

Case study – the importance of sharing information as part of supporting someone to make a decision

A social work case demonstrates that sharing key information can be vital in determining whether someone is making a capacitated decision

Richard is a young adult with learning disabilities. When Richard was a teenager, his father was jailed for the sexual abuse of two teenagers. Richard himself was not sexually abused by his father.

After serving his sentence, Mr Dunne was due for release from prison. Richard made it very clear to his mother and to his social worker that he would like to see his father, and spend time with him. He also expressed an interest in living with his father.

Richard, as someone with a learning disability, clearly met the first part of the test of whether someone lacks capacity – an ‘impairment or disturbance’ of mind. And the decision was an important one, concerning as it did issues of family and risk. Of course, it was also possible to see Richard’s plans as unwise: his father had been convicted of serious crimes against other vulnerable people.

Mindful of the second key principle of the MCA, that a person must be given every practicable support to make a capacitated decision before being judged mentally incapable of making it, the social worker set about making sure Richard understood the issue as best he could. She visited him fortnightly, to talk through with him the situation, and explain different options. It became clear that, for him to make a fully informed decision, he would have to be told, as he previously had not been, what exactly his father had been jailed for. For this sensitive piece of work, the social worker prepared extensively, talking to Mrs Dunne, and agreeing they would talk to Richard together; and liaising too with a local counselling service in case Richard would have need of their support.

With the planning complete, the social worker and Mrs Dunne explained to Richard what had happened. He, both immediately and on subsequent visits, remained clear he wanted to spend time with his father. The conditions of Mr Dunne’s release from prison precluded Richard living with his father, but the social worker concluded that Richard was capacitated to make the decision to have contact with his father. She also managed to persuade Richard to agree that contact, to begin with at least, should be with other people there: sometimes Mrs Dunne, sometimes the social worker.

By adhering to the principles of the MCA, the social worker supported the decision of a young man who had experienced a much-interrupted relationship with his father to re-establish that relationship, and to take control of the degree to which he took risks in doing so.