



National Care Association

A Small Group Study Examining the Integration of the Mental Capacity Act into Health and Social Care Record Keeping and Planning

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Background

In early 2007 National Care Association was commissioned by the Department of Health to arrange 6 conferences to raise awareness of the Mental Capacity Act 2005 due to come into full implementation in October 2007. These conferences were highly successful with high attendance and real interest in how the Mental Capacity Act would provide a legal framework in which social care providers could operate in with confidence.

The one genuine area of concern and challenge that was raised by care providers was how the Act might impinge on life within a care home where the service users did not have Mental Capacity for instance in care home for people with advanced dementia or for services caring for people with profound learning disabilities. The concerns raised were not an attempt to circumvent the law but to ensure that the law was complied with whilst allowing the functions of daily living to continue.

National Care Association understood these concerns and developed an assessment tool which allowed for an assessment to be carried out which if an individual lacked mental capacity identified the functions of daily living that the person could not make decisions about.

The important thing about this first assessment being that it should be carried out as part of the Care Planning process. The Department of Health National Minimum Standards for Adult Care state that: “NMS 7.4 The service user plan (care plan) is reviewed by care staff at least once a month, updated to reflect changing needs and current objectives for health and personal care and audited”.

When developing the Mental Capacity Act Assessment Toolkit it was decided by National Care Association that as care plans were being reviewed monthly that was an appropriate place to incorporate regular reviews of the Mental Capacity Act Assessments as set out in the Toolkit.

National Care Association discussed this approach with a variety of stakeholders including the Department of Health and no one raised objections to the approach National Care Association was taking.

It is a recommendation of the toolkit that every time a review of the care plan is undertaken the Mental Capacity Act Functions of Daily Living Assessment should be reviewed too.

It is very important that there should be a regular review within this process because Mental Capacity can fluctuate.

The toolkit was launched in September 2007.

Later in 2007 National Care Association applied to undertake this study to attempt to ascertain if the toolkit was assisting care providers to embed the Mental Capacity Act legislation into the daily life of care homes.

The Study was designed to examine whether the processes surrounding both assessment and best interests are being embedded into organisations through the use of the assessment tool and whether any further awareness raising and training is required.

Phase 1

A survey form attached as Appendix 1 was developed in January 2008 by Joy Laidlaw, John Gilliland and Sheila Scott. This was a relatively simple survey which it was hoped would elicit a high level of response.

215 survey forms were sent out and 26 responses were received (12% response rate).

The forms were sent to all those members of National Care Association and non members who had received a copy of the National Care Association Mental Capacity Act Toolkit.

An analysis of the yes/no responses is set out below along with additional comments that were made.

Results of the Initial Survey

Question 1.

Did you implement Mental Capacity Act in your care home from October 2007?

YES: 11

NO: 5

Question 2.

If the answer is no, from what date did you commence assessments in the care home?

Comments:

- March 2008

Question 3.

You have a copy of the NCA Mental Capacity Act 2005 Assessment Tool Kit, do you use the tool kit as part of your assessment process?

YES: 16

NO: 0

Question 4.

Have you found the assessment tool kit helpful in introducing the Mental Capacity Act into your care home?

YES: 16

NO: 0

Question 5.

Have you trained all the staff in your care home in the basic principles of the Mental Capacity Act?

YES: 10

NO: 6

Question 6.

Do you have any other Mental Capacity Training materials in the care homes?

YES: 7

NO: 9

Question 7

If yes, which ones?

- Department of Health Mental Capacity Act
- Department of Health online training toolkit
- Mental Capacity Act- Assessment and Advocacy GCC, IMCAS guide for staff
- Mental Capacity Act
- Working with MCA, Radcliffe le Brassiere, Age Concern Documents

Question 8.

Do you have a copy of the Mental Capacity Act Code of Practice?

YES: 14

NO: 2

Question 9.

Have your service users or their relatives been told about the Mental Capacity Act?

YES: 14

NO: 2

Question 10.

Have any of them asked for additional information?

YES: 3

NO: 13

Comments:

- MCA Booklet given

Question 11.

Is there any other comments that you wish to make?

YES: 10

NO: 6

Comments:

- Easy to use, reliable assessment
- Assessment tool thought very good by inspector
- Works well, will adapt to needs
- New legislation will make it impossible to care because of the time spent on paperwork
- Would have really struggled to implement MCA without NCA toolkit
- Helped in Assessment Process
- Helpful
- Hope to raise awareness through training
- Toolkit is wonderful
- Keep up the good work, Thank you

Phase 2

We attempted to discuss issues around the assessment for Mental Capacity with a base group of members of the National Care Association, who had not chosen to take advantage of the Toolkit which is available free to members of National Care Association. In total we spoke informally to 30 members at National Care Association seminars held in February, March and April 2008.

16 of the people interviewed had done nothing about the Act and asked for an information pack which was supplied.

9 believed that the Act was not relevant to their facility. We explained the possibilities when it could be relevant and stressed the need for them to have policies and procedures in place.

2 had designed their own assessment tool.

3 had purchased a toolkit from a commercial organisation.

Phase 3

In early March a meeting was held between John Gilliland, Joy Laidlaw and Sheila Scott to agree the work to be undertaken in the second part of the project.

Mrs. Laidlaw was to have undertaken the in depth interviews and a questionnaire was developed. It was not realised for almost two months that Mrs. Laidlaw had been taken ill and it was not until the third week of April that action was taken. The Questionnaire was re-designed and arrangements were put in place for the in depth interviews to be undertaken by John Gilliland.

Some interviews were conducted by telephone and some by visit.

A copy of the questionnaire is attached as appendix 2.

Results of the Follow Up Survey

General

1) **Do you think the Mental Capacity Act provides you with a legal framework to operate in?**

Yes 9
No 1

Comments It is an improvement because there are now guidelines.
There is some confusion particularly around Power of Attorney.

2) **Do you think the Act gives extra legal protection for your service users?**

Yes 9
No 0
Undecided 1

Comments Yes if applied sensibly, some of the complicated safeguards lead to confusion. If used properly. There are grey areas

3) **What is your overall view of the Act?**

Too early to judge.

Very good, more specific.

A good thing.

Sensible

Quite useful.

The Act makes care workers stop and think about their decisions

Good.

Good on the whole but woolly in places.

Very good.

Has made some things too complicated but it gives a structure.

4) Do you find it easier to make decisions taking into account the best interests of the service user?

Yes	4
No	2
Sometimes	4

Comments Difficult when family have a different opinion to the decision maker.

5) Does it help to make these decisions when the service user was known to you before they lost mental capacity?

Yes	9
N/A	1

Staff and Training

6) **How many staff do you have?**

33 24 35 47 35 25 25 23 45 99

7) **How many of your staff are trained to understand and act with the Mental Capacity Act?**

20 12 35 29 21 25 14 20 25 99

Senior staff only.

Senior staff have had additional training.

Recommendation

A method needs to be developed to ensure that all care workers understand that they need an understanding of the Mental Capacity Act and that it is not just a matter for senior staff.

8) **Do you believe they fully understand their own personal legal responsibilities within the Mental Capacity Act?**

Yes 4

No 6

Recommendation

It is a cause for concern that 60% of managers interviewed believed that staff did not understand their own legal responsibilities within the Mental Capacity Act.

It is recommended that consideration be given to the development of a special leaflet addressing this issue and also that on line training be prepared as quickly as possible to inform care staff and support workers of their responsibilities.

The best solution would be a credit card sized card printed on both sides, spelling out the responsibilities of care workers.

9) Did you provide the training in house?

Yes 9
No 1

Council also provided
Also external suppliers plus NCA seminars
Management were trained externally
On line

10) Is the training that you require available and appropriate?

Yes 8
No 1
Undecided 1

If no, what exactly is it they need?

Not sufficient, needs to be more in depth
Training needed specifically for staff in care homes for EMI.
It may be available but is it appropriate
Simple programme for support workers needed

MCA Assessment

11) Do you always document each assessment?

Yes 10

If yes, do you use the paperwork from the NCA Assessment tool?

Yes 10

12) Would it be helpful for you to have information about the MCA and assessment to distribute to relatives and service users?

Yes 10

Comment

- A leaflet would be ideal which would give a consistent message and highlight the key points
- A leaflet definitely. Families are baffled.
- Would be useful for residents to have their own copy
- Families do not always understand why decisions are being made by care workers

NOTE: The leaflet should be short and precise

Recommendation

Consideration should be given to whether there would be a benefit in developing some training materials specifically for use in care homes for people with dementia

Functions of Daily Living

13) Do they think the tool kit has made the implementation of Mental Capacity Act easier?

Yes 10

14) Do your staff refer to the functions of daily assessment living papers regularly?

Yes 7

No 2

N/A 1

15) Could this section of the manual be improved in any way?

Yes 4

No 3

Don't know 3

Comments:

Simple to use
Straightforward

16) Are the functions of daily living assessment reviewed regularly?

Yes 10

Comments:

Monthly and at the time of any major change
Minimum of monthly

Recommendation

The Department of Health might consider making this approach to Mental Capacity Act Assessment in a care home a form of good practice. It clearly works well and is incorporated into the regular reviews of the care plan.

Particular Decisions

17) Have you a process or procedure which staff can refer to in respect of when and if it is appropriate to carry out an assessment?

Yes 6

No 4

18) When a particular decision needs to be made do your staffs have access to the tool kit to enable them to make a decision appropriate to the circumstances?

Yes 10

19) Have you had to make many particular decisions:

Yes 4

No 6

What did some of these decisions relate to?

Power of attorney

Vaccination

Blood tests

Minor ops

Hospital treatment

Assisted suicide

Property

Best Interests

20) Do you and your staff understand the concept of ‘best interests’?

Yes 10

21) How do you think you are able to assess the best interests of individual service users?

Knowledge of the person

By referring to the care plan

History and knowledge

By asking them, knowledge and their history

Knowledge of the person, history and supportive families

Prior knowledge, families

Knowledge of the resident

Prior knowledge

Regular meetings, reviews, history

Knowledge and family input

Knowledge

22) Do you regularly record when assessing capacity how decisions were made in the 'best interest' of the individual?

Yes 10

23) Any other comments:

Toolkit was very useful we would have had problems without it.

Conclusion

The people that responded to the questionnaires have clearly made significant strides in embedding the principles of the Mental Capacity Act into their care homes using the National Care Association Toolkit.

The results of the questionnaire have identified some gaps in training and information leaflets which we set out below as important points to be addressed.

- A method needs to be developed to ensure that all care workers understand that they need knowledge of the Mental Capacity Act and that it is not a matter for senior staff.
- It is a cause for concern that 60% of managers interviewed believed that staff did not understand their own legal responsibilities within the Mental Capacity Act.

It is recommended that consideration be given to the development of a special leaflet addressing this issue and also that on line training be prepared as quickly as possible to inform care staff and support workers of their responsibilities.

- A simple leaflet explaining the Mental Capacity Act to family, friends and service users would be welcomed by care providers.
- Consideration should be given to whether there would be a benefit in developing some training materials specifically for use in care homes for people with dementia.
- The Department of Health might consider making this approach to Mental Capacity Act Assessment in a care home a form of good practice. It clearly works well and is incorporated into the regular reviews of the care plan.