



Department
of Health

Mental Capacity Act and the Vital Role of Social Workers Outcomes of the Chief Social Worker's Seminar

Background

The Mental Capacity Act (the MCA) is held in high esteem by many who value the person-centred approach it promotes for the hundreds of thousands of individuals in England who may lack mental capacity, across many different mental health conditions.

However, the MCA is still poorly understood and poorly embedded in parts of the health and care system. As a result, many individuals who may lack capacity are not having their voice heard or their basic rights respected.

If this situation is to change, we need to move beyond general discussion of the challenges to identify specific actions that might bring about real improvements for service users. Social workers are well-placed to help lead multi-disciplinary and cross-sectorial work in this area – but everyone must proactively take responsibility if we are to succeed.

The Chief Social Worker's MCA Seminar on 13 March 2015 brought together social workers from across England with representatives of other disciplines and sectors including: NHS providers, NHS commissioners, high street banks, high street solicitors, third sector organisations and the police. The aim was to consider how social workers might link up with these organisations in joint working, to better implement the MCA for the benefit of service-users.

Next steps

The key messages from the seminar can be found at Annex A. The seminar revealed genuine enthusiasm among attendees for the benefits of an MCA-approach to the care and support of individuals who may lack capacity and the potential that working across organisational boundaries has in achieving change.

It was always the intention that the seminar be the start of a significant push on the MCA – that it should not be an end in itself.

As such, at Annex B is a short template that we would ask you to complete and return to the Department. It asks for information on the actions that you are pursuing or plan to pursue with your local partners to address the challenge of poor MCA implementation. The Department will collate these, summarise them and disseminate best practice back to you and more widely.

Returns can be sent to Niall.Fry@dh.gsi.gov.uk. These can be sent on an on-going basis as new actions are identified – but we would be grateful for your initial returns by end July 2015.



Annex A – Key messages from the Chief Social Worker’s MCA Seminar

Overall messages

A push on awareness

There is considerable appetite for a significant push on MCA awareness. Improvements in this regard are attractive given they will benefit multiple service user groups (dementia, learning disability, mental health). Furthermore, the MCA provides clear principles that different organisations can converge around to design support and protection measures for the individual who may lack capacity.

The Department has a clear leadership role to play in this. The Chief Social Worker will launch a “Call to Action on the Mental Capacity Act” later this year. It will ask social workers to reach out to different professional groups, identify a shared priority for further work and take this forward.

There was also enthusiasm among participants for the concept of an “MCA Re-launch”. This would effectively be a national date-in-the-diary designed to promote the MCA and around which awareness-raising activities could be focussed.

The Government is expecting to launch a new National Mental Capacity Forum soon and at the first meeting of this new Forum (autumn 2015) the Department will propose that new members commit to an “MCA Re-launch” or “MCA Awareness Day”. Such an initiative will only be successful if the ground can be prepared at the local level.

Social workers should seek to raise awareness and understanding of the MCA among different professional groups. Social workers should keep abreast of and build local support for upcoming MCA initiatives, including potentially a new National Mental Capacity Forum and an “MCA Awareness Day”.

Importance of local networks

In some areas of the country, local MCA Forums (or similar) already exist. The best of these bring together a wide-range of multiagency stakeholders to boost understanding of the MCA, share key work areas and find practical solutions to well-established challenges. But this is not the case everywhere. One outcome of the seminar then is that **social workers should seek to ensure they belong to a local network through which they can work with peers and different professionals on the MCA agenda.**

The new National Mental Capacity Forum will need to be able to connect with local networks if it is to share information on its activities and if it is to gain insight into what’s happening on the ground. As a first step, **social workers should alert the MCA Policy Lead at the Department to existing networks** together with the name and email address of the Chair/ lead person (Niall.Fry@dh.gsi.gov.uk) so that greater communication can be established.



Importance of identifying people and services

A theme that re-emerged throughout the seminar was a need to know who is who in partner organisations and to know who the best person would be to contact with capacity-related queries; or to explore joint-working. **Social workers should ensure that their teams have a list of key points of contact in the different organisations with a role to play in supporting those who may lack capacity and that this list is readily accessible.**

If different professionals are to work together and be able to sign-post individuals to relevant services, information and sources of support in different organisations then there needs to be a shared understanding of what each group can offer to the individual who may lack capacity. **Social workers should use the contacts they have (or will have) in partner organisations to map local services, information and support potentially available to individuals who may lack capacity, their relatives and carers – and share this widely.**

Feedback from sector-specific discussions

High-street banking

Social workers possess information on service-users that would help banks reduce the risk of fraud and financial crime. Clearly confidentiality and data protection is a consideration but this should not trump the best interests of the service-user. Social workers could encourage identified individuals or their representatives to contact their financial service provider to create safeguards. In the other direction, many banks have dedicated regional or headquarters units that provide a route of escalation and expert support for local branches in respect of customers in need of additional support, including those who may lack capacity. An established referrals process from these units to local social services would be of great value.

As a first step, social workers should engage representatives of high street banks in their areas to scope basic protocols for joint-working to reduce the risk of fraud and financial crime.

Information was also provided that CIFAS, the Fraud Prevention Service funded by the financial services sector, were able to register adults subject to a Deputyship/ appointeeship on their database so that potential fraudulent activity on their account could be flagged to the relevant local authority.

General hospital

Joint training provides a valuable opportunity for fostering links between the medical and social care profession. **Social workers organising MCA training for their peers and teams should seek to engage their medical colleagues at an early stage and encourage their attendance.** Linked to this is shared learning from serious case reviews and serious incidents involving service-users who may lack capacity.



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NHS commissioning

Greater use of the MCA in commissioning agreements has the potential to drive more integrated care – given the broad remit of the MCA across different diagnostic groups and different health and social care providers. The MCA also sits at the heart of many of the various centrally-driven policy agendas and CQC’s new inspection regime. A focus on MCA-compliant commissioning can be a smart way of achieving a variety of positive outcomes simultaneously. Commissioners “singing from the same hymn sheet” with regards to the MCA will enable more concerted action to be taken on implementation. Commissioners themselves could gain considerable insight into the MCA and the needs of those who may lack capacity from social workers.

Every Clinical Commissioning Group (CCG) has an MCA lead. As a first step, **social workers should seek to identify this person and share planned work around the MCA agenda with them.**

Police

The real-life difficulty of balancing the empowerment of individuals who may lack capacity/ respecting their right to make “unwise decisions” against the duty of care is particularly prominent for front-line police officers. Individuals who lack capacity and are in contact with the police will often also be in contact with social services. Good communication, information sharing and a joint approach to risk management (balanced against individual empowerment) is clearly important.

As a first step, **social workers should ensure they are familiar with their organisation’s means of communication with their local police force. Social workers should also seek to involve local police in joint awareness and training activities and community outreach.**

Third sector

It is clear that the expertise and support the voluntary sector can offer to social workers in their efforts to implement the MCA is great. There was surprise at the range of services the third sector could provide. **As part of the broad mapping exercise described above, social workers should encourage their teams to map voluntary/ charitable services in their areas and the services they offer.**

From discussions at the seminar there was consensus that families would benefit from more information on the basics of the MCA including supported decision making and the importance of advance planning/ use of Lasting Powers of Attorney. In mapping voluntary services, **social workers should explore with the third sector how individuals and their families can be better signposted to sources of information.**

Greater integration of the third sector into the early planning by local authorities and NHS organisations of MCA implementation activities could reap real rewards – in terms of the reach and success of these activities. Attendance of third sector organisations at Safeguarding Adults Boards for example would be worth pursuing. **Social workers should involve local third sector organisations during the early stages of planning MCA implementation/ awareness activities.**



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General practice/ primary care

In their role as “gatekeepers” of NHS services and the first point of contact, GPs and primary care practitioners are positioned to provide or signpost to key information about the MCA and the local support services available. An obvious example is alerting an individual in the early stages of dementia to the possibility of registering a Lasting Power of Attorney. Such conversations are likely to be difficult but cannot be left to any one professional group.

If general practice is to signpost to services and information then clearly it must have these easily to hand. This reinforces the need for the mapping exercise described above. **Social workers should involve and share outcomes of service mapping with general practice.** The results of mapping exercises should be shared with CCGs and Health and Well-being Boards – for information and further input.

A further discussion point in this group was the importance – in the context of an ageing society and later retirement – of work-place health and employers having support in place for those who may in time lack capacity. In addition, work-place information about later life planning could be very valuable. The Department will seek to involve employer representatives in the new National Mental Capacity Forum.

High-street legal services

Solicitors and legal practitioners will often be involved in providing advice to individuals who may soon lack capacity – for example, in the writing of wills and helping arrange Lasting Powers of Attorney. An opportunity exists to provide further information about the MCA and signpost to other services at this point – certainly this could be said to fall within a solicitor’s pastoral role. Many local authorities hold lists of local solicitors that they can sign-post individuals to – involving these solicitors more proactively might be beneficial.

There is potential opportunity in social workers joint working with solicitors around the new duties in the Care Act on care-related financial information and advice. Attendance of representative legal bodies at Safeguarding Adult Boards may also raise solicitors’ understanding of the role they can play in empowering and protecting their clients.

Social workers should share the results of mapping exercises described above with local solicitors so they are better able to signpost clients to available services and points of support. These discussions could be joined with discussions on the implications of new duties in the Care Act.



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Annex B – Actions undertaken by social workers following the Chief Social Worker’s MCA Seminar

The Chief Social Worker’s MCA Seminar on 13 March 2015 highlighted the positive role social workers can play in instigating discussions and joint working with other professional groups to provide greater information and support for individuals who may lack capacity, their relatives and carers.

The Department would like to understand how social workers are taking actions forward – challenges, successes and emerging best practice. The Department will use this to inform national action but will also disseminate this learning across the country.

Please complete this form and return it to Niall.Fry@dh.gsi.gov.uk. Forms can be returned on an on-going basis as work evolves. We would be grateful for initial returns by end July 2015.

Q1. Name, position, organisation and email address

Q2. What activity have you undertaken to better implement/ raise awareness of the MCA?

Q3. How have you involved other professional groups?

Q4. Describe the challenges, successes, areas for improvement/ further work.