








About the Mental Capacity Act and Our Rights



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 <p>The Mental Capacity Act is all about making decisions.</p> <p>It is a law.</p>	
	<p>To talk about this, we sometimes use words in bold. Then we explain what the words mean.</p>
	<p>The Mental Capacity Act supports people to make decisions for themselves whenever they can.</p>
	<p>A small number of people cannot make some decisions.</p> <p>They might not be well enough, or might need help.</p>
 <p>Understand</p>	<p>When people use the word Capacity it's to explain whether a person can understand information and make decisions.</p>



Not being able to make a decision is called **lacking capacity**.



We might lack capacity because we don't feel well enough, or we might need help.



A person with epilepsy may not be able to make a decision after a seizure. They might not feel well enough.



Someone with a mental health problem may not be able to make a decision now, but in a week's time they may feel much better.



Decision

The Mental Capacity Act tells people how to get support if they cannot make decisions, or if they need help with some decisions.

	<p>Sometimes decisions are big – like where to live.</p> <p>Some decisions are small, like what to wear.</p>
<p>5</p> 	<p>The Mental Capacity Act gives us 5 rules that should always be followed.</p> <p>The rules help to protect people and their Rights.</p> <p>Here are the 5 rules:</p>
<p>1</p>   	<p><u>Rule 1</u></p> <p>Assume that people are able to make decisions, unless it is shown that they are not.</p> <p>Everyone is different and every decision is different.</p> <p>We might be able to make some decisions, like buying our food.</p> <p>But we might need help with other decisions, like choosing a care home.</p>

2



Rule 2

Give people as much support as they need to make decisions for themselves.

They might be able to make a decision, but the words are big and confusing.

Or they might need support with communication.

3



Rule 3

No-one should be stopped from making a decision just because someone else thinks it is wrong or bad.

Adults have the right to make decisions that other people disagree with.

Like walking in the rain, or staying up really late.



But the people who help you will want to keep you safe.

4



Rule 4

Best interests

If someone lacks capacity and is not able to make a decision, then the people helping them must only make decisions in their **best interests**.



This means that the decision must be what is best for the person, not for anyone else.






There is a checklist for this.


The checklist includes things like:



Can the decision wait, until a time when the person can make it themselves?

 	<p>Can the person be helped to make the decision themselves?</p> <p>What do other people who know the person think?</p>
<p>5</p> 	<p><u>Rule 5</u></p> <p>When a decision is made for somebody who lacks capacity, it must give them as much freedom as possible.</p>

Mental Capacity Assessment

	<p>If there is a reason to think a person may need help with a decision, a Mental Capacity Assessment may be done.</p>
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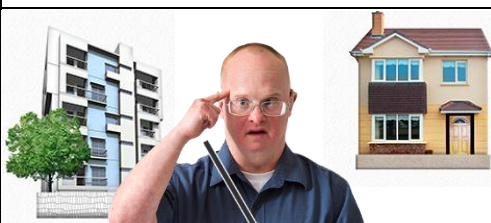
The person carrying out the assessment should give you help to make the decision for yourself.



This might be using different aids or equipment, like a communication board.



They will share information, so you have time to think about it.









When a capacity assessment happens, it will be about a decision that needs making.

Decision

Such as choosing where to live.



You will be given options so you can choose the best thing for you.

 <p>Understand</p>   	<p>The assessment will look at if you can</p> <ul style="list-style-type: none"> • Understand information • Remember it for long enough • Think about the information • Communicate your decision
 	<p>If it is decided a person lacks capacity, they still need to be involved in any decisions made in their best interests.</p> <p>A person's wishes and feelings are always very important.</p>



Capacity assessments are only about that time and that decision. Capacity assessments are **reviewed** regularly.



Someone could be assessed as lacking capacity about managing their money.



But they can still make decisions about other things in their life, like going out with friends.



Capacity assessments are **reviewed** regularly – this means they are checked to see if they are still right later on.



People's lives can change, so it is important to check.



When an assessment is reviewed, it could find that the person can make their own decisions later on, even if they couldn't before.



Independent Mental Capacity Advocates (IMCA)


If you are assessed as lacking capacity for an important decision, the decision maker can refer for an Independent Mental Capacity Advocate (IMCA).




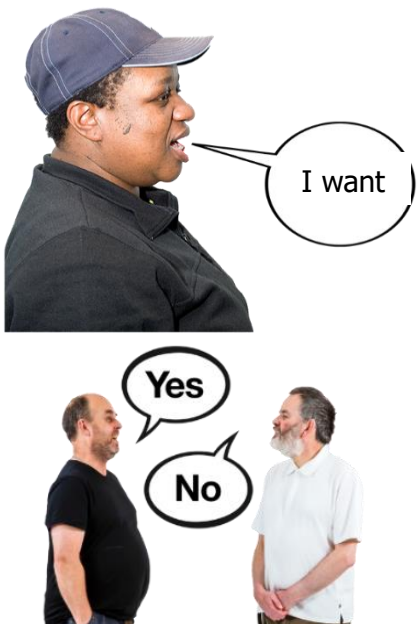
Important decisions includes things like where to live and medical treatment.



An IMCA is only needed if you don't have family or friends that can be involved in the decision.

	<p>Independent Mental Capacity Advocates know lots about the Mental Capacity Act.</p> <p>They make sure your wishes and views are heard and decisions are made in your best interests.</p>
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What if you are unhappy about a decision?

	<p>There may be times where you are unhappy about a decision made under the Mental Capacity Act.</p>
	<p>This might be-</p> <ul style="list-style-type: none"> • You have been assessed as lacking capacity about a decision, but you think you can make this decision. • A decision has been made about your life for you that you don't agree with.



If this happens, there are things you can do to try and change what has happened.



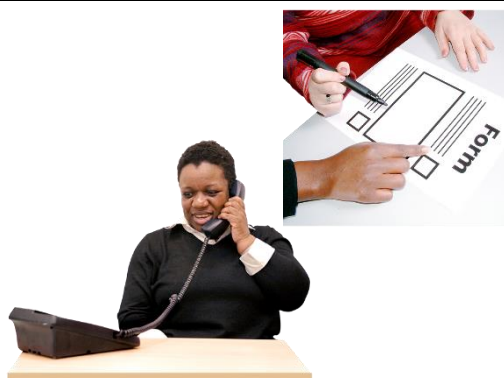
It can be a good idea to write down what it is you are unhappy about.



The first thing to do is to speak to the person who has done the assessment or made the decision.






If this does not work, you can ask to speak to their manager and ask for someone else to review what has been done.










You might want a family member, friend or advocate help you do this.

An advocate is someone who will support you to speak up for yourself.

 <p>Complain</p>	<p>If you are still not happy with what has happened, you can make a complaint.</p>
	<p>If this does not work, you can complain to someone called the Ombudsman.</p> <p>An ombudsman's job is to look at complaints and make sure they are dealt with.</p> <p>You can tell them why you are unhappy.</p>
	<p>If there is disagreement around a decision and you are still not happy there is an option for it to be looked at by a Judge in the Court of Protection.</p> <p>They make sure that everyone follows the Mental Capacity Act and its rules.</p>

Advocacy information you might find useful

	<p>Everyone has the right to speak up for themselves but not everyone can do this easily.</p> <p>An advocate is someone who can help you share your views and experiences.</p> <p>Here is some Advocacy contact information for North Yorkshire.</p>
   	<p>Cloverleaf Advocacy</p> <p>Phone: 01609 765355</p> <p>Email: referrals@cloverleaf-advocacy.co.uk</p> <p>Website: Click this link Cloverleaf Advocacy website</p> <p>Or go to cloverleaf-advocacy.co.uk</p>
 	<p>The North Yorkshire Learning Disability Partnership Board is a great place to speak up and be heard.</p> <p>Website: www.nypartnerships.org.uk</p>

Thank you! To everyone who helped make this booklet:

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