support them
- Change of accommodation (timescales)
- Facing serious medical treatment or the withdrawal of serious medical treatment

What if people have family?

The IMCA service is not applicable for people who have family unless:

- The family are not acting in the patient's best interest, then you can consider them unsuitable

Or

- In safeguarding cases – where there may or may not be family involvement

How do I contact an IMCA?

For people in Havering, Barking and
Dagenham phone
Voiceability on
0208 590 2666

Do you have any questions?

Please ask now, and I will try to answer your queries

If you wish to contact me later, my e-mail address is:-

Jenny.Gray@haverling.gov.uk

Or phone :- 01708 432318