

## MENTAL CAPACITY ACT 2005 INDEPENDENT MENTAL CAPACITY ADVOCATES

The Mental Capacity Act 2005 (MCA) comes into full enactment on the 1<sup>st</sup> October 2007 and the introduction of Independent Mental Capacity Advocates (IMCA).

### Introduction

The Mental Capacity Act applies to everyone who works in health and social care and is involved in the care, treatment or support of people aged sixteen and over who are unable to make decisions for themselves. The inability to make a decision could be caused by:

- Stroke or brain injury
- A mental health problem
- Dementia
- A learning disability confusion, drowsiness or unconsciousness because of an illness or the treatment of it
- Substance misuse

People who work in health and social care such as doctors, nurses, dentists, psychologists, therapists, social workers, residential and care home managers, care staff, support workers and any other health and social care workers will be affected by the MCA and need to know about it.

Responsibilities and guidance under MCA are detailed in the Code of Practice for the Mental Capacity Act 2005. [Department for Constitutional Affairs - Publications - Mental Capacity Act](#)

### Principles of MCA

The MCA has five key principles which emphasise the fundamental concepts and core values of the Act.

- 1 Every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise. This means that you cannot assume that someone cannot make a particular decision for themselves just because they have a particular medical condition or disability.
- 2 People must be supported as much as possible to make a decision before anyone concludes that they cannot make their own decision. This means that you should make every effort to encourage and support the person to make the decision for themselves.
- 3 People have the right to make what others might regard an unwise or eccentric decision. Everyone has their own values, beliefs and preferences which may not be the same as those of other people. You cannot treat them as lacking capacity for that reason.
- 4 Anything done for or on behalf of a person who lacks mental capacity must be done in their best interest.
- 5 Anything done for or on behalf of people without capacity should be the least restrictive of their basic rights and freedoms. This means that when you do anything to or for a person who lacks capacity you must choose the option that is in their best interest and you must consider whether you could do this in a way that interferes less with their rights and freedom of action.

## Independent Mental Capacity Advocates

Under MCA there is a statutory responsibility for Local Health Boards to provide Independent Mental Capacity Advocates (IMCAs). These advocates are specialised independent advocate who support individuals who lack capacity to make a decision when they are unbefriended or have no