

Supporting people with dementia using the MCA

SCIE-funded resource

Alzheimer's Society and Jackie Pool Associates



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against dementia
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Acknowledgements

Alzheimer's Society and Jackie Pool Associates would like to thank SCIE for their funding and the following people for their invaluable contribution to this resource:

All the people with dementia, their carers and supporters who contributed via the Living with Dementia group, Alzheimer's Forum and Talking Point.

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First published 2009 by
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Registered charity no. 296645

A company limited by guarantee and registered in England no. 2115499

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Alzheimer's Society is the UK's leading care and research charity for people with dementia, their families and carers.

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Introduction

Who is this resource for?

Everyone who works with and supports people with dementia is legally bound to work within the principles and philosophy of the Mental Capacity Act 2005 (MCA). This resource is aimed at everyone working with and supporting people with dementia.

This includes:

- 1 Those with overall responsibility for ensuring that the act is implemented correctly in care services that support people with dementia: managers, commissioners and inspectors.
- 2 Those who come into direct daily contact with people with dementia, supporting them to make choices and decisions: social workers, nurses, care home and domiciliary staff.

Existing knowledge level

This is a specific learning resource to apply your existing knowledge about the MCA to working with people with dementia.

This resource is aimed at those who have at least:

- a basic understanding of how to support people with dementia
- a basic understanding of the Mental Capacity Act.

If you have not previously undertaken training on the MCA, you should contact whoever is responsible for learning and development in your organisation. You may also wish to look at the Department of Health's Core Training set for the MCA.

■ MCA training materials:

www.dh.gov.uk/en Click on 'Publications' 'Legislation' 'Acts and Bills'

This is not a course about dementia care. You should ensure that you access dementia training through other development opportunities provided by your organisation or other sources. However, this learning resource will refer you to the following websites to support your learning about the specific needs of people with dementia in relation to the Mental Capacity Act.

■ Understanding the early stages of dementia:

www.scie.org.uk/publications Click on 'Resources and Publications' 'Products and Resources' 'e-learning' 'Series 2'

■ Understanding later stage dementia:

www.scie.org.uk/publications Click on 'Resources and Publications' 'Products and Resources' 'e-learning' 'Series 2'

About this learning resource

This resource is divided into three parts.

Each part has subsections, e.g. 1.1, 1.2 etc. Each part has exercises for you to complete. You will be asked to:

- read information
- assess and compare information
- apply what you have learnt
- reflect upon and use your own experience.

From part 1 onwards there are learning points linked to the sub-sections. There is a summary at the end of each chapter.

Part 1 begins with a quiz to help gauge your current level of understanding about the MCA. It then looks at two key areas in dementia care in relation to the MCA: decision making and the experience of people living with dementia.

Part 2 develops these topics further and contains a detailed fictional case study and three shorter fictional case studies. In part 2 the learning points for the fictional case study relate to various knowledge requirements for Health and Social Care NVQ Levels 2, 3 and 4. For further details please see page 61. These learning points are aimed at people working at or studying at these levels. You are welcome to read and consider the learning points for NVQ levels beyond your current level.

Part 3 presents a quiz to test your knowledge and understanding of supporting people with dementia in relation to the MCA. This quiz uses statements adapted from the dementia knowledge set produced by Skills for Care.

Having tested your knowledge, you may now want to apply what you have learnt to your own working environment. You can then complete the exercises which relate to units in Health and Social Care NVQ Levels 2, 3 and 4. For more details please see page 64.

Having completed these exercises you can:

- share the completed exercises with your line manager to use as part of your learning and development at work
- show the completed exercises to your NVQ assessor to provide evidence for your portfolio.

Please note: although learning points are related to NVQ knowledge levels and the NVQ exercises can be used as portfolio evidence, reading the learning points and completing the exercises does not constitute an NVQ.

Learning outcomes

This learning resource will enable you to explore:

- the main causes of dementia and how this can affect people
- what mental capacity means
- how dementia might affect mental capacity
- what the Mental Capacity Act aims to achieve and how it works
- how the MCA reinforces good practice in dementia care
- the implications of the act for people with dementia and those that support them
- the role of professionals supporting people with dementia with regard to the Mental Capacity Act.

Part 1 Decision making and the experience of people with dementia

Existing level of knowledge – quiz

Hopefully you will have some knowledge of the Mental Capacity Act already. To check how much you know, have a go at completing this quiz. Don't worry if you are not sure about some of the answers as you will be learning much more about the MCA as you complete this resource.

Why not ask your Manager or Learning & Development Adviser to help?

The answers to the quiz are at the end of this resource. Please don't be tempted to look at these until you have completed the quiz yourself.

	TRUE	FALSE
Q1 Mental capacity is the ability to make a decision.....	<input type="checkbox"/>	<input type="checkbox"/>
Q2 The first Statutory Principle of the MCA is that a person must be assumed to have capacity unless it is established that they lack capacity.....	<input type="checkbox"/>	<input type="checkbox"/>
Q3 An assessment of capacity can only be made by a registered MCA Practitioner.....	<input type="checkbox"/>	<input type="checkbox"/>
Q4 When supporting someone to make a decision it is important to consider what might affect any communication.....	<input type="checkbox"/>	<input type="checkbox"/>
Q5 If a person with capacity makes an unwise decision, this should not be allowed.....	<input type="checkbox"/>	<input type="checkbox"/>
Q6 The underlying philosophy of the Act is to ensure that any decision made, or action taken, on behalf of someone who lacks capacity to make the decision or act for themselves is made in their best interests.....	<input type="checkbox"/>	<input type="checkbox"/>
Q7 The best interests of the individual's next of kin must take priority in any best interests consultation.....	<input type="checkbox"/>	<input type="checkbox"/>
Q8 If someone lacks capacity, it is the decision maker who is responsible for assessing that person's best interests.....	<input type="checkbox"/>	<input type="checkbox"/>

Chapter 1 Decision making

1.1 Choices and decision making

Write down a decision you made recently.

Read the following paragraphs.

When we think about making decisions we often think about big decisions, eg to buy a house, to have children, where to live, but almost everything we do involves decision making. The MCA is concerned with everyday choices as well as life-changing decisions.

The decision you wrote down just now might have been about what to wear when you got up this morning. Or it might have been about whether to move house. No matter what the decision, it is significant to you.

The MCA is about recognising that people have the right to make their own decisions. It also provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make a particular decision for themselves. The MCA requires us to consider every individual decision. It enables us to move away from the broad brush approach to understanding mental capacity. By implementing the MCA you will no longer consider whether a person has 'mental capacity', you will consider whether someone has the mental capacity to make a specific decision.

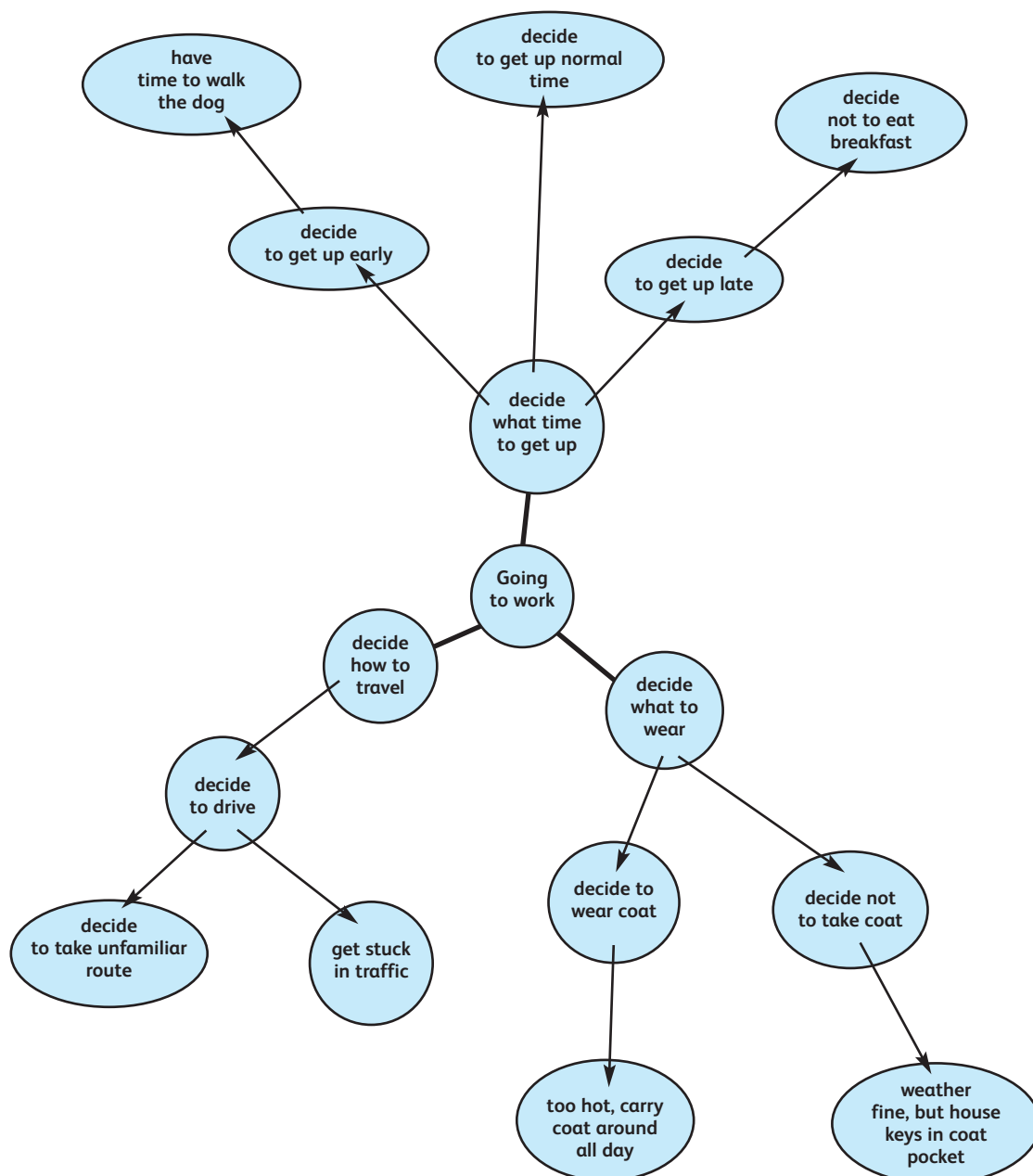
1.2 Choices and consequences in decision making

Read the following paragraph and the choices and consequences diagram.

Everything we do involves decisions and choices. All the decisions and choices we make have consequences. We all have personal preferences and differing attitudes towards risk and this will affect each decision we make. Here is an example of the choices and consequences involved in going to work.

Read the decisions, choices and consequences in the diagram below.

Choices and consequences diagram:



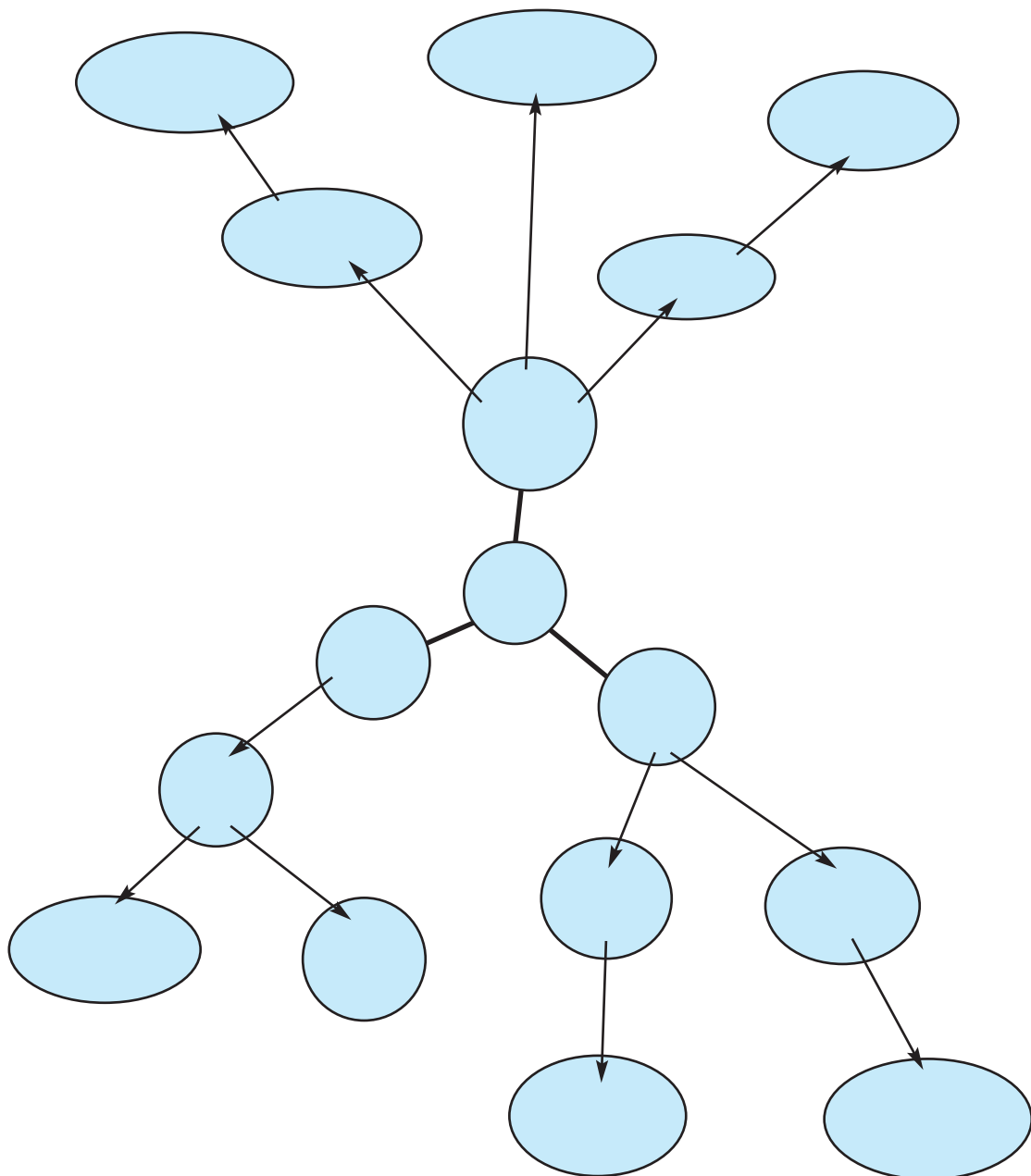
Think about the following question.

Can you think of other decisions, choices and consequences. What other decisions, choices and consequences do these lead to?

1.3 Choices and consequences – exercise

Think about the decision that you made recently and wrote down just now.

Complete your own choices and consequences diagram to illustrate the process that you went through and the choices and consequences you considered.



Read the following learning points.

Learning points 1.1–1.3

- Making decisions involves making choices and understanding that there will be consequences. These consequences will also involve choices and have consequences of their own.
- We all have personal preferences and differing attitudes to risk. This will affect the decisions we make.

1.4 How are people with dementia supported by the Mental Capacity Act?

Read the following paragraph and learning points.

Just because someone has dementia does not mean that he or she cannot make a particular decision at a particular time. No one should assume that someone lacks capacity because they have a condition or diagnosis of dementia. The first statutory principle of the MCA is the assumption of capacity. This means **we assume anyone with dementia has the capacity to make any decision.**

See MCA Code of Practice, p. 20

Learning points 1.4

- The MCA has been introduced to recognise and protect the rights of people with dementia in relation to decisions they make.
- You should never assume that someone with dementia is unable to make a decision for themselves.

1.5 Thinking about decision making – exercise

Imagine someone started making decisions on your behalf. Write down how you might feel.

You might have said things like:

- undermined
- powerless
- less independent
- less of an individual
- patronised
- offended
- upset
- depressed
- dependent
- as though you had lost your identity...
- pleased
- relieved
- supported.

1.6 People with dementia – decision making and control

People will feel differently depending on the type of decision and who is making it. Not all responses will be negative, but all emotions impact on people's mental and physical health.

Read what some people with dementia said about how they feel when other people make decisions they feel they can make for themselves.

'It sometimes seemed that the minute my back was turned, something else would be done without any consultation and always with the comment that it was for my own good and that I had been told what was going on.'

Person living with Alzheimer's disease

'When my family said "you can't go" it made me angry. I am capable of doing so much. I have forethought and foresight to know if I can't do a challenge.'

Bill, living with Alzheimer's disease

We need to ensure that we support people's independence for as long as possible, to preserve their dignity and identity.

People with dementia need to be involved in the choices and decisions that affect them. They may still be able to express how they feel, even if they are not able to say it as the people in these examples have done.

Learning points 1.5–1.6

- Being disempowered in decision making undermines the dignity, identity and health of people with dementia.
- The first statutory principle of the MCA is: ‘A person must be assumed to have capacity unless it is established that they lack capacity.’ (MCA Code of Practice 2007 p. 19)

Summary of chapter 1

You have learnt that the MCA is concerned with life-changing and everyday decisions. You have considered the choices and consequences involved in decision making. You recognise that we all have different attitudes to risk and that decision making is an important part of retaining autonomy.

Chapter 2 Supporting people with dementia to make decisions

2.1 Possible impairments experienced by people with dementia – exercise

Read the paragraph below and write your thoughts in the box below.

Think about why conditions that cause dementia, such as Alzheimer’s disease, might affect someone’s capacity to make a decision. It is important you know the impairments dementia can cause so that you understand how this might affect a person’s capacity to make a decision.

You may want to have a look at the following web links: www.scie.org.uk/publications and alzheimers.org.uk

Or look particularly at Alzheimer’s Society fact sheets 400 – 405 on Alzheimer’s Society site: alzheimers.org.uk/factsheets

What impairments might someone with dementia experience that could affect their capacity to make a decision?

Read the paragraph and following table.

2.2 Stages of decision making and possible impairments

Making a decision is a very complex process. We need to recognise that the impairments associated with dementia may have an impact on any stage of the decision making process.

In the table below you will see that we have listed the stages involved in making a decision. Next to each stage we have recorded an impairment someone with dementia may have that could affect their ability to make a decision.

Stage in decision making process	Impairment which may affect completion of stage
Recognise that decision needs to be made	reasoning
Understand nature of decision	understanding
Process information	thinking
Set time frame (urgent or non urgent)	slowed thought processes
Identify options	thinking creatively or in abstract
Consider options – risk, impact, consequence	logical thinking
Select option and compare with other choices	memory
Understand external influences which may have consequence – environment, others, judgements, stereotypes	communication/judgement
Draw on past personal experience Influence of emotion on decision making	recall/memory/integration of emotion and thinking

Learning points 2.1–2.2

- People who have dementia may experience impairments in their cognitive functioning and communication.
- These impairments may affect any part of the decision making process.

2.3 How you could support someone with dementia to make decisions – exercise

The text below describes the difficulties which someone who has dementia may experience when making a decision. Using the following words see if you can fill in the blanks in this example.

remembering **thought** **decision** **understanding** **think**
more **consider** **support** **information**

People who have dementia are likely to have difficulty things like names, addresses, where they put things.

They may also have difficulty what is said or information presented to them. Their process is likely to be affected.

This means that when someone with dementia needs to make a, they may need time to be able to about the decision and the consequences.

We can help by making sure that is presented to them in a format which they understand.

We can also the person's decision even if we might not have made the same decision ourselves.

The MCA supports people's right to make decisions even though other people may not have made the same decision themselves or think the decision is unwise. Decisions that cause concern may be a trigger for an assessment of capacity.

Some people may not be able to make a decision, even with support. However they must still be involved in the decision-making process as far as they are able.

Think about what you can do to better communicate with people who have dementia and support them to make decisions. Record your thoughts below.

.....

.....

.....

.....

.....

.....

.....

Learning points 2.3

- People who have dementia may have difficulty remembering information or what is said.
- You can help by presenting information in a way the person can understand and by supporting their decision. This is Statutory Principle 2 in the MCA: 'A person is not to be treated as unable to make a decision unless all practical steps to help them to do so have been taken without success.'
- Everyone who has the capacity to do so has the right to make their own decisions, even if other people think their decision is unwise. This is reflected in Statutory Principle 3 in the MCA: 'A person is not to be treated as unable to make a decision merely because he/she makes an unwise decision.'

Summary of chapter 2

You have looked at the different stages of the decision making process, such as understanding that a decision needs to be made, retaining information and understanding the consequences of making or not making the decision.

You have considered how different impairments experienced by people who have dementia might affect their thought, communication and decision making processes.

You have considered how you can support people who experience these impairments to make decisions.

Part 2 Structures to support people to make decisions – case studies

Introduction to part 2

The Mental Capacity Act Code of Practice says 'The Act sets out a legal framework of how to act and make decisions on behalf of people who lack capacity to make specific decisions for themselves.' (1.5, MCA Code of Practice, page 15)

It is expected that all those who are providing care and/or support for people with dementia will be following best practice in decision making already. However this is the first time that a structure has been implemented to legally support best practice in decision making.

In part 2 the fictional case study about Indira involves following the legal framework set out in the Act and completing some forms. By completing the forms it is hoped that you will gain a thorough understanding of how the MCA framework supports the decision making process. You will use forms to:

- assess capacity
- identify who needs to be involved when determining best interests
- record best interests consultations
- collate information about best interests
- reach a decision using the least restrictive option.

These forms will be referred to throughout the following fictional case study. You will be shown completed forms so that you can check how you're doing and be sure that you understand:

- the process to follow
- how each of the forms supports you and your service users when making a decision.

The learning points for the fictional case study about Indira relate to knowledge requirements for Health and Social Care NVQ Levels 2, 3 and 4.

After the fictional case study about Indira, there are three additional fictional case studies. These additional fictional case studies are shorter and particularly useful if you need to know about or work with people in the following roles:

- Lasting Power of Attorney
- Independent Mental Capacity Advocate
- court appointed Deputy.

Chapter 3 Applying the MCA to support someone with dementia

Read the information opposite.

Indira has a decision to make and you will need to use the principles of the Mental Capacity Act and the information available to help her.

Read the information about Indira and think about the principles of the MCA.

3.1 What is the decision to be made? – exercise

Read about the possible decisions that need to be made.

There are many possible decisions involved in the care and support of Indira.

- 1 Should care staff be trying to communicate with Indira in a different way?
- 2 Does Indira need to go to hospital regarding her blood pressure?
- 3 Do staff need to think about Indira's environment, eg where she sits, if seeing the children is upsetting her?
- 4 How do care staff resolve the need to treat the cellulitis on Indira's legs?

You have learnt that the MCA framework is decision specific.

The specific decision which Indira needs to make in this situation is about whether or not to have the cellulitis on her legs treated.

Read what Indira and Arya, Indira's support worker, say about the decision to change the dressings on Indira's legs. Think about your current job role.

3.2 Consider your intervention and justify your actions

If you were involved in this situation consider what you would do under the two headings on the right hand column:

	You might want to make notes here
<p>Indira's life:</p> <p>Indira moved to the UK from India thirty years ago to live with her husband. Indira and her husband had no children and Indira has expressed in the past that she feels she brought 'shame' on the family because she was unable to have children.</p> <p>Indira enjoys sitting at the window, watching the children go to and fro from the local school. Her husband died a few years ago.</p> <p>Indira's health and how this affects her:</p> <p>Indira has Alzheimer's disease and though she learnt English and spoke it well, Indira is beginning to communicate more in her first language, Urdu. Indira now seems to have difficulty understanding English.</p> <p>Indira has high blood pressure and diabetes and requires medication regularly to maintain her physical health.</p> <p>Indira has cellulitis on her lower legs which need to be dressed every day.</p> <p>A situation that is causing concern to people supporting Indira:</p> <p>Indira does not like having her dressings changed and will refuse to allow carers to do so by pushing them away and screaming out.</p> <p>Different carers have worked to support Indira on this.</p> <p>A support worker who speaks Urdu has explained to Indira the risk of not having her dressings changed but Indira doesn't seem to understand saying that her legs will be 'fine', 'there's nothing wrong with them.'</p> <p>Carers are finding it very difficult to know how to 'manage' Indira as they understand that she has the right to refuse treatment but they feel that she would be at significant risk of infection and skin breakdown if they do not treat the cellulitis.</p>	

Note: **Cellulitis** is an inflammation of the connective tissue underlying the skin, that can be caused by a bacterial infection. Cellulitis can be caused by normal skin flora or by exogenous bacteria, and often occurs where the skin has previously been broken: cracks in the skin, cuts, blisters, burns, insect bites, surgical wounds, or sites of intravenous catheter insertion. Skin on the face or lower legs is most commonly affected by this infection, though cellulitis can occur on any part of the body. Cellulitis may be superficial – affecting only the surface of the skin – but cellulitis may also affect the tissues underlying the skin and can spread to the lymph nodes and bloodstream.

	<ul style="list-style-type: none"> • plan your intervention • justify your actions <p>Make notes here.</p>
<p>Indira: 'Aadaab. Meera naam Indira hay. I am Indira. I am from India but I live in England now.</p> <p>Mein theek hoon – I am fine, fine. I am happy. Very happy. I miss my husband. I am fine. I would like to have children but I'm too old now. My family are ashamed. I have not been a good wife I know. I like to watch the children. Sometimes they wave as they pass. They used to buy sweets in my husband's shop.</p> <p>I do not have any help I am fine, Mein theek hoon. I miss the old days no respect today. My children would look after me but I have no children... a son..... a son would look after me..... what a good boy. I am very happy.'</p> <p>(Translation: Hello Aadaab My name is Meraa naam hay. I am fine Mein theek hoon)</p>	
<p>Arya: 'My name is Arya. I am a support worker and I see Indira every day. We are from the same town in India and we like to chat about that sometimes.</p> <p>Indira's memory is not very good and she has been very physically unwell for quite a while.</p> <p>Indira is a kind lady and she loves children. When I visit her she always seems pleased to see me though I don't think she always remembers who I am.</p> <p>Indira has cellulitis on her legs which I'm supposed to dress for her. Every time I try to do this Indira pushes me away. Sometimes she shouts and clenches her fist at me. I have tried to tell her why she needs her legs seeing to but she doesn't seem to understand. I have tried every way I know to explain but she just says,' "Mein theek hoon – I am fine."</p> <p>I have to dress her legs or they will get really infected but Indira won't let me. I don't know what to do. I don't want to get in trouble but I can't force her can I?'</p>	

Learning points 3.1–3.2

Did you consider these according to your job role? Read through the learning points below.

NVQ Level 2

- You need to identify what the decision is in order to be able to understand how to support the person you are providing care for.
- Do you remember the first statutory principle? We must assume that Indira has capacity to make this decision and need to think about how we support her through the decision making process.
- To make this decision Indira needs to be able to:
 - understand the decision to be made
 - retain information long enough to make the decision
 - weigh up the options and consequences (including the consequences of not making the decision)
 - communicate her decision.

(We will be referring to this decision making process later on)

- We know that being able to make decisions supports people's autonomy, dignity and identity. The second statutory principle means we need to take all possible steps to support Indira to make a decision. You will probably have thought about:
 - What information you need to be able to support Indira.
 - Where you might find this information, eg In Indira's notes, from speaking to other people who support Indira.
- You may have identified actions such as:
 - Checking what is known about Indira to find out about her preferences, eg best time of day for her to make a decision.
 - Checking what is known about Indira to find out about her current medical situation, eg if she is taking any medication which might affect her capacity to make this decision.
 - Recording that Indira is communicating in both English and Urdu and considering who you need to share this with.
- If Indira still does not want her legs to be treated, this decision would probably cause concern. If Indira has the capacity to make this decision, the MCA supports her right to make this decision not to have her legs treated, even if other people might think this is unwise. (*MCA Code of Practice (2007) section 2.10, p.24*).
- Arya says that Indira '... doesn't seem to understand...'. You need to consider assessing Indira's capacity to make this decision and who else needs to be involved.
- You need to recognise when there is something you don't know or unsure about and when to involve other people.

NVQ Level 3

You need to understand learning points for NVQ Level 2 and:

- Assess and record what Indira's preferences are and ensure these are communicated to those involved in Indira's care.
- Liaise with other professionals about Indira's health and social care needs, eg prescriptions, side effects of medication.
- Ensure the fact that Indira is communicating in both English and Urdu is communicated to other professionals involved in Indira's care and possibly liaise with an Urdu interpreter.
- If Indira's capacity to make the decision is in doubt you will need to consider and identify who would be most appropriate to carry out the two-stage test of capacity. This might be you! You will need to record this. There is a form to help you on p. 22).
- Recognise when there is something you don't know or are unsure about and when to involve other people.

When supporting colleagues or managing staff, you must also:

- Ensure staff understand the process of decision making and are able to identify decisions that need to be made.
- Ensure staff understand that assuming capacity and supporting someone with dementia to make decisions for themselves:
 - promotes autonomy and good care practice
 - are statutory requirements.
- Ensure staff record and consult records regarding:
 - individual preferences of people with dementia
 - the support and care needed by and provided to people with dementia.
- Encourage staff to utilise their knowledge of the person with dementia to think creatively about how to support them.
- Support staff to acknowledge when they don't know something and to find out more.
- Identify and address staff learning needs regarding the support of people with dementia. Be prepared to be involved in assessing the effectiveness of learning interventions.
- Be aware of the necessary skills and knowledge required to support people with dementia to make decisions, if involved in the recruitment of staff.
- Ensure staff are aware of the implications of the following if they are involved in making decisions about care:
 - LPAs
 - Deputies nominated by the Court of Protection
 - People to be consulted about care
 - People not to be consulted about care
 - Advance decisions.

NVQ Level 4

You need to understand learning points for NVQ Level 2 and 3 and:

- Be aware of the necessary skills and knowledge required to support people with dementia when carrying out:
 - workforce planning
 - job analysis
 - skills planning
 - skills audits.
- Establish and review policies and procedures to ensure that:
 - The principles of empowerment, autonomy and respect are reflected in all working practices, including supporting people with dementia.
 - Staff are valued for their contribution upon which depends the effective support of people with dementia.
 - Communication and record keeping promotes understanding of how best to support people with dementia.
 - Establish and review policies and procedures to ensure that staff are empowered to identify their learning needs and recognise when they need to involve others when providing support to people with dementia.
- Allocate resources to address identified learning needs and evaluate learning interventions to ensure learning improves the quality of the support offered to people with dementia.

3.3 Arya's concern and subsequent action

Read the paragraph below.

You have been introduced to Indira and Arya, Indira's support worker, and will understand Arya's views and feelings about dressing Indira's legs.

You know that the first MCA statutory principle is the assumption of capacity. Assuming Indira has capacity to make this decision, she has the right to decide not to have her dressings changed. We might think this is an unwise decision, but you will remember that the third statutory principle protects people's right to make unwise decisions.

Indira has told Arya that she is fine. She has also expressed that she does not want Arya changing the dressings on her legs, by shouting and pushing Arya away.

Arya is very concerned about Indira's legs and has stated that Indira does not seem to understand the decision in question.

Arya contacts the district nurse, Sue Green, to advise her that Indira is refusing treatment for the cellulitis on her legs.

Arya also tells her that while Indira has been supported to make this decision she has concerns about Indira's capacity to make this decision.

Can you remember what intervention you planned to support Indira to make this decision? (Please read your comments on page 17 and the learning points on pages 19–21).

Sue Green shares Arya's concern and agrees that Indira's capacity to make this decision needs to be assessed.

The MCA provides us with a 'two-stage test of capacity' which is covered in the next exercise. This is the test which **MUST** be used if it is felt that someone may lack capacity to make a particular decision.

Consider the first statutory principle and the information in the statements made by Indira and Arya.

Consider the intervention you planned and read the completed 'assessing mental capacity' form below.

Assessing mental capacity

Name of person for whom assessment of capacity is being made ... Indira Khan		
Specify decision in question: Whether to have the cellulitis on Indira's legs treated.		
Assessment made by: Arya Patel (Indira's support worker) Sue Green (district nurse)		
Assessment questions	YES (on balance of probabilities)	NO
1. Is there an impairment or disturbance in the functioning of mind or brain? (perm or temp)	YES impairment is present <i>record symptoms/behaviours, any relevant diagnosis</i>	NO impairment is not present, <i>record evidence (They will not lack capacity under the Act)</i>
2. If yes – continue questions a) – d)	Yes – diagnosed with Alzheimer's disease.	
If no – the person has capacity	Assessment is complete	
a) Despite all help given, is the person <u>unable</u> to understand the information relevant to the decision?	YES – unable to understand information. <i>Record steps taken to explain information and views/evidence why they did not understand it.</i>	No – able to understand information. <i>Record views/evidence to show they understood it.</i>
Questions you might ask the person with dementia about the decision: – What is your understanding of the decision in question? – Can you tell me why you think the decision needs to be made?	Indira has been offered support from support worker Arya and a support worker who speaks Urdu but remains unable to understand the decision in question.	

<p>b) Is the person <u>unable</u> to retain the information long enough to make the decision?</p>	<p>YES – unable to retain information, <i>record any help given and evidence</i></p> <p>Indira has been approached during different times of day, by different people but remains unable to recall the decision in question.</p>	<p>NO – able to retain information, <i>record evidence</i></p>
<p>c) Is the person <u>unable</u> to weigh the information as part of the decision making process?</p> <p>What do you think will happen if you do/do not make this decision?</p>	<p>YES – unable to weigh information, <i>record evidence</i></p> <p>Indira is unable to weigh information in question. She refuses to look at her legs and pushes people away if they attempt to touch her legs.</p>	<p>NO – able to weigh information, <i>record evidence</i></p>
<p>d) Is the person <u>unable</u> to communicate the decision?</p>	<p>YES – unable to communicate, <i>record evidence</i></p>	<p>NO – able to communicate, <i>record evidence</i></p> <p>Indira communicates verbally in Urdu, though the interpreter reports that some of her speech does not seem to make sense. Indira is skilled in using non-verbal communication to make herself understood.</p>
<p>Conclusion: If the answer is YES to Q1 and <u>any</u> of the other questions then the person lacks capacity.</p>		
<p>Outcome: As Indira is unable to understand, recall or weigh up the decision in question, it is necessary for a best interests consultation to take place in order to make the decision on Indira's behalf.</p>		
<p>Date: 01/02/2009</p>	<p>Recorded by: Arya Patel</p>	

Learning points 3.3

NVQ Level 2

- Linking with the learning points on page 19, the first stage of the two-stage test of capacity is to establish that a person has a condition which might affect their capacity to make that decision. You then need to then consider whether this condition affects their ability to understand, retain and weigh up information to make the decision.
- To be assessed as having capacity someone must also be able to communicate their decision.
- You may not be involved in undertaking formal assessments of capacity, but you need to show evidence that you are able to apply this two-stage process when you are supporting people to make everyday decisions.

NVQ Level 3

You need to understand learning points for NVQ Level 2 and:

- you may be involved in the formal assessment of capacity. You do not have to use a specific Assessment of Capacity document but you must ensure that your records show the 2-stage process accurately
- ensure that you record the evidence for each section.

When supporting colleagues or managing staff, you must also:

- ensure staff are able to understand and apply the two-stage test of capacity.

NVQ Level 4

You need to understand learning points for NVQ Levels 2 and 3 and:

- ensure there are policies and procedures in place to ensure that people assess capacity using the two-stage test of capacity as set out in the MCA Code of Practice.

Summary of chapter 3

A decision needs to be made about changing the dressings on Indira's legs.

- **Starting from an assumption of capacity, a number of people have tried to support Indira to understand and make a decision about her treatment.**
- **To have capacity to make this decision, Indira needs to be able to understand, recall, weigh up and communicate the decision about changing the dressings on her legs.**
- **There is evidence that Indira is not able to understand, recall or weigh up the decision about the dressings on her legs. Indira can communicate using non-verbal communication and is often using Urdu, sometimes incorrectly.**

- **Indira has been assessed as not having the capacity to make this decision at this time.**
- **This cannot be regarded as an unwise decision as to make an unwise decision requires capacity.**
- **A decision is required very soon as there is a high risk of infection if the dressings are not changed.**
- **As a decision is required very soon and Indira does not have capacity to make this decision, a decision must be made on her behalf.**
- **A decision made on Indira's behalf must be in her best interests. This is Statutory Principle 4 in the MCA: 'An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his/her best interests.' (See page 19 MCA Code of Practice 2007).**

Chapter 4 Best interests and the decision makers

Read the paragraph below.

The fourth statutory principle of the MCA is that ‘an act done, or decision made, under this act for or on behalf of a person who lacks capacity must be done or made in his best interests.’ (page 19 MCA Code of Practice 2007)

We need to be very clear as to what would be in the best interests of Indira with regard to the decision about treating the cellulitis on her legs.

4.1 Who makes the best interests decision?

Read the paragraph below.

We have established that the decision is whether or not to treat Indira’s legs. The person making the decision is often referred to as the ‘decision maker’. Treating the cellulitis requires medical treatment. The MCA Code of Practice states that where the decision involves the provision of medical treatment: ‘The doctor or other member of healthcare staff responsible for carrying out the particular treatment or procedure is the decision maker.’ (Section 5.8, p.69–70, Code of Practice)

Whoever is responsible for treating Indira’s legs is the decision maker.

In this case, Arya, the Support Worker is currently responsible for changing the dressings on Indira’s legs, so she may be the decision maker. However Arya may not have the knowledge, skill, expertise and responsibility to make medical decisions.

As the decision is about treating Indira’s cellulitis, the District Nurse, Sue Green, may be the most appropriate person to make this decision at this point, in collaboration with Arya and anyone else interested in the care of Indira.

Indira has been assessed as lacking capacity to make the decision about the treatment for her legs.

Each decision maker must be satisfied:

- that the assessment of Indira’s lack of capacity to make this decision is still current
- that the care, support or treatment they are providing is in Indira’s best interests.

4.2 Who will be involved in making a decision in Indira's best interests?

Read the paragraph below.

When making a decision on someone else's behalf you need to be sure it is in their best interests. It is likely you will need to involve other people to do this. It is important to consult as widely as possible when making a decision in someone's best interests. We have called this a 'best interests consultation'. A best interests consultation will often be carried out by the decision maker, although someone else may be asked to do this.

It was previously established that Sue Green, the District Nurse could be the decision maker on behalf of Indira (see page 26).

Imagine you need to make this decision on Indira's behalf and need to carry out the best interests consultation.

In order to make this decision, you need to gather as much information as possible.

There are a number of people who support Indira that you will need to consult:

- Arya Patel, Support Worker
- Mr Khan, nephew
- Dr Clarke, GP
- Sue Green, District Nurse
- Betty McShane, neighbour.

4.3 Gathering information for the best interests consultation

Read the information below.

The MCA Code of Practice provides a framework for what should be included in a best interests checklist for 'wider consultation'. We have completed a checklist for you below in relation to the wider consultation for Indira.

Here is some information you need to know about Indira before you read the completed best interests checklist.

(You may not yet be familiar with some of the roles listed below but these are covered later in this resource, Glossary p. 70).

- 1 Indira has not named anyone to be consulted.
- 2 Indira has not named anyone she does not want to be consulted.
- 3 Indira does not have a Lasting Power of Attorney.

- 4 Independent Mental Capacity Advocates represent people who do not have family or friends to represent their interests and who do not have capacity to make a decision about where they live or serious medical treatment.

It is unlikely an IMCA will be nominated for Indira at this point because there are a number of people representing her interests, including her nephew and her neighbour.

An IMCA may be nominated in the future if there is a disagreement about Indira's best interests.

- 5 Indira has not made an advance decision.

Read the completed the checklist for 'wider consultation' opposite.

You now need to read what the people identified in the checklist for wider consultation said about this decision.

While you are reading each person's response, you need to think about:

- what do they think is in Indira's best interests?
- what do they know about Indira's wishes, feelings, values or beliefs in relation to this matter?

Arya Patel – Support Worker

Read what Arya said.

'I think that Indira is showing me how independent she is. It must be really hard having people do things for you when you have done them yourself all your life. I don't think that it is in Indira's best interests just to leave her legs alone. But I don't think that it's in her best interests to force her to do something she doesn't want to. If we force her it could be abuse couldn't it? If we don't do it...that could be seen as neglect. I just wonder if a different person might help Indira. Perhaps it's me – maybe she doesn't want me touching her legs? Maybe because we are from the same place....maybe because I'm young to Indira?'

I think that it was important to Indira that she had children. Her face lights up when she sees the children go past her window. She sometimes sings lullabies to herself and she seems really content then.'

Think about:

- what does Arya think is in Indira's best interests?
- what does Arya know about Indira's wishes, feelings, values or beliefs in relation to this issue?

Determining best interests – checklists for wider consultation

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan.....(person deemed to lack capacity)	
Decision maker undertaking consultation: Name: Sue Green Role: to treat Indira's legs in her position as district nurse	
Checklist of people	Name
Anyone named by the person lacking capacity as someone to be consulted (specify person/s)	No
Anyone named by the person lacking capacity as someone NOT to be consulted	No
Anyone engaged in caring for the person or interested in their welfare (specify person/s)	Arya Patel (Support Worker) Mr Khan (nephew) Dr Clarke (GP) Sue Green (District Nurse) Betty McShane (neighbour)
Any attorney appointed under a Lasting Power of Attorney (specify person/s)	No
Any deputy appointed by the Court of Protection	No
In cases where the person lacking capacity has nobody in the above five categories and faces a decision about serious medical treatment or a change of residence, you will need to instruct an IMCA.	Not applicable.
Date: 01/02/2009	Signature:

4.4 Complete the best interests consultation form – exercise

Record Ayra's response on the form below.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Arya Patel Role: Support Worker	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	
Date:	Signature:

Read and compare this completed best interests form with what you recorded as Ayra's response.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Arya Patel Role: Support Worker	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	I think Indira's legs should be treated.
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	We are from the same town in India and we like to chat about that sometimes. Indira's memory is not very good and she has been very physically unwell for quite a while. Indira is a kind lady and she loves children. When I visit her she always seems pleased to see me though I don't think she always remembers who I am. Every time I try to dress her legs Indira pushes me away. Sometimes she shouts and clenches her fist at me. I have tried to tell her why she needs her legs seeing to but she doesn't seem to understand.
Date:	Signature:

4.5 Statements from people who support Indira

Mr Khan's statement

I'm Amrit Khan, Indira's nephew. I don't live very close to her now but when I was little I was round her house nearly every day. Aunt Indira and my uncle had a shop and Indira was always giving us kids sweets and things. She was really kind and I feel sad that she never had kids of her own. Aunt Indira used to call me her 'boy'. I think that she pretended I was her son. For some reason Indira preferred boys to girls. I don't think that there were many girls in her family. Aunt Indira and her husband worked very hard. My uncle was most definitely the decision maker. He would even go to the doctor with Aunt Indira and tell the doctor what treatment he thought he should give her! I don't know if Aunt Indira minded – she seemed happy to go along with whatever my Uncle said. She was no pushover though, she definitely gave as good as she got!

My aunt and uncle seemed well respected in their community. They had lots of friends from all sorts of backgrounds. I suppose you could say that they were very multicultural in their views and relationships.

When my uncle died Aunt Indira carried on with the shop for a while. Aunt Indira had been a really good nurse to my uncle before he died. But her memory was getting really bad so in the end she had to give up the shop. She has always said that she wanted to stay independent but I am worried that she is not able to look after herself like she used to. I hope she's not in pain.

Think about:

- What does Mr Khan think is in Indira's best interests?
- What does Mr Khan know about Indira's wishes, feelings, values or beliefs in relation to this matter?

Complete the best interests consultation form on the next page using the information provided by Mr Khan.

Record Mr Khan's response on the form below.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Amrit Khan Role: nephew	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	
Date:	Signature:

Read and compare this completed best interests form with what you recorded as Mr Khan's response.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to:...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Mr Khan Role: nephew	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	I would like auntie's legs to be treated.
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	<p>She was really kind and I feel sad that she never had kids of her own. Aunt Indira used to call me her 'boy'. I think that she pretended I was her son. For some reason Indira preferred boys to girls. I don't think that there were many girls in her family.</p> <p>Aunt Indira and her husband worked very hard. My uncle was most definitely the decision maker. He would even go to the doctor with Aunt Indira and tell the doctor what treatment he thought he should give her! I don't know if Aunt Indira minded – she seemed happy to go along with whatever my Uncle said. She was no pushover though, she definitely gave as good as she got!</p> <p>When my uncle died Aunt Indira carried on with the shop for a while. Aunt Indira had been a really good 'nurse' to my uncle before he died.</p>
Date:	Signature:

Dr Clarke's statement

I am Mrs Khan's GP. I have not seen Mrs Khan for some time – she has not been a very regular visitor to my surgery. I remember my predecessor telling me that Mr and Mrs Khan used to come into surgery together. Mr Khan would often make healthcare decisions on behalf of his wife. Mrs Khan seemed to like him to be present if there was any examination required.

I am concerned about Mrs Khan's legs. It would not be in her best interests to leave them untreated but the way we need to go about this needs to be very sensitive. It must be very frightening to be on the receiving end of treatment if you don't understand what is going on.

It may be timely to review the treatment Mrs Khan is receiving, or rather not receiving!

There are several options we could try to treat Mrs Khan's cellulitis, including the possibility of using antibiotics. Sue Green and I can liaise about this.

Think about:

- What does Dr Clarke think is in Indira's best interests?
- What does Dr Clarke know about Indira's wishes, feelings, values or beliefs in relation to this matter?

Complete the best interests consultation form on the next page using the information provided by Dr Clarke.

Record Dr Clarke's response on the form below.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted:	
Name: Dr Clarke	
Role: GP	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	
Date:	Signature:

Read and compare this completed best interests form with what you recorded as Dr Clarke's response.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted:	
Name: Dr Clarke	
Role: GP	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	<p>I am concerned about Mrs Khan's legs. It would not be in her best interests to leave them untreated but the way we need to go about this needs to be very sensitive. It must be very frightening to be on the receiving end of treatment if you don't understand what is going on.</p> <p>It may be timely to review the treatment Mrs Khan is receiving, or rather not receiving!</p> <p>There are several options we could try to treat Mrs Khan's cellulitis, including the possibility of using antibiotics.</p>
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	<p>I remember my predecessor telling me that Mr and Mrs Khan used to come into surgery together. Mr Khan would often make healthcare decisions on behalf of his wife. Mrs Khan seemed to like him to be present if there was any examination required.</p>
Date:	Signature:

Sue Green's statement

I am a District Nurse working with Doctor Clarke's team. I first saw Indira about six weeks ago. Her legs were not too bad then and she seemed happy for me to look at them. She insisted they were 'fine.' As the weeks have gone on Indira has seemed less able to understand that she needs treatment for her legs. Arya, her support worker, has a great relationship with her but she is very young and I sometimes wonder whether Indira is anxious about Arya treating her legs. Indira has sometimes responded a little more co-operatively with me. I wonder whether that's due to my uniform or age! Indira's cellulitis is definitely getting worse. I think that she needs antibiotics now. I know that there are other treatments which perhaps we could try for Indira.

Think about:

- What does Arya think is in Indira's best interests?
- What does Arya know about Indira's wishes, feelings, values or beliefs in relation to this matter?

Complete the best interests consultation form on the next page using the information provided by Arya.

Record Sue Green's response on the form below.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Sue Green Role: District Nurse	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	
Date:	Signature:

Read and compare this completed best interests form with what you recorded as Sue Green's response.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Sue Green Role: District Nurse	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	Indira's cellulitis is definitely getting worse. I think that she needs antibiotics now. I know that there are other treatments which perhaps we could try for Indira.
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	Arya her support worker has a great relationship with her, but she is very young and I sometimes wonder whether Indira is anxious about Arya treating her legs. Indira has sometimes responded a little more co-operatively with me. I wonder whether that's due to my uniform or age!
Date:	Signature:

Betty McShane's statement

My name is Betty and I have been Indira's neighbour for about twenty five years. Indira and I used to have such a laugh. She used to help me out with looking after my children sometimes. I've got grandchildren now and they sometimes pop round to see her. Indira has always been a very open lady and used to tell me about her life in India and her regret at not having children of her own. I sometimes can't understand what she is saying to me now but I smile and hold her hand and she seems happy enough.

I am worried about her legs and I think they must be treated. Indira is such an independent lady though. When her husband was ill she insisted on caring for him herself and a marvellous job she did too. I could see what a struggle it was for her in the end and only the doctor and her nephew had any influence on her to accept help.

I like Arya, Indira's Support Worker. Indira calls her 'my little girl'.

Think about:

- What does Arya think is in Indira's best interests?
- What does Betty know about Indira's wishes, feelings, values or beliefs in relation to this matter?

Complete the best interests consultation form on the next page using the information provided by Betty.

Record Betty McShane's response on the form below.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to: ...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Betty McShane Role: friend and neighbour	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	
Date:	Signature:

Read and compare this completed best interests form with what you recorded as Betty McShane's response.

Decision/action being consulted upon: Whether to have the cellulitis on Indira's legs treated.	
In relation to:...Indira Khan..... (person deemed to lack capacity)	
Person being consulted: Name: Betty McShane Role: friend and neighbour	
Question	Views
1. What do you consider to be in the person's best interests on the matter in question?	I am worried about her legs and I think they must be treated.
2. Do you have any information about the person's wishes, feelings, values or beliefs in relation to this matter?	Indira is such an independent lady though. When her husband was ill she insisted on caring for him herself and a marvellous job she did too. I could see what a struggle it was for her in the end and only the doctor and her nephew had any influence on her to accept help. I like Arya, Indira's Support Worker. Indira calls her 'my little girl'.
Date: 01/02/2009	Signature:

Read the information collated below.

You have heard from:

Indira
Arya Patel
Mr Khan
Dr Clarke
Sue Green
Betty McShane

The form below is put together according to what is suggested in the MCA Code of Practice in order to help determine a person's best interests. It collates information from all the people involved in Indira's care and welfare to help determine Indira's best interests.

Collated information from best interest consultation:

Name of person deemed to lack capacity in relation to this matter: Indira Khan.....	
Specify the decision/action that is being considered: Whether to have the cellulitis on Indira's legs treated.	
Checklist/Consultation with the person lacking capacity	Supporting evidence (record here or note here where the information is recorded on their case file.)
What are the issues that are most relevant to the person who lacks capacity?	Relationship with husband – decision maker in the past over medical needs. Love of children and regret at having none of her own. Caring role. Understanding of Arya's role. Communication difficulties. Treatment review required. Responded to district nurse well in relation to accepting treatment.
Specify their past and present wishes, feelings, and concerns in relation to this decision.	Independent lady. Doctor and nephew influential in decision making in the past.
What are the person's values and beliefs (e.g. religious, cultural, moral) in relation to this decision?	Cultural heritage – important role of men in Indira's life. Multicultural lifestyle. Carer. Misses 'respect' and the 'old days' (quote Indira).
Does this person have any previously held instructions (e.g. advance decisions) relevant to this decision? Give details.	No.
Are there any other 'relevant circumstances' that should be taken into account in this case?	Indira has stated that she feels 'fine'. Indira says that she would have liked children especially a son who would look after her. Indira likes to watch children but having had none she feels that she brought shame on her family.
Who is the 'decision maker' undertaking consultation process:	
Name: Sue Green	
Role: District Nurse	
Date completed.....	

Based on the information collated, it seems that everyone involved in supporting or caring for Indira's feel that it is in her best interests not to leave her cellulitis untreated. Using the information on the above form you need to think about what to do next.

Learning points from chapter 4

NVQ Level 2

- A fundamental part of the MCA is that making decisions in someone's best interests will often mean involving people who are interested in their care and welfare in making decisions.
- You may need to know about the following roles people may have, including:
 - LPAs
 - Deputies appointed by the Court of Protection
 - People to be consulted about care
- You need to be aware that there may be instructions about people not be consulted about care decisions.
- Depending on your role, you may also need to know if someone has an advance decision and what it is about.
- You may be asked to contribute to the process of making a best interests decision and identifying the least restrictive option yourself.

NVQ Level 3

You need to understand learning points for NVQ Level 2 and:

- If you are involved in making decisions about someone's care, you need to know if they have a LPA or someone they have asked to be consulted about decisions. You also need to know if the Court of Protection has nominated a deputy to act on their behalf when making decisions about care.
- If you are involved in making decisions about someone's care you need to know if they have an advance decision and what it covers.

When supporting colleagues or managing staff, you must also:

- Encourage staff to think and work collaboratively when making decisions about people's care.
- Ensure that staff are aware of the implications of the following (as necessary):
 - LPAs
 - Deputies appointed by the Court of Protection
 - People to be consulted about care
 - People not to be consulted about care
 - Advance decisions.

NVQ Level 4

You need to understand learning points for NVQ Levels 2 and 3 and:

- Ensure policies and processes are in place to ensure the relevant people are consulted when decisions are being made about care.

Summary of chapter 4

- **Indira had not named anyone to be consulted or specified anyone not to be consulted. Indira had not nominated a Lasting Power of Attorney and no one has applied to be her Deputy. Indira does not need an IMCA as she has people representing her interests.**
- **In this instance Sue Green, the District Nurse, is the decision maker as the decision is about treating Indira's cellulitis.**
- **There were a number of people involved in the best interests consultation about treating the cellulitis on Indira's legs. The best interests consultation included:**
 - **Arya Patel, Support Worker**
 - **Mr Khan, nephew**
 - **Dr Clarke, GP**
 - **Sue Green, District Nurse**
 - **Betty McShane, neighbour.**
- **It does not seem to be in Indira's best interests to leave her cellulitis untreated.**
- **Before a decision is made on someone else's behalf and action is taken we need to understand what the person's wishes, beliefs, values etc are so that whatever we do is based on THEIR best interests.**

Chapter 5 Decision making: less restrictive option

Read the paragraph below.

The fifth statutory principle of the MCA is: 'Before an act is done, or the decision is made, regard must be had as to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.' (page 19 MCA Code of Practice).

This means that we are able to think very creatively about all the possible options there may be.

A very extreme example of one of the options available to address the cellulitis on Indira's legs might be to cut them off. However, this may not be in her best interests and would certainly not be the less restrictive intervention!

5.1 Consider the available options

Read the paragraph below and identify possible options.

Consider the possible interventions which could be implemented in support of making the decision on behalf of Indira.

You will use the information above to help you decide whether each option would be in Indira's best interests.

Your options will also be based on your knowledge and understanding of the situation. (This will be linked with job role).

5.2 Assessment of less restrictive option

Please read and complete the exercise below to assess the different options and identify the least restrictive option.

Please see page 52 for the full 'assessment of less restrictive option' form.

Indira has cellulitis. You have thought about what you think should be done to treat Indira's legs. Compare this to the three suggested options below. (You might think of more options other than those suggested.)

For each option below:

- Decide how restrictive it is of Indira's freedom
- Consider how it would help Indira
- Identify any negative consequences.

Specify the different options that are being considered	How restrictive of Indira's freedom is this option?	Write here:
1. Admit Indira to hospital to review care needs and treatments for cellulitis	<ul style="list-style-type: none"> • Not restrictive • Restrictive • Very restrictive 	
2. Arya could dress Indira's legs whilst another support worker holds Indira's hand.	<ul style="list-style-type: none"> • Not restrictive • Restrictive • Very restrictive 	
3. Dr Clarke could prescribe a course of antibiotics to treat the Cellulitis. These can be offered to Indira at home. This might remove the need for Indira's dressings to be changed.	<ul style="list-style-type: none"> • Not restrictive • Restrictive • Very restrictive 	

Read the answers and explanations of the options.

Option 1

Admit Indira to hospital to review her care needs and treatments for cellulitis.

Question: How restrictive is this option of Indira's freedom?

Answer: Very restrictive

Explanation of answer for option 1:

A hospital review may help in assessing her cellulitis and initiating treatment. However this may be distressing and disorientating for Indira who would miss watching the children.

Option 2

Arya could dress Indira's legs whilst support worker holds Indira's hand.

Question: How restrictive is this option of Indira's freedom?

Answer: Very restrictive

Explanation of answer for option 2:

This would be really hard for Arya and her colleague to do. It is likely that Indira would be very frightened by this and show it in her behaviour. It also impinges on her rights and dignity.

Option 3

Dr Clarke could prescribe a course of antibiotics to treat the cellulitis. These can be offered to Indira at home.

Question: How restrictive is this option of Indira's freedom?

Answer: Not restrictive (as long as Indira consents to receive treatment)

Explanation of answer for option 3:

Option 3 is the less restrictive option.

This option may not be restrictive at all for Indira as the antibiotics can be administered in her own environment and she can be supported by people she knows and who know her well.

In this situation, Indira will hopefully feel more at ease which will minimise any distress and enable a more effective treatment intervention to be offered.

Using the first statutory principle we will assume Indira has capacity to make the decision to receive the antibiotics*. (See over for comments.)

This decision includes retaining and understanding information about what the antibiotics are for, how these will be administered and the consequences of not taking them. Indira would need to be given all reasonable support to make this decision.

Only options which would be effective in the treatment of Indira's cellulitis are considered. In identifying what is in Indira's best interests, the less restrictive option would be chosen from the range of effective options available.

If the antibiotics do not work in treating Indira's cellulitis, the team may need to think about the other options identified.

Option 2 may therefore become the less restrictive intervention.

If this does not work and her legs continue to deteriorate, option 1 may become the less restrictive intervention.

'...sometimes it may be necessary to choose an option that is not the least restrictive alternative if that option is in the person's best interests.'

MCA Code of Practice 2.16, page 27

* If there were concerns about Indira's capacity to make the decision to take the antibiotics, this would need to be considered. If Indira was assessed as not having capacity to make this decision, a decision would need to be made in her best interests.

Answer the question below.

Could option 3 conflict with the views of anyone with whom you have consulted?

.....

.....

.....

.....

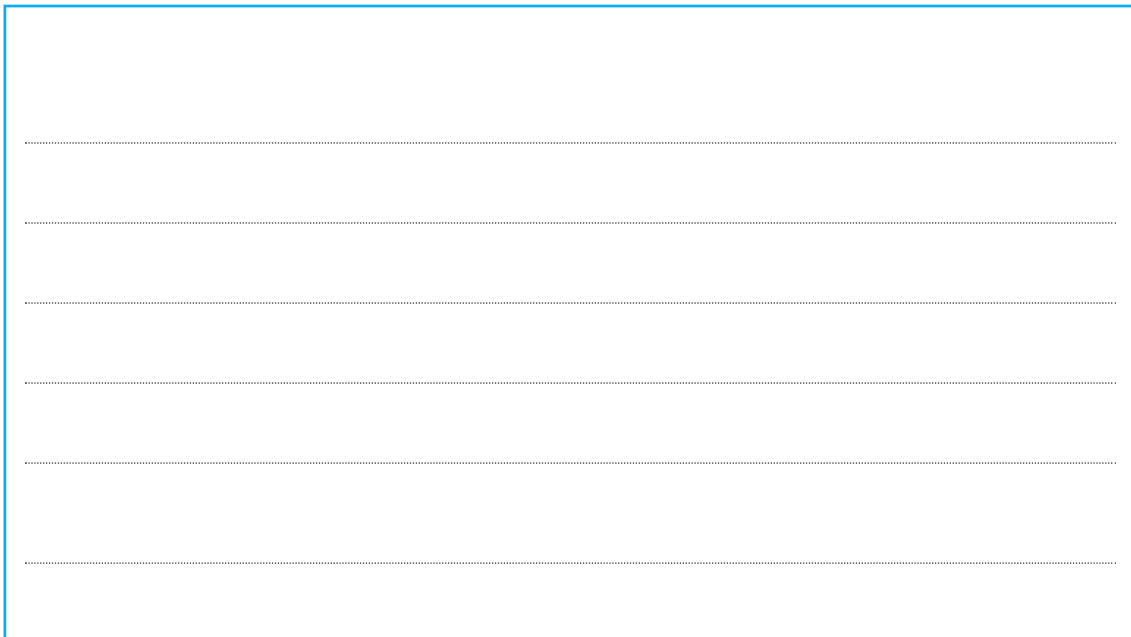
.....

.....

Answer:

No, this decision does not seem to conflict with anyone who has been consulted.
If there was a conflict this would need to be discussed and resolved.

Has an IMCA been nominated?



Answer:

No, an IMCA would only normally be involved if a person is without family or friends.

Indira has not been referred to the IMCA service because:

- Indira has people representing her interests
- There does not seem to be disagreement between the people representing her interests.

Look at the assessment of less restrictive option form over and read the summary and learning points for chapter 5 on page 53.

Assessment of less restrictive option form

NB. Ensure you do not make assumptions about what is in a person's best interests based on their age, appearance, condition or behaviour (principle of equal consideration - section 4.7 Code of practice)

Has an IMCA report been considered as part of the decision making process?

YES NO

Specify the different options that are being considered	How restrictive of the individual's freedom is this option?	Record evidence used to consider each option.
1.		
2.		
3.		
FINAL DECISION AGREED	No	Yes – with whom and in what way?
Could the decision conflict with the views of someone with whom you have consulted?	Provide evidence here of how you reached your decision	
Decision maker Date:		

Learning points for chapter 5

NVQ Level 2:

- When providing support to someone and making decisions about their care, you need to consider how restrictive of their freedom the option you choose might be. Think about how the person will be affected physically and emotionally by the decision you make. Good practice, now reinforced by the MCA, means you need to think about and choose the least restrictive option.
- When making decisions about people's care, you will need to be able to:
 - show you consider how these decisions might restrict someone
 - explain why you choose the option you do
- Disagreements about care need to be resolved. If there is a disagreement about someone's care you will probably need to advise your line manager.

NVQ Level 3:

You need to understand learning points for NVQ Level 2 and:

- When supporting colleagues or managing staff, you must:
 - ensure staff are aware that when making decisions about people's care they need to consider how restrictive of a person's freedom the option they have chosen might be.
 - encourage staff to reflect on the care they provide and the decisions they make to ensure they are the least restrictive.

NVQ Level 4:

You need to understand learning points for NVQ Levels 2 and 3 and:

- Ensure policies and procedures are in place to:
 - ensure staff are aware and are supported to explore different options when making best interests decisions
 - promote less restrictive options of care.

Summary of chapter 5

- **Ensure you do not make assumptions about what is in a person's best interests based on their age, appearance, condition or behaviour.**
- **When making a decision in someone's best interests we need to identify and consider different options, involving other people.**
- **From the range of effective options available we need to choose a less restrictive option.**
- **If an option is not effective, it should not be considered as a possible option.**
- **It is possible the most effective option could be more restrictive than another option. All decisions made on someone else's behalf must be in their best interests.**
- **Disagreements about what is in someone's best interest need to be resolved.**

Summary of Indira case study

Indira has a diagnosis of Alzheimer's disease. Indira has cellulitis in her legs and was refusing treatment. Different carers tried to explain to Indira the consequences of not treating her legs. Being aware of Indira's preferences and culture, carers tried explaining at different times, including in Urdu, but they were not successful.

Those providing care for Indira had reasonable belief that she did not have capacity to make the decision about treating her cellulitis. Using the two-stage test of capacity, Indira was assessed as not having capacity to make this decision.

A best interests decision therefore had to be made on Indira's behalf.

Several people were involved in the best interests consultation:

- Arya – Indira's Support Worker
- Sue Green – District Nurse
- Mr Khan – Indira's nephew
- Dr Clarke – Indira's GP
- Betty McShane – Indira's neighbour

It was decided that the less restrictive option would be for Dr Clarke to prescribe Indira with antibiotics to treat her cellulitis.

Chapter 6 Three additional short case studies

Depending on your role you might be interested in completing the short fictional case studies below which consider the roles of:

- 1 a Lasting Power of Attorney (Mrs. Gill)
- 2 an Independent Mental Capacity Advocate (Miss Brown)
- 3 a court appointed deputy (Mr Eric Madubuiké).

6.1 Mrs Gill

Mrs Gill has been in a residential home for two months. She has later stage dementia. Her son is not happy with the care she is receiving and wants to take her home where he and his wife and children will care for her. His mother nominated him as her Lasting Power of Attorney (LPA) for personal welfare decisions. The LPA has become active as there have been some personal welfare decisions Mrs Gill has not been able to make.

Mrs Gill's daughter disagrees with the suggestion to move her mother and says that the home is aware of the issues and is striving to meet her care needs and involve her in the activities at the home. She says that her brother's home is not suitable for her mother, for example there is no downstairs toilet (Mrs Gill has mobility problems) and the children are both under the age of ten and possibly would struggle to understand some of Mrs Gill's behaviour. Social services want to call a meeting to discuss the situation.

Questions:

- 1 What is the decision to be made?
- 2 Who is the decision maker?
- 3 Who should be involved in the best interests consultation?

Answers and learning points:

- 1 The decision to be made is: Where should Mrs Gill live?
- 2 The decision maker is Mrs Gill, unless it is established that she does not have capacity to make this particular personal welfare decision. If Mrs Gill does not have capacity to decide where she lives, her son will make this decision because he is her Attorney for personal welfare decisions. If Mrs Gill's daughter or social service disagree with this decision, they can appeal to the Court of Protection.

- 3 If Mrs Gill is assessed as lacking the capacity to make this decision, those involved in the best interests consultation would be:
- social services
 - Mrs Gill's son who has the LPA
 - Mrs Gill's daughter
 - staff in the home
 - Mrs Gill's GP
 - anyone else involved in her care and welfare.

(Please note: a property and affairs LPA might also be involved in a case like this if there are implications with regard to paying residential home fees, buying or selling property.)

For more information about the role and responsibilities of LPAs please see the Glossary on page 70 and chapter 7 of the MCA Code of Practice, p.114).

6.2 Miss Brown

Miss Brown has been taken into hospital with suspected breast cancer. She is elderly, quite frail and has vascular dementia.

The consultant feels that her patient lacks capacity to make a decision in her own best interests and is debating whether or not to operate on her.

Miss Brown has no friends or family members locally who can liaise with the hospital about her likely wishes.

Questions:

- What is the decision to be made?
- Who is the decision maker?
- Who should be involved in the best interests decision?
- Are there other issues to be considered?

Answers and learning points:

- The decision to be made is: should Miss Brown's cancer be treated?
- Miss Brown will be able to make her own decisions unless it has been established she lacks capacity to make this decision. If Miss Brown is assessed as not having capacity to make this decision, a decision in her best interests is needed. The consultant is then likely to be the decision maker because this decision is about whether Miss Brown should receive treatment for cancer.
- If Miss Brown is assessed as lacking capacity to make this decision, those involved in the best interest consultation, could be:
 - IMCA – as Miss Brown does not have any friends or family locally to help represent her interests, a referral would need to be made to the Independent

Mental Capacity Advocate service. (IMCA). The IMCA would then meet with Miss Brown, refer to her notes and consult with those involved in her care to make recommendations. These recommendations must be taken into account by the consultant when making the decision.

- Miss Brown's GP
 - Other people involved in Miss Brown's care.
- 4 The consultant is already thinking about operating on Miss Brown. The best interests decision made on behalf of Miss Brown would decide what response is less restrictive. This may or may not include treatment for the suspected breast cancer.

For more information about the role and responsibilities of IMCAs please see the Glossary on page 70 and chapter 10 of the MCA Code of Practice, p.178).

6.3 Mr Eric Madubuike

Eric Madubuike has Alzheimer's disease and lives in a flat on his own. He has had a community care assessment and social services have suggested he move into residential care as he is struggling to cook, wash and clean the flat. Eric has a son and a daughter. His daughter has said that she would prefer to try a package of care to support him at home. Social services have agreed to this for a trial period.

Eric needs to complete a financial assessment form and since he has a large income from two pensions will probably have to contribute towards the cost of the care package. Since there is a possibility he will be living in residential care at some point in the future he may need someone to help him to sell his flat eventually too.

Eric is struggling with the more major decisions he needs to make about his money.

The people who support Eric have made every effort to help him manage his finances. Unfortunately, Eric has been assessed as lacking capacity to undertake this large financial transaction.

Questions

- 1) What can Eric's daughter do to help her father with his finances?
- 2) Can Eric still have a say in how his money is spent?
- 3) If Eric's son was opposed to the involvement of the Court of Protection, what could he do?
- 4) If Eric's son disagreed with his sister being appointed as their father's deputy for property and affairs, what could he do?

Answers and learning points

- 1 Eric could set up a property and affairs LPA; the certificate provider/s will confirm he has capacity to do this.

If Eric is assessed as lacking capacity to understand the LPA form, his daughter could apply to become his deputy for property and affairs.

- 2 Eric is struggling with important financial decisions; attempts need to be made to involve him in decisions about his money.

Eric should be supported to manage smaller transactions on his own, for example grocery shopping and charitable giving.

- 3 The involvement of the Court of Protection is due to concerns about Eric's ability to manage major financial decisions. Eric's son would need to challenge the view that his father lacks capacity to make these decisions.
- 4 When a deputyship is applied for, there is a list of close relatives who need to be advised about the application. Eric's son should be notified and have the opportunity to give the reasons for his concern to the Court of Protection.

6.4 Conclusions and review of MCA implementation

- The MCA reinforces best practice in dementia care and supports decision making and the decisions made by people living with dementia.
- Decisions involve choices and consequences and we all have different attitudes to risk.
- A diagnosis of dementia should never affect your assumption of a person's capacity.
- Impairments caused by dementia may affect decision making and communication. When supporting people who experience these impairments you need to consider their personal preferences, culture and how to overcome anything which might inhibit communication.
- How people feel about decision making can affect their autonomy, dignity and health.
- Where the capacity to make a particular decision is in doubt, the two-stage test must be applied. The two-stage test involves assessing whether someone can:
 - understand information
 - retain information for as long as they need to
 - weigh up options
 - communicate their decision.
- When making a decision in someone's best interest it is important to consult as widely as possible and be aware if they have:
 - a Lasting Power of Attorney
 - a Deputy
 - identified anyone they have said they would like to be consulted
 - identified anyone they have said they do not want to be consulted
 - an advance decision.
- When identifying possible options, you need to think about what will be most effective and how this will affect them physically and emotionally to identify the less restrictive solution.

Part 3 Concluding exercises

Introduction to part 3

There are two sections to part 3:

- a quiz – supporting people with dementia using the MCA
- exercises relating to NVQ Levels 2, 3 and 4.

Quiz from dementia knowledge set

On page 63 you will find a quiz to test your knowledge and understanding of supporting people with dementia in relation to the MCA. This is a true or false quiz using statements in adapted from each of the four main areas of the dementia knowledge set.

The dementia knowledge set was developed by Skills for Care in 2005 and contains sets of key learning outcomes for specific areas of work within adult social care. These are designed to improve consistency in the underpinning knowledge learnt by the adult social care workforce in England.

NVQ exercises

This learning resource has looked at how the MCA can be used to support people with dementia. Following on from the quiz you have the opportunity of applying what you have learnt to your own working environment.

You can then apply what you have learnt from the learning resource to your own working environment. There are three exercises related to units in the Health and Social Care NVQ Levels 2, 3 and 4. Complete the learning exercise which applies to your current level of practice.

Having completed these exercises you can:

- take the completed exercises to your line manager and use as part of your learning and development at work
- show the completed exercises to your NVQ assessor to provide evidence for your portfolio.

Please note: although learning points are related to NVQ knowledge levels and the NVQ exercises can be used as portfolio evidence for the Health and Social Care NVQs, reading the learning points and completing the exercises does not constitute an NVQ.

Exercises contribute to the following units:

Exercise 1: NVQ Level 2

UNIT HSC234

Ensure your own actions support the equality, diversity, rights and responsibilities of individuals (level 2).

- HSC234a** Respect the rights and interests of individuals
- HSC234b** Treat everyone equally and in ways that respects diversities and differences
- HSC234c** Act in ways that promote the individual's confidence in you and your organisation

Exercise 2: NVQ Level 3

UNIT HSC3111

Promote the equality, diversity, rights and responsibilities of individuals (level 3)

- HSC3111a** Promote the rights and interests of individuals
- HSC3111b** Promote the equal treatment of individuals
- HSC3111c** Promote the individual's confidence in you and your organisation

Exercise 3: NVQ Level 4

UNIT HSC452

Contribute to the development, maintenance and evaluation of systems to promote the rights, responsibilities, equality and diversity of individuals (Level 4 value focused unit).

- HSC452a** Contribute to developing, maintaining and evaluating systems that respect the rights and interests of individuals
- HSC452b** Contribute to developing, maintaining and evaluating systems to ensure that everyone is treated equally
- HSC452c** Contribute to developing, maintaining and evaluating systems that promote confidence in you and your organisation

Supporting people with dementia using the MCA – quiz

This quiz is related to the dementia knowledge set.

Tick the answer which you believe is correct for every statement.

	TRUE	FALSE
Q1 Always communicate effectively so that the individual has the opportunity to make decisions.....	<input type="checkbox"/>	<input type="checkbox"/>
Q2 It is not necessary to involve the person with dementia in their care plan if they have been assessed as lacking capacity.....	<input type="checkbox"/>	<input type="checkbox"/>
Q3 Everyone has a duty to protect the individual from abuse, injury and harm	<input type="checkbox"/>	<input type="checkbox"/>
Q4 When reporting and recording it is important that we use clear, objective statements in care plans, reports, daily logs, handover reports, etc.....	<input type="checkbox"/>	<input type="checkbox"/>
Q5 It is the responsibility of a doctor to assess the capacity of a person with dementia.	<input type="checkbox"/>	<input type="checkbox"/>
Q6 Some of the signs of dementia are difficulty with remembering, thinking and understanding.	<input type="checkbox"/>	<input type="checkbox"/>
Q7 People with dementia are unlikely to be able to do anything for themselves.	<input type="checkbox"/>	<input type="checkbox"/>
Q8 Only managers have to comply with policies and procedures.....	<input type="checkbox"/>	<input type="checkbox"/>

Originally published by Skills for Care, part of Skills for Care and Development, the sector skills council for social care, children and young people.

www.skillsforcare.org.uk

Albion Court, 5 Albion Place, Leeds LS1 6JL

Exercise 1: NVQ Level 2

Reflect on a situation with a service user where their capacity to make a decision was being considered.

Did you consider the five Statutory Principles? YES NO

Note down how you applied the five principles in practice.

1.

2.

3.

4.

5.

HSC234 Ensure your own actions support the equality, diversity, rights and responsibilities of individuals (level 2)

HSC234a Respect the rights and interests of individuals

HSC234b Treat everyone equally and in ways that respects diversities and differences

HSC234c Act in ways that promote the individual's confidence in you and your organisation

Date

Signed

Date

Countersigned

Position(line manager)

Existing level of knowledge quiz – answers

Answers to the quiz found on p. 2

A1 TRUE

Mental capacity is the ability to make a decision; this could mean everyday decisions, such as what to wear and what to eat or legal and life-changing decisions. People's capacity can vary over time. Capacity is decision and time-specific.

A2 TRUE

The first statutory principle states that every adult has the right to make their own decisions, unless there is proof that they lack the capacity to make a particular decision when it needs to be made. This has been a fundamental principle of the common law and best practice for many years and it is now set out in the Act.

A3 FALSE

The person who assesses an individual's capacity to make a decision will usually be the person who is directly concerned with the individual at the time the decision needs to be made. This means that different people will be involved in assessing someone's capacity to make different decisions at different times. (*MCA Code of Practice (2007) Section 4.38, p.53*)

A4 TRUE

There are many things that can influence or inhibit communication. When supporting someone to make a decision, it is important to reduce the impact of anything that could inhibit communication. Some things to think about are:

- cultural differences
- personal preferences and expectations
- environment and background noise
- effect of medication.

A5 FALSE

If a person has capacity they can make an unwise decision. This is principle three of the Act. (*MCA Code of Practice (2007) section 2.10, p.24*). In line with the first statutory principle, we would assume someone has capacity to make a decision. If a person repeatedly makes unwise decisions that put themselves or others at risk, their mental capacity may need to be reassessed. A decision maker cannot make an unwise decision on behalf of someone who lacks capacity.

A6 TRUE

The best interests principle underpins the MCA – 'An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done or made, in his or her best interests.' (*MCA Code of Practice (2007) Section 5.1 p.66*)

A7 FALSE

The MCA Code of Practice makes constant reference to the importance of involving family and friends in contributing to best interests consultations. However the Act is clear that, whilst family and friends may have a great deal to offer in the consultation process, it is not their best interests which are being consulted upon.

Anyone making decisions or taking action on someone else's behalf using the Act must be able to show this is in their best interests. This is the same whether the person making the decision or acting is a family carer, a paid care worker, an attorney, a health or social care professional, and whether the decision is a 'minor' or 'major' issue. 'As long as these acts or decisions are in the best interests of the person who lacks capacity to make this decision for themselves, or to consent to acts concerned with their care and treatment, then the decision maker or carer will be protected from liability.' (MCA Code of Practice (2007) p. 64)

A8 TRUE

The decision maker's assessment must be based on information provided from people who know the person concerned, whether family, friends or professionals. The decision maker must be able to demonstrate that the decision reached can be justified by the information collected, and is objective.

Possible impairment experienced by people with dementia – exercise answers

- loss of memory
- difficulty understanding, retaining and recalling information
- slowed thought processes
- difficulty in reasoning, logical thinking and making judgements
- difficulty thinking creatively or in abstract
- disorientation in time and place
- difficulty when communicating
- difficulty integrating emotion and thinking.

How you could support someone with dementia to make decisions – exercise answers

People with dementia are likely to have difficulty **remembering** things like names, addresses, where they put things.

They may also have difficulty **understanding** what is said or information presented to them. Their **thought** process is likely to be affected.

This means that when someone with dementia needs to make a **decision**, they may need **more** time to be able to **think** about the decision and **consider** the consequences.

We can help by making sure that **information** is presented to them in a format which they understand.

We can also **support** the person's decision even if we might not have made the same decision ourselves.

Supporting people with dementia using the MCA – quiz answers

A1 TRUE

Always communicate effectively so that the individual has the opportunity to make decisions.

DEMENTIA KNOWLEDGE SET Area 1.1

A2 FALSE

It is not necessary to involve the person with dementia in their care plan if they have been assessed as lacking capacity.

DEMENTIA KNOWLEDGE SET Area 1.1

A3 TRUE

Everyone has a duty to protect the individual from abuse, injury and harm.

DEMENTIA KNOWLEDGE SET Area 1.3

A4 TRUE

When reporting and recording it is important that we use clear, objective statements in care plans, reports, daily logs, handover reports, etc.

DEMENTIA KNOWLEDGE SET Area 2.2

A5 FALSE

It is the responsibility of a doctor to assess the capacity of a person with dementia.

DEMENTIA KNOWLEDGE SET Area 2.3

A6 TRUE

Some of the signs of dementia are difficulty with remembering, thinking and understanding.

DEMENTIA KNOWLEDGE SET Area 3.3

A7 FALSE

People with dementia are unlikely to be able to do anything for themselves.

DEMENTIA KNOWLEDGE SET Area 1.5

A8 FALSE

Only managers have to comply with policies and procedures.

DEMENTIA KNOWLEDGE SET Area 4.2

Glossary

Advance decision to refuse treatment

The Act creates statutory rules with clear safeguards so that people can make a decision in advance to refuse treatment if they should lack capacity in the future. The Act sets out two important safeguards of validity and applicability in relation to advance decisions. Where an advance decision concerns treatment that is necessary to sustain life, strict formalities must be complied with in order for the advance decision to be applicable. These formalities are that the decision must be in writing, signed and witnessed. In addition, there must be an express statement that the decision stands 'even if life is at risk' which must also be in writing, signed and witnessed.

Ref: MCA Code of Practice Chapter 9

Best interests

'An act done or decision made, under this Act for, or on behalf of, a person who lacks capacity must be done, or made, in his/her best interest.' It is not possible for statute to give a single all encompassing definition of 'best interest' because what will be in one person's best interests will depend on that particular individual and his/her personal circumstances.

Ref: MCA Code of Practice Chapter 2

Court appointed deputy

The Act provides for a system of court appointed deputies to replace the current system of receivership in the existing Court of Protection. Deputies will be appointed to take decisions on welfare, healthcare and financial matters as authorised by the new Court of Protection but will not be able to refuse consent to life-sustaining treatment.

They will only be appointed if the Court cannot make a one-off decision to resolve the issues. People appointed as receivers before October 2007 will retain their powers concerning property and affairs after the implementation date in October 2007 and will be treated as deputies after this time.

Ref: MCA Code of Practice Chapter 8

Decision maker

The person who makes a decision on behalf of a person who lacks capacity will be the person most appropriate to do so. This will depend on the decision that needs to be made. This principle covers all aspects of financial, personal welfare and healthcare decision making and actions. It applies to anyone making decisions or acting under the provisions of the Act including:

- family carers, other carers and care workers
- healthcare and social care staff
- attorneys appointed under a LPA or registered EPA
- Deputies appointed by the court
- the Court of Protection.

Ref: MCA Code of Practice Chapter 5

Independent mental capacity advocate

The purpose of the IMCA service is to help particularly vulnerable people who lack the capacity to make important decisions about serious medical treatment or changes in accommodation. It is available to those people who have no family or friends whom it would be appropriate to consult about those decisions. The service can also include two further situations, adult protection cases and care reviews – where an IMCA may be instructed.

Regulations provide that Local Authorities or NHS bodies may involve an IMCA in an adult protection case. In these cases alone, the requirement that the person lacking capacity has someone (family or friend) whom it would be appropriate to consult DOES NOT APPLY.

Ref: MCA Code of Practice Chapter 10

Lasting powers of attorney (LPAs)

The Act allows a person to appoint an attorney to act on their behalf if they should lose capacity in the future. There are two types of LPA; one in relation to decisions about property and affairs and one covering decisions about personal welfare. Before it can be used an LPA must be registered with the Office of the Public Guardian. It will not be activated unless the person loses the capacity to make the decisions themselves.

Ref: MCA Code of Practice Chapter 7

Public Guardian

The Public Guardian has several duties under the Act and will be supported in carrying these out by an Office of the Public Guardian (OPG). The Public Guardian and his staff will be the registering authority for LPAs and deputies. They will supervise deputies appointed by the Court and provide information to help the Court make decisions. They will also work together with other agencies, such as the police and social services, to respond to any concerns raised about the way in which an attorney or deputy is operating.

Ref: MCA Code of Practice Chapter 14

Further reading and resources

An introduction to the mental health of older people:

■ www.scie.org.uk/publications

Click on 'Resources and publications'
'e-learning'

Common mental health problems among older people:

■ www.scie.org.uk/publications

Click on 'Resources and publications'
'e-learning'
'An introduction to the mental health of older people'