

# Information about mental capacity

## Introduction

This leaflet gives a simple explanation of mental capacity, and where to get more information. It is not intended as a reference for advocates or professionals, but we hope it will help people who are being assessed for mental capacity, and their family and friends.

## What do we mean when we say someone has mental capacity?

We say someone has mental capacity when we believe they are able to decide what they want to do and how they want to live their life.

Being able to make these decisions is important to all of us. There are daily, small but important decisions like what we want to wear and eat, or whether or not we want to go out to see friends. We also make bigger decisions, for example where we want to live, how we spend our money, or whether or not to go to the doctor about a health problem.

In practice, having the mental capacity to make decisions means that you are able to:

- Understand information
- Remember the information for long enough to make a decision based on that information
- Tell other people what you have decided.

## **Why is it important to recognise whether or not someone has the mental capacity to make decisions?**

It is important because we all want to be independent and make our own decisions about what we do. However, we don't want people to be abused or taken advantage of — and this can happen if they are left to make decisions when they are not able to do so.

## **Why might someone not have mental capacity?**

A very small number of people are assessed as not having the mental capacity to make any decisions. This could be due to a number of reasons including learning disabilities, dementia, or a mental health problem – but most people have some degree of mental capacity whatever impairment they may have.

## **So, not everyone has the same level of mental capacity?**

No. Some people have the mental capacity to make decisions about some things but not other things — for example; a person may be able to choose what to wear or eat and drink but may not be able to decide how to protect themselves from harm.

Other people can make decisions at certain times but not others — for example, they may have a mental health problem that affects them differently at different times.

## What does the law say?

The law is very clear about protecting and supporting us. It says:

1. We must assume that people have mental capacity and can make their own decisions — unless it is proved that they can't.
2. We all have the right to make our own decisions even if other people don't agree with us.
3. We should have as much support as we need to make decisions.

If someone cannot make their own decisions, the law says that people helping them must only make decisions in their 'best interests'. This means that the decision made by other people on their behalf must be what is best for them, not for anyone else. The decision must give that person as much freedom as possible.

## Who decides if you have mental capacity?

A doctor or social worker might decide that, in their opinion, someone does not have mental capacity if they cannot understand, remember, and think about the information necessary to make a decision — or if they cannot communicate their decision.

## Help and support

If you have any questions, the contact person for this safeguarding concern is:

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Phone:.....

Email:.....

Available for contact at these times: .....

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## Other useful organisations who can offer you information and advice:

Age UK Solihull

Tel: 0121 705 9128

Website: [www.ageuk.org.uk/solihull](http://www.ageuk.org.uk/solihull)

Carers Centre

Tel: 0121 788 1143

Website: [www.solihullcarers.org](http://www.solihullcarers.org)

Community Navigator Services CIC

Tel: 0121 722 8958

Website: [www.communitynavigatorservices.org](http://www.communitynavigatorservices.org)

Solihull Action through Advocacy

Tel: 0121 706 4696

Website: [www.solihulladvocacy.org.uk](http://www.solihulladvocacy.org.uk)

Solihull Council

Tel: 0121 704 8007

Website: [www.solihull.gov.uk](http://www.solihull.gov.uk)

Solihull MyLife Portal

Website: [www.solihull.mylifeportal.co.uk](http://www.solihull.mylifeportal.co.uk)

Solihull Information and Advice Hubs

Tel: 0121 705 9128

Website: **[www.ageuk.org.uk/solihull/information--advice/community-advice-hubs](http://www.ageuk.org.uk/solihull/information--advice/community-advice-hubs)**

Department of Health

Website: **[www.gov.uk/government/publications/mental-capacity-act-code-of-practice](http://www.gov.uk/government/publications/mental-capacity-act-code-of-practice)**

Mental Capacity 2005 Legislation

Website: **[www.gov.uk/government/publications/mental-capacity-act-code-of-practice](http://www.gov.uk/government/publications/mental-capacity-act-code-of-practice)**

