

Mental capacity Q+A with Chris Hamilton

12th December 2023



Somerset
Council

**Your questions and comments about
anything related to mental capacity or
deprivation of liberty**

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Protections offered by the MCA

If you have a reasonable belief that a person needs you to do something for them, and a reasonable belief that they lack capacity to consent to this, then the MCA says you have authority to act free from legal challenge.

It is really important that care staff know how to think about a person's capacity and best interests.

You don't need to formally assess a person's capacity every time you help them brush their teeth!

The support/care plan document should list what things a person needs you to help them with.

Unwise or lacking capacity?

If a person is neglecting to care for themselves and refusing help from others this may indicate poor or declining decision-making ability.

an 'unwise' decision requires capacity

Living in squalid conditions or living on the street are not usually 'lifestyle choices'. It would be very strange for a person to choose to be cold, hungry, and in fear.

Unwise or lacking capacity?

If a person appears to be making decisions which are highly risky or detrimental to their own interests we need to be clear about whether their decision-making is capacitated.

This is especially true if the decisions they make conflict with their stated wishes.

Being clear about a person's capacity helps us know what responsibilities we have

Self-neglect and mental capacity a survey

Somerset's Safeguarding Adults Board is currently carrying out a survey to look at how confident people are in decision making when a vulnerable person appears to be self-neglecting and refusing services. We are keen to have as many responses as possible between now and mid-January. The survey is completed anonymously. Here's the link

<https://forms.office.com/Pages/ResponsePage.aspx?id=sITDN7CF9Ueylge0jXdO4yyinnM7WCpNs9da8NwjGYhUODQwR1FLQldPNlpPRlg1SFJPQ01GMzhOQS4u>

And a workshop to follow!

Getting the most from these sessions

Practical advice to help staff use the MCA well for the benefit of your service users

Next drop-in: Tuesday 27th February 1.30pm

A few DoLS reminders

1. Now that LPS is not happening we need to make best use of the DoLS scheme, despite its faults
2. (in a care home) it is your legal duty to make applications for anyone who may meet the criteria i.e. there are restrictions on their liberty, and they probably lack capacity to make decisions about their care
3. You **don't need a formal capacity assessment** before you trigger DoLS
4. The person does **not need to be objecting** for DoLS to be relevant

A few DoLS reminders

5. You do need to let the DoLS team have as much info as possible about how the person responds to being in a care home. This info helps us prioritise.
6. You need to let the DoLS team know if anything significant changes – such as the person has started wanting to leave or behaving in more difficult to manage ways. **But don't make a new application!**

E-mail the DoLS team with an update dolsinformation@somerset.gov.uk