

# **Brighton & Hove Mental Capacity Act Capability Framework**

## **Language**

The Mental Capacity Act will be abbreviated to MCA and includes the Deprivation of Liberty Safeguards (DoLS).

The term capacity means the ability to make a specific decision at the time it needs to be made.

For the sake of brevity the term incapacitated adult will be used to mean an adult lacking the capacity to make a specific decision. The term incapacitated adult as used here should not be taken to suggest or imply a person unable to make any decisions, as capacity (hence incapacity) is decision specific.

## **Who this framework is for**

The framework is offered as guidance to people working with adults who work with incapacitated adults. The framework is relevant to practitioners including health and social care staff and advocates who have regular contact with incapacitated adults but will also be relevant to people with occasional contact with incapacitated adults. People with occasional contact could include housing officers, police, ambulance staff and others. In order to provide good support to incapacitated adults staff require a well rounded skills set, for instance in relation to safeguarding, communication, positive behaviour support, dementia and others. Each of these areas has levels of complexity and associated competencies. There is a safeguarding competency framework that the Safeguarding Board encourages all organisations to take forward, and competency frameworks and skill sets for other areas available from bodies such as Skills for Care, Skills for Health and the College of Social Work.

## **What is the purpose of the Capability Framework?**

The framework will be useful for people:

- commissioning services or specifying workforce requirements
- commissioning, designing or delivering training

- as a basis for professional discussion in supervision and as a basis of evidencing capability and identifying development needs in relation to the MCA.

## **Using the Framework to demonstrate Capability**

When managers are using the framework with their staff capability can be evidenced in several different ways. For example:-

- Direct observation, such as working with service users, liaising with colleagues, chairing meetings,etc
- Testimony from others such as colleagues and service users.
- Looking at outputs (what was done) such as the quality of recoding and documentation.
- Considering outcomes (what difference it made to the person); what were these, how did they come about; what can be learnt from this?
- Through professional discussion, reflection and critical practice. This could be built up through supervisions, day to day discussions and professional discussions regarding the framework itself.
- The manager and staff member noting down pieces of work completed.

The framework is a guide and aide memoir; inevitably there are assumptions about the capabilities required for particular roles and some staff will be working across different levels of the framework. Therefore the staff groups associated with each level of the framework are a guide, i.e. indicative rather than definitive and professional judgement will be required in interpreting which capabilities apply to individual members of staff. It is hoped that the framework will be a useful tool to help nurture good practice in relation to the MCA.

## **What does Capability Mean?**

This capabilities framework has been written to have relevance to all staff working with incapacitated adults including social workers. The term capability has gained favour and is being used by the College of Social Work. In line with that terminology the term capability has been adopted here. For fuller details of the Professional Capabilities Framework for Social Workers see

<http://www.collegeofsocialwork.org/pcf.aspx>. This MCA Capabilities Framework considers the knowledge, skills and values required to work successfully with the MCA. Arguably competency frameworks can lead to tick box exercises, leading to an over reliance on policies at the expense of critical thinking (Holroyd and Brown, 2011). It is hoped that this framework will be used as a catalyst to critical thinking, and used constructively will help professionals evidence their continuing professional development.

## Learning & Development

Many of the competencies have been mapped to training courses available through Brighton & Hove City Council (BHCC). Additionally links are offered to:

- The freely available e-learning from the Social Care Institute for Excellence (SCIE)  
<http://www.scie.org.uk/publications/elearning/mentalcapacityact/>
- The Mental Capacity Act Code of Practice: <http://www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act>
- Policies and Procedures, particularly the BHCC Mental Capacity Act Policy and Procedures:  
<http://brightonadults.proceduresonline.com/index.htm>
- NHS South East Coast Do Not Attempt Cardio Pulmonary Resuscitation Principles:  
[http://gp.westernsussexhospitals.nhs.uk/wp-content/uploads/gpsiteweb/NHS\\_South\\_East\\_Coast\\_DNAC~\\_principles\\_Nov\\_2010-AssetID=356942&type=full&servicetype=Attachment.pdf](http://gp.westernsussexhospitals.nhs.uk/wp-content/uploads/gpsiteweb/NHS_South_East_Coast_DNAC~_principles_Nov_2010-AssetID=356942&type=full&servicetype=Attachment.pdf)

Training (or lack of) should not be seen as an alternative to following local policies, the Code of Practice and other relevant guidance (such as the FACE guidance).

## National Occupational Standards

The capabilities have been mapped to National Occupational Standards. This framework in conjunction with other evidence can be a source of evidence that can contribute to a portfolio for people undertaking a qualification. A manager working through this capability framework with a member of staff will be supporting competence achieved in the workplace (HSC3120, HSC43b) and a member of staff working through the framework will be engaging in HSC23a – evaluate your own work. For Social Workers these

have been mapped to the Health Professions Council's standards of proficiency (SoP) and the College of Social Work Professional Capabilities Framework (PCF).

## Professional Capabilities Framework

These MCA Capabilities have been mapped to the Health Professions Council's standards of proficiency (SoP) and the College of Social Work Professional Capabilities Framework (PCF). See <http://www.collegeofsocialwork.org/pcf.aspx>

The domains of the PCF are:

- **Professionalism:** Taking responsibility for professional status, conduct and practice.
- **Values & Ethics:** Knowledge of these and using them in practice in partnership with people who use services.
- **Diversity:** Social workers recognise diversity and its experience on individuals and work with and challenge issues appropriately.
- **Rights, Justice and Economic Wellbeing:** Understanding and using law and legislation including case law. Recognising the effects of oppression, discrimination and poverty.
- **Knowledge:** Social workers knowledge of social sciences, law and social work theory and put this in practice with the individuals and communities they work with.
- **Critical Reflection & Analysis:** Identifying, distinguishing and evaluating evidence including own practice experience, research, the views of service users and carers and using critical thinking to inform professional decision making.
- **Intervention & Skills:** Use judgement and authority to intervene with individuals, families and communities to promote independence, provide support and prevent harm, neglect and abuse.
- **Context & Organisations:** Engage with, inform and adapt to changing contexts that shape practice. Operate effectively within own organisational frameworks and multi-agency multi professional context and contribute to the development of services and organisations

- **Professional Leadership:** Take responsibility for the professional learning and development of others through supervision, mentoring, assessing, research, teaching, leadership and management.

## **Mental Capacity Act Capability Framework Summary Page**

**Tip for Managers and Staff:** You may want to print off only the parts of the framework that are relevant to your role. For those involved in assessing capacity this site <http://www.amcat.org.uk/> has information about the MCA and an audit tool. The audit tool takes about 20 minutes to complete and looks at a specific assessment. It will provide you with a pdf format report with commentary on parts of your assessment which you can use to facilitate a discussion with your manager/supervisor. The audit tool is not a proxy capability assessment, but an extra resource to facilitate a professional discussion.

This document when signed is evidence that a level of capability has been achieved to enable the staff member discharge duties appropriate to their role. The Mental Capacity Act and associated capabilities is an evolving area influenced by professional judgement, emerging case law and research. Evaluation of the capabilities in the domains relevant to your role is a joint responsibility between the member of staff and manager or supervisor and should be discussed as part of the supervision process. Development needs and ongoing continuing professional development will be identified through processes such as supervision and appraisals (e.g. Performance and Development Plans).

<b>Name of staff member</b>	
<b>Name of manager/supervisor</b>	
<b>Team &amp; place of work</b>	
<b>Date of commencement of record of competency</b>	
<b>Date capability for role evidenced</b>	
<b>Date(s) of capability reviews (if relevant)</b>	
<b>Manager/supervisor comments</b>  (e.g. learning needs, ongoing development, further agreed actions)	
<b>Staff member's comments</b>	
<b>Manager's signature</b>	
<b>Staff member's signature</b>	

<b>Who</b>	<b>Capabilities</b>	<b>Date assessed as demonstrating capability</b>	<b>Supporting evidence</b>	<b>Manager's signature</b>	<b>Relevant development opportunities*</b>	<b>Links to National Occupational Standards</b>
1. Support staff working in health and social care with little or no contact with incapacitated adults (e.g contracts staff, administrative staff)	1.1 Awareness of what the Act is and the five key principles.  1.2 Understand the status of the Code of Practice  1.3 Awareness of when and how to source advice or support				Mental Capacity Act Briefing (1.1, 1.2, 1.3, 2.1, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8)  SCIE e-learning: Supporting People to make their own decisions: <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a>	Note, by using this capability framework you will be engaging in HSC23a – <i>Evaluate your own work</i> and HSC33 and in PCF <i>Critical Reflection &amp; Analysis</i>  SoP 1.1; PCF - Professionalism 1.8, PCF Values & Ethics 2.1  SoP2 2.7;
2. Staff with regular contact with incapacitated adults in relation to less complex day to day decisions	As above plus  2.01 Understand the role of the decision maker and who the decision maker will be for different decisions  2.02 Facilitate communication tailored to the individual  2.03 Support people with information and decision making  2.04 Apply the two stage capacity test				MCA Briefing  SCIE e-learning: Supporting People to make their own decisions  SCIE e-learning: Supporting People to make their own decisions  SCIE e-learning: Supporting People to make their own decisions  SCIE e-learning: Making Day to Day decisions about Care & Support: <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a>	HSC21a, b, c: HSC26 a, b, c, HSC31, HSC35  SoP 8;  PCF Intervention & Skills 7.1, 7.2  SoP 2.7; PCF Value & Ethics 2.4, 2.5  SoP 1.3  PCF Values & Ethics 2.1

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	<p>2.05 Make day to day best interest decisions</p> <p>2.06 Demonstrate the use of least restrictive intervention</p> <p>2.07 Awareness of what to do if you have concerns that a person is being deprived of their liberty</p> <p>2.08 Demonstrate appropriate recording of MCA decisions</p> <p>2.09 Understand the roles and remit of others in decision making e.g.family, LPAs, deputies, IMCAs and other professionals</p> <p>2.10 Work with Lasting Power of Attorney and others involved in decision making</p>				<p>SCIE e-learning: Best Interest Decisions about Day to Day Care &amp; Support:  <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a></p> <p>Restrictive Practices (2.05, 2.06, 2.10)</p> <p>SCIE e-learning: A guide to the Deprivation of Liberty Safeguards:  <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a></p> <p>MCA Code of Practice, Chapters 7 &amp; 10:  <a href="http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/mca-code-practice-0509.pdf">http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/mca-code-practice-0509.pdf</a></p> <p>BHCC MCA Policy &amp; Practice Guidelines, section 12:  <a href="http://brightonadults.proceduresonline.com/index.htm">http://brightonadults.proceduresonline.com/index.htm</a></p>	<p>SoP 2.1; PCF Professionalism 1.11</p> <p>HSC21d</p>
3. Managers of provider services for incapacitated adults	<p>As above plus</p> <p>3.0 Describe the responsibilities of the supervisory and managing bodies</p> <p>3.1 Demonstrate effective assessment &amp; management of risks including identifying least</p>				<p>DoLS Briefing (3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, 3.9)</p> <p>Restrictive Practices (3.1, 3.2, 3.3)</p> <p>SCIE e-learning: A Guide to the Deprivation of Liberty Safeguards</p>	<p>HSC395</p> <p>HSC24c, HSC42</p> <p>PCF Rights, Justice,</p>

	<p>restrictive intervention and restrictive practices</p> <p>3.2 Consider factors which can contribute to a restriction or deprivation of liberty</p> <p>3.3 Follow procedures which identify when restrictive practices may amount to a deprivation of liberty</p> <p>3.4 Seek authorisation if a person is or may need to be deprived of their liberty</p> <p>3.5 Complete DoLS authorisation paperwork</p> <p>3.6 As appropriate to role liaise with service user&amp; medical practitioner about do not attempt cardio pulmonary resuscitation.</p>			<p>SCIE e-learning: A Guide to the Deprivation of Liberty Safeguards</p> <p>SCIE e-learning: A Guide to the Deprivation of Liberty Safeguards + BHCC Deprivation of Liberty Safeguards Procedures:  <a href="http://brightonadults.proceduresonline.com/index.htm">http://brightonadults.proceduresonline.com/index.htm</a></p> <p>SCIE e-learning: A Guide to the Deprivation of Liberty Safeguards + BHCC Deprivation of Liberty Safeguards Procedures</p> <p>SCIE e-learning: A Guide to the Deprivation of Liberty Safeguards + BHCC Deprivation of Liberty Safeguards Procedures</p> <p>End of Life Care (3.6): NHS South East Coast Do Not Attempt Cardio Pulmonary Resuscitation Principles:  <a href="http://gp.westernsussexhospitals.nhs.uk/wp-content/uploads/gpsiteweb/NHS_South_East_Coast_DNAC~_principles_Nov_2010-">http://gp.westernsussexhospitals.nhs.uk/wp-content/uploads/gpsiteweb/NHS_South_East_Coast_DNAC~_principles_Nov_2010-</a></p>	Wellbeing 4.3
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	<p>3.7 Establish the status and remit of LPAs and deputies</p> <p>3.8 Consider the interface between the MCA and the Mental Health Act, and describe when the Mental Health Act would apply in place of the Mental Capacity Act.</p> <p>3.9 Lead practice in the MCA including identifying &amp; supporting staff development</p>				<p><a href="#">AssetID=356942&amp;type=full&amp;servicetype=Attachment.pdf</a></p> <p>BHCC MCA Policy &amp; Practice Guidelines, section 12</p> <p>MCA Code of Practice, chapter 13: BHCC MCA Policy &amp; Procedure, section16: SCIE e-learning – Interface between the MCA and Mental Health Act:  <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a></p>	
4. Staff & their managers working with incapacitated adults with complex decisions and/or safeguarding investigations	<p>As above plus</p> <p>4.1 Appropriately access the Independent Mental Capacity Advocate service.</p> <p>4.2 Assess Capacity in relation to complex or long term decisions</p> <p>4.3 Make Best Interest Decisions in relation to Complex or Long term issues</p> <p>4.4 Use evidence based practice in undertaking mental</p>				<p>MCA in Practice (4.1, 4.2, 4.3, 4.5, 4.6, 3.7, )</p> <p>BHCC MCA Policy &amp; Procedures, Appendix 6 &amp; 7</p> <p>SCIE e-learning: Making Complex Decisions:  <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a></p> <p>SCIE e-learning: More Complex Best Interest s Decision Making:  <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a></p> <p>MCA Advanced Training: Assessment of Mental Capacity (4.4, 4.5)</p>	<p>HSC430, HSC431</p> <p>PCP Rights, Justice &amp; Wellbeing 4.5</p> <p>SoP1.3, 3.1; PCF Values &amp; Ethics 2.4, 2.5; PCF Knowledge 5.12; PCF Critical Reflection &amp; Analysis 6.2, 6.6; PCF Diversity 3.1</p> <p>HSC395</p>

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	<p>capacity assessments.</p> <p>4.5 Arrange additional specialist consultation (including legal services) when working with complex needs &amp;/or high risk decisions</p> <p>4.6 Accurately and appropriately record assessments of capacity using appropriate forms (e.g. FACE)</p> <p>4.7 Integrate outputs of capacity assessments and best interest decisions into support plans.</p> <p>4.8 Audit support planning and risk assessing to ensure MCA principles are followed.</p>				<p>MCA Policy &amp; Procedures, Appendix 1 &amp; 2</p>	<p>PCF Intervention &amp; Skills 7.8 SoP 10 SoP 9.2 PCF Context &amp; Organisations 8.4, 8.5</p> <p>HSC434</p>
5. People involved in issues requiring decisions in the Court of Protection	<p>As above plus:</p> <p>5.1 Identify when &amp; which decisions must be referred to the Court of Protection</p> <p>5.2 Use the correct process when cases need referring to the Court of Protection</p> <p>5.3 Work constructively with person, family, colleagues and partner organisations before going to the Court of Protection</p> <p>5.4 Work with Court of Protection in cases of concern over LPAs or Deputies</p>				<p>MCA Advanced Training: Applications to the Court of Protection (5.1, 5.2, 5.3, 5.4)</p> <p>SCIE e-learning: What to do when there is Disagreement: <a href="http://www.scie.org.uk/publications/elearning/mentalcapacityact/">http://www.scie.org.uk/publications/elearning/mentalcapacityact/</a></p> <p>SCIE e-learning: What to do when there is Disagreement</p>	<p>HSC447 SoP 9.6 PCP Values &amp; Ethics 2.1</p>

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	5.4 Prepare evidence and give witness at the Court of Protection					
6. People with a strategic role in embedding the MCA	<p>6.1 To have Knowledge of the requirements of the Mental capacity Act 2005 and skills to lead and manage staff and services in order to protect vulnerable adults who lack decision making capacity, promote their rights and treat them with dignity and respect.</p> <p>6.2 Provide quality assurance and enable staff to access training and support that ensures staff compliance with the Mental capacity Act as appropriate to their role and responsibilities.</p> <p>6.3 Provide effective leadership and escalation in complex cases to support compliance with the mental capacity Act and protect the organisation against claims of malpractice or negligence.</p>				<p>Mental Capacity Act Briefing.</p> <p>Dave Sheppard resources (Council &amp; SPFT employees)</p> <p>Employer's corporate learning &amp; Development programme for leadership skills.</p>	

\*The Development Opportunities listed here are courses provided by Brighton & Hove City Council. These are open to staff working in Adult Social Care and Housing. Additionally publicly available resources are also listed.