

Case studies: What can go wrong if professionals assume incapacity?

A social worker describes two cases in which people were assumed to lack capacity, and how that risks the person's wishes being overridden.

One

A family and professionals' meeting was held in a hospital setting. Mr X was an elderly gentleman who lived in his own home. Mr X was becoming forgetful and had left items on the cooker and forgotten about them, and had left taps running. The son of Mr X wished for his father to be placed in a residential home. Mr X, who had the mental capacity to make such a decision, wished to stay at home and be supported by carers. The social worker was able to steer the outcome of the meeting towards Mr X being supported at home with telecare and a package of care, and the meeting concluded that this would be the discharge arrangement. This was not to the liking of the son, and there was some suggestion that the son wished to get his hands on his father's house for his own gain. The consultant for the ward had not been present for the meeting.

The social worker was later informed that the consultant had overridden the agreed plan and the patient had been discharged to a residential placement. The social worker wanted to challenge this; however, due to the fact that the patient had already been placed, he did not know how to do this or what to advise. The MCA must be properly applied if such breaches of human rights are to be averted. Social workers must stop people taking actions which contravene legislation.

Two

I was reviewing a placement on the south coast and whilst there, was informed that the resident had been declared to not have mental capacity by a community psychiatrist, despite them never having seen them or spoken directly to them. This particular person had no severe neurological condition or brain injury that would justify such an assumption. MCA guidelines, if adhered to, give ample opportunity to safely reach a conclusion in regard to decision-specific questions of mental capacity. If those guidelines are not followed, and in this case they were not, then decisions become highly questionable.