

- 1. Assume capacity**
- 2. Support decision making**
- 3. Unwise decisions do not necessarily mean a lack of capacity**
- 4. Act in the persons best interest (when they lack capacity)**
- 5. In the least restrictive way**

Any care manager involved in arranging services needs to consider the MCA at the earliest opportunity. Assume capacity but be alert to the need for formal assessment.

#### Person at home, first assessment

Consider mental capacity as prompted by the SAP or other documentation used, remembering the 5 guiding principles

- Can the person contribute to the assessment
- Can the person consent to the sharing of information
- Can the person manage their own finances
- Does the person have anyone to support them with decision making
- Has anyone been legally appointed to make decisions for the person
- If so what is the extent of their power
- Have you given them an MCA leaflet

Once needs are established and a care plan or support plan developed, consider mental capacity again, remembering the 5 guiding principles

- Can the person consent to the actions to be carried out in the care plan
- Does the care plan identify what actions can be delivered in the persons best interests because they lack capacity to consent
- If a personal budget is preferred does the person have capacity to manage it
- Does the care plan involve a significant decision (increase or decrease in care provision, type or manner of provision)
- If so has a formal two stage assessment of capacity been carried out and recorded
- Has a best interests decision been made and recorded

When carrying out a review consider mental capacity again, remembering the 5 guiding principles

- Does the person meet the criteria to consider involving an IMCA
- Has the persons ability to make decisions changed
- Has their capacity to consent to any aspect of the care plan changed
- Are day to day acts in connection with care being carried out in line with the MCA
- Is everyone supporting the person acting in their best interests

**Are there any issues which are so severely contested that further legal advice is needed?**

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- 2. Support decision making**
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Any care manager involved in an admission to residential care needs to consider the MCA at the earliest opportunity. Assume capacity but be alert to the need for formal assessment.

#### Person at home, first assessment

Consider mental capacity as prompted by the SAP or other documentation used, remembering the 5 guiding principles

- Can the person contribute to the assessment
- Can the person consent to the sharing of information
- Can the person manage their own finances
- Does the person have anyone to support them with decision making
- Has anyone been legally appointed to make decisions for the person
- If so what is the extent of their power
- Have you given them an MCA leaflet

Once needs are established and a care plan or support plan is developed which is indicating a necessary admission, consider mental capacity again, remembering the 5 guiding principles

- Can the person consent to the admission (if so there is no further need to apply the MCA)
- If this is unlikely a formal two stage assessment of capacity needs to be carried out and recorded
- Once a lack of capacity is established consider whether there is a statutory requirement for an IMCA
- A best interests decision needs to be made and recorded
- If there is anything contentious it is better to hold a best interests meeting
- Any information that would suggest the person may need to be deprived of their liberty should be shared with the care home as early as possible to enable them to apply for an authorisation
- The move should not take place before the best interests decision
- If possible the proposed care home should be involved in the best interests decision
- Copies of the assessment of capacity and the best interests decision should be shared with the care home
- Consider MCA on review as described on care planning sheet

**Is the move so severely contested that further legal advice is needed?**

- 1. Assume capacity**
- 2. Support decision making**
- 3. Unwise decisions do not necessarily mean a lack of capacity**
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Any care manager involved in a hospital discharge needs to consider the MCA at the earliest opportunity. If the person was not previously known to services follow the fact sheet for care planning. Assume capacity but be alert to the need for formal assessment.

Once needs are established and a care plan or support plan is developed consider mental capacity again, remembering the 5 guiding principles. If this involves an admission to residential care consider

- Can the person consent to the admission (if so there is no further need to apply the MCA)
- If this is unlikely a formal two stage assessment of capacity needs to be carried out and recorded
- Once a lack of capacity is established consider whether there is a statutory requirement for an IMCA
- A best interests decision needs to be made and recorded
- If there is anything contentious is better to hold a best interests meeting
- Any information that would suggest the person may need to be deprived of their liberty should be shared with the care home as early as possible to enable them to apply for an authorisation
- The move should not take place before the best interests decision
- If possible the proposed care home should be involved in the best interests decision
- Copies of the assessment of capacity and the best interests decision should be shared with the care home

If there is a DoLS authorisation in place

- This needs to be reviewed as the persons circumstances change
- Review needs to be requested prior to discharge once a date for discharge is confirmed

If there is no DoLS authorisation is in place but one is likely to be needed in the care home

- Contact the care home as soon as potential restrictions are identified on the care plan

**Is the move so severely contested that further legal advice is needed?**