



**Toolkit to support organisations in the self-assessment for  
benchmarking of Mental Capacity Act Policies**

Worcestershire Safeguarding Adults Board

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## Document Control

- **Ratified by WSAB**
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## Revision History

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	0	New document	Karen Rees
05/09/2017	0.1	Use of new policy format Reordering checklist	Suzanne Hardy
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**Location:** [www.worcestershire.gov.uk/wsab](http://www.worcestershire.gov.uk/wsab)

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## Consulted on the Policy/Guidelines

Organisation	Date
WSAB Policy Sub Group	22/08/2017
WSAB Board members	07/09/2017

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## 1.0 Introduction

The Mental Capacity Act (MCA) 2005 provides the legal framework for acting and making decisions on behalf of people who lack the mental capacity to make particular decisions for themselves. It also provides a legal structure which enables those who have mental capacity and want to make preparations for a time when they may lack capacity in the future. <http://www.legislation.gov.uk/ukpga/2005/9/contents>

The Act is supported by Codes of Practice and professionals must have regard to this when working with adults who may lack capacity

<https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>

The Care Act (2014) is underpinned by the principles of the MCA and the Act is integral to best practice in adult safeguarding. Organisations should consider **Adult Safeguarding: multi-agency policy and procedures for the protection of adults with care and support needs in the West Midlands** in relation to working with people who lack capacity who may be at risk of abuse or neglect - <http://www.worcestershire.gov.uk/wmaspp>

Worcestershire Safeguarding Adult Board (WSAB) expects all health and social care agencies within Worcestershire to understand and apply the principles of the **Mental Capacity Act (2005)**.

WSAB has adopted an MCA policy for Worcestershire, which is supported by MCA Multi-agency MCA & DoLS Competency Framework -

<http://www.worcestershire.gov.uk/downloads/file/7002/multi-agency-adult-mca-dols-competency-framework>

## 2.0 Purpose

This toolkit has been developed by WSAB to assist organisations to benchmark their existing policies against, or to formulate a new policy, ensuring that the policy meets the requirement of the WSAB and contracting and commissioning requirements. The toolkit provides details of what individual organisation's policies should cover in addition to the WSAB Mental Capacity Policy. All organisational policies should incorporate the principles of the MCA (2005)

1. Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise
2. A person must be given all practicable help before anyone treats them as not being able to make their own decisions
3. Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision
4. Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests
5. Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms

### 3.0 Checklist

Element to be covered
Contains a statement of the organisation's basic philosophy and principles relating to the Mental Capacity Act (2005).
Identifies that the organisation has signed up WSAB MCA policy and provide direction to the location of the document and how to access e.g. URL link.
Identifies who in the organisation has lead responsibility for Mental Capacity. Use of structure charts may help.
Defines the training requirements of all employees (a matrix may prove beneficial).
Identifies arrangements for induction and ensuring staff are competent to practice in relation to MCA (relevant to role)
Identifies the organisations Quality Assurance/ Governance processes/ reporting arrangements in relation to MCA and DoLS
Outlines arrangements by which the organisation provides evidence that they are meeting their responsibilities in relation to MCA and DoLS (e.g. supervision; case file audits)
Defines the scope of the policy and terms 'consent' and 'capacity'.
Identifies what staff and volunteers must do if they have reason to doubt capacity of someone within their care.
Identifies how assessments of capacity and best interests decision making are carried out in the organisation.
Identifies expectations of staff in relation to documenting / evidencing consideration of mental capacity.
Identifies how application of MCA provides protection from liability and how that protection works in practice
Sets out when to make an appropriate referral to an IMCA
Identifies organisational response to Deputies, Attorneys, Advanced decisions and DNAR
Outlines how potential deprivation of liberty should be identified and managed.
Identifies a process regarding the use of restriction, restraint and deprivation and what happens when a report is made to external bodies.
Identifies who in the organisation is responsible for submitting an urgent authorisation and standard application for a Deprivation of Liberty Safeguards.
Identifies who in the organisation is responsible for subsequent requirements when a DoLS authorisation is granted.