



Mental Capacity Act

This Act protects and empowers people who may not be able to make their own decisions

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This is a summary of the key points of the Oxleas NHS Foundation Trust Mental Capacity Act Policy.

What is the purpose of the policy?

The Mental Capacity Act Policy aims to provide clear guidelines and processes for staff working within the Trust. It highlights key sections of the Mental Capacity Act and Code of Practice, signposting staff to the relevant chapters of the Code and further sources of information and training.

The Mental Capacity Act 2005 puts everyone over the age of 16 in England and Wales at the heart of decisions relating to their care, treatment, welfare and finances. Where an individual lacks the mental capacity to make the required decision, the Act provides a legal framework for acting and making decisions on behalf of such individuals.

Who is the policy for?

All staff employed by Oxleas NHS Foundation Trust.

What are the key points?

The Act applies to people aged over 16 in England and Wales.

The five statutory principles of the Mental Capacity Act are:

- 1 Assumption of capacity
- 2 Provide support for decision making
- 3 Individuals can make unwise decisions
- 4 If the individual lacks capacity to make the required decision, the decision made on their behalf should be in their best interests
- 5 Best interests decisions to be the less restrictive of the individuals rights and freedom of action

Capacity is decision specific and where there is doubt about an individual's mental capacity to make a required decision, an assessment should be carried out for each decision to be made.

The assessment of capacity must be a continuous and ongoing process.

There is a two-stage test for capacity:

Stage 1: Does the person have an impairment of, or a disturbance in the functioning of their mind or brain?

Stage 2: Does the impairment or disturbance affect the person in such a way that they are unable to make a specific decision when they need to?

A person is unable to make a decision if they cannot:

- Understand relevant information about the decision to be made
- Retain the relevant information in their mind long enough to be able to make the decision
- Use or weigh the relevant information as part of the decision making process
- Communicate their decision

The person who assesses an individual's capacity to make a decision will usually be the person who is directly concerned with the individual at the time the decision needs to be made.

Staff should record capacity assessments in the person's clinical notes. Most of the time these assessments will be recorded in the progress notes.

Staff will need to instruct an Independent Mental Capacity Advocate (IMCA) for people who lack capacity to make certain important decisions and, at the

time such decisions need to be made, have no-one else (other than paid staff) to support them.

IMCAs have the right to see relevant healthcare and social care records. Any information provided by an IMCA must be taken into account as part of the process of working out whether a proposed decision is in the person's best interests.

What other policies and procedures are relevant?

- Consent to examination or treatment
- Administering treatment with or without consent under the MHA
- Advance care planning
- Deprivation of Liberty Safeguards
- Oxleas guide to the assessment and management of risk
- Guidance for staff on safeguarding adults
- Single equality scheme
- Assessment and care planning including CPA for all service users
- Admission Protocol fact sheet

Your opinion matters

We are committed to providing the highest standards of care, so we welcome your views on the services we provide. If you would like to comment, make a suggestion, or a complaint, please speak to the person you normally see or ask to speak to the team manager. You may also like to speak to our Patient Advice and Liaison Service (PALS) on 0800 917 7159.

Confidentiality

All our staff are required to abide by a strict code of conduct on confidentiality. We will only share information with those who need to know in order to provide good quality care. Occasionally there may be exceptions to this, for example to support a clinical audit or to monitor the quality of care provided. We will usually discuss this with you beforehand.



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