

No one can decide for me. What happens when young people reach 18?

Integrated Learning Disabilities Service
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Aims of today:

- To increase your knowledge about the Mental Capacity Act (MCA; 2005)
- To help you understand how we support people to make decisions once they turn 18

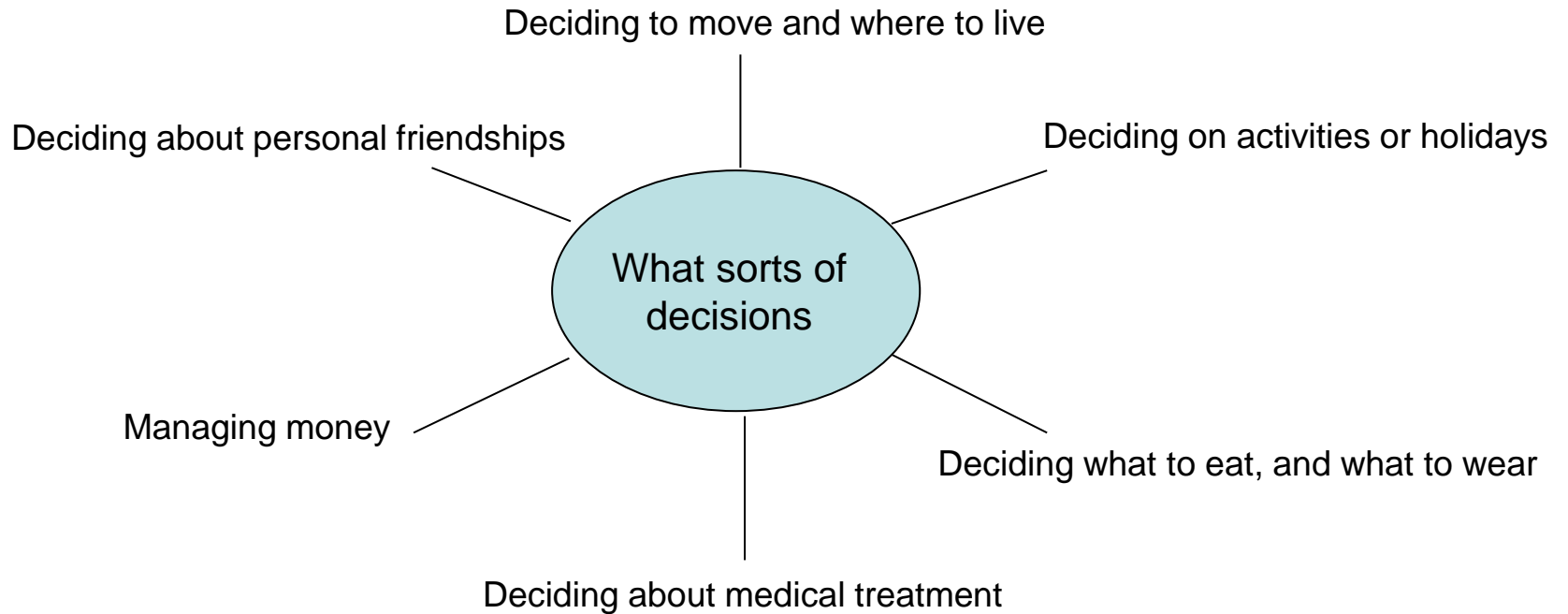
What is the Mental Capacity Act?

- It is about how decisions are made concerning adults
- Applies to everyone (including us) aged 16 and over in England and Wales
- In force since 2005

What does the Mental Capacity Act say?

- We must help people to make their own decisions where possible
- If they can't make their own decisions, others must make the decision for them
- This decision must be made in the person's best interests (not simple in other people's)

What sorts of decisions?



Can't I go on making decisions as I have done since they were a child?

- No - the law applies to all adults
- Empowers people to be supported to make their own decisions wherever possible
- If person does not have capacity, you can continue to make many decisions for them but can't automatically make all of them
- You should always be consulted

What are the principles of the MCA

- 1) Presumption of capacity
- 2) Individuals should be supported to make their own decisions
- 3) Unwise decisions
- 4) Best interests
- 5) Less restrictive option

Needs to be a decision by decision assessment

- MCA recognises some people have the capacity to make simple choices, but not complex decisions.
- Some people vary day-to-day
- Decisions taken about a person's capacity are always taken in relation to a particular decision at a given time

Need to involve the person as much as possible

- Before you decide someone lacks capacity, you must take all possible steps to help them make the decision themselves
 - Communicating with them in an accessible way
 - Giving the person lots of time to process and respond
 - Repeating conversations several times
 - Using the person who communicates best with the person to talk to them

Who decides whether or not my child has capacity or not?

- Family carers (you) will be fully involved in deciding if your child has capacity or not but the final decision lies with the one who completes the capacity assessment.
- Doesn't need to be a formal task – base your decision on your 'reasonable belief'
- Seek the views from others as appropriate

Who decides whether or not my child has capacity or not?

- For certain decisions, professionals may be involved in the assessment
- Types of decisions can include: medical treatment, where to live , financial management , consent to sexual relationship, consent to care
- However, it is very important that the person and their family are involved as much as possible

Best interests - MCA

- Any decision made or anything done for an adult that lacks capacity to make a specific decision must be in their best interests
- People that can make best interests decisions:
 - Family
 - The local authority
 - Medical professionals

Must consult with family

Do I have to have legal power to make best interest decisions for my child?

- Not usually
- The MCA 2005 changed the parents having the rights to decide to the named decision makers completing the Capacity assessment and chairing the best interest meeting

What if people disagree about best interests or capacity assessment?

- Anyone entitled to challenge a decision
- Important for all views to be taken into account and settled locally if possible
- If disputes cannot be settled, there is a formal process to go through where a final judgement will be made (the Court of Protection)

Finding out more about MCA

Mental Capacity Act resource pack for family carers of people with a learning disability.
Developed by Mencap

Any questions?