



Northamptonshire Local Offer Quick Guide:

Mental Capacity Act 2005

The [Mental Capacity Act 2005](#) lays out the legal processes to be followed when a person over 16 years old lacks the capacity to make a decision. The law says that the person's incapacity must be due to "an impairment, or a disturbance in the functioning of their mind or brain." Families, carers, and healthcare or social care staff must assume that a person can make decisions unless it can be established otherwise.

The Mental Capacity Act 2005 has five statutory principles:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because they make an unwise decision.
4. 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 their best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive.

People might lack the capacity to make some decisions but still have the ability to make others. Mental capacity can also fluctuate over time. Wherever possible, people should be helped to make their own decisions. They can be provided with information in a suitable format (at an appropriate time) to help them decide. Formats might include Easy Read guides, PECS, or discussions with trusted adults. Individuals might also be eligible for support from an advocate (from [VoiceAbility Northamptonshire](#)).

An individual might be capable of making decisions about some things (such as what they'd like to eat and drink, or what clothes to wear). However, they might struggle with more complex decisions (such as financial planning or healthcare treatment). Each situation should be judged individually, and with consideration paid to the person's ability to understand. Where someone is deemed to lack the capacity to make a particular decision, then a 'best interests' decision can be made on their behalf. A 'best interests meeting' may be necessary if the decision is especially complicated. For example, if it concerns accommodation or medical treatment.



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To make decisions, individuals need to:

- Understand information
- Remember it for long enough
- Weigh up the information
- Communicate their decision

Individuals are allowed to make 'unwise decisions,' such as staying up late or smoking. While these may not be good for their health, it is something that they can choose to do. There may be some instances where an individual (aged 18+) who has mental capacity, makes an unwise decision that puts them at risk. These decisions might concern abuse, drugs, or homelessness. In these instances, Adult Safeguarding procedures (namely, the Adult Risk Management Framework) should be considered.

The Mental Capacity Act 2005 is an extensive document, and the full version is available online. This Local Offer Quick Guide gives a brief overview and should not be used as an alternative.



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