

Mental Capacity Act Steering Group

Roles and responsibilities of national MCA implementation partners

The Department of Health-led Mental Capacity Act Steering Group (MCASG) was established in October 2013 and contains representation from the major national organisations with a role in MCA implementation.

The ultimate purpose of the MCASG is to progress the joint programme of work detailed in the Government's response to the House of Lords Select Committee (*Valuing every voice*¹) and to act as a national focal point for our continuing efforts to implement the Mental Capacity Act and the Deprivation of Liberty Safeguards.

This paper details the roles and responsibilities of the different member organisations of the MCASG – to provide clarity on who does what in the system and to signpost partners and stakeholders to the most appropriate provider of information and assistance.

This paper shall be reviewed and updated as required – and should organisational responsibilities change.

Academy of Medical Royal Colleges (AoMRC)

The Academy of Medical Royal Colleges speaks on standards of care and medical education across the UK. By bringing together the expertise of the medical Royal Colleges and Faculties it drives improvement in health and patient care through education, training and quality standards

The Academy has set up an MCA Working Group comprising a number of royal colleges to: (a) consider the needs of professionals on the MCA; (b) produce MCA guidance focussed on the needs of professionals and; (c) identify and address priority actions to better implement the MCA, working to a shared statement of intent on the MCA.

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Association of Directors of Adult Social Services (ADASS)

The role of ADASS in respect of mental capacity is to promote the ethos of the Mental Capacity Act amongst its members in Adult Social Care by:

- Promoting and informing good practice in relation to mental capacity to ensure all adults have their human rights protected;
- To provide a conduit for the work of its members in relation to mental capacity to ensure a consistent and joined up response;
- To inform and brief government ministers and civil servants about the ongoing impact of the implementation of the Mental Capacity Act on the most vulnerable people receiving services;

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318730/cm8884-valuing-every-voice.pdf

- To ensure a member wide approach to establishing best practice in relation to the ethos and values of the Mental Capacity Act;
- To advise members of ADASS' position in relation to specific issues arising from the Mental Capacity Act and to disseminate relevant information and practice guidance.

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Care Provider Alliance (CPA)

The Care Provider Alliance (CPA) brings together all the main representative bodies for independent adult social care providers. We have come together to ensure a coordinated response to the major issues that affect the sector.

The CPA seeks to encourage and support providers to adopt a culture that emphasises the principles of the Mental Capacity Act. It will convene member groups to reach a shared consensus as to the priorities for action to achieve – and address these.

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Care Quality Commission (CQC)

As the independent health and adult social care regulator, our purpose is to make sure health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage them to improve.

Our role is to monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and we publish what we find, including performance ratings to help people choose care. We are now inspecting against the MCA as one of our 'key lines of enquiry', and compliance with the MCA forms part of our decision-making when rating all the services for people aged 16+ that we regulate.

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College of Social Work (TCSW)

The College of Social Work (TCSW) is the centre of excellence for social work, upholding and strengthening professional standards to the benefit of the public.

The College is committed to embedding the Mental Capacity Act as a core professional capability for social work practice. Social workers have a lead role to play in furthering our shared ambition for a culture in social care that demonstrates the values of the MCA. The college runs the scheme for

endorsement of Best Interest Assessor training and is developing a continuing professional development scheme for social workers on the MCA.

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Court of Protection

The Court of Protection is the specialist court for all issues relating to people who lack capacity to make specific decisions. The Court can make decisions and appoint deputies to make decisions about someone's property and financial affairs or their healthcare and personal welfare.

Under the Mental Capacity Act, the Court has the power to:

- Make decisions about the personal welfare or property and financial affairs of people who lack the capacity to make such decisions themselves;
- Make declarations about a person's capacity to make a decision, if the matter of whether they can make a decision cannot be resolved informally;
- Make decisions in relation to serious medical treatment cases, which relate to providing, withdrawing or withholding treatment to a person who lacks capacity;
- Authorise deprivation of liberty in relation to a person's care and residence arrangements;
- Appoint a Deputy to make ongoing decisions on behalf of a person who lacks capacity, in relation to either the person's personal welfare or property and financial affairs; and
- Make decisions about a Lasting Power of Attorney or Enduring Power of Attorney, including whether the power is valid, objections to registration, the scope of attorney powers and the removal of attorney powers.

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Department of Health

The role of the Department is to act as guardian and advocate for the national MCA strategy in the health and care system. DH:

- Sets mandates and expectations for the health and social care system
- Acts as convenor of key health and social care partners to agree implementation strategies
- Empowers local partners (as primary implementers) with guidance, information and tools

The Department chairs the national MCA Steering Group.

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Local Government Association (LGA)

The LGA is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross-party organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

The LGA will work with key partners to support local government to embed a culture that epitomises the principles of the MCA – in the services local government directly provides and in those which it commissions. The LGA will work with member authorities and with key partners to identify those actions that can best support local authorities based on the principles of sector led improvement. This includes on-going support for local authority peer challenge and self-assessment.

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Ministry of Justice

The role of the Ministry is to act as guardian and advocate for the national MCA strategy in respect of all areas outside of health and care. It is the government department with ultimate responsibility for the MCA.

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NHS England

The main aim of NHS England is to improve the health outcomes for people in England. We encourage patient and public participation in the NHS, treat them respectfully and put their interests first. This allows us to develop the insight to help us improve outcomes and guarantee no community is left behind or disadvantaged.

We empower and support clinical leaders at every level of the NHS through clinical commissioning groups (CCGs), networks and senates, in NHS England itself and in providers, helping them to make genuinely informed decisions, spend the taxpayers' money wisely and provide high quality services.

The role of NHS England on the MCA is to:

- develop MCA tools, levers and guidance for the commissioning system to facilitate best practice and compliance with the MCA
- Ensure services directly commissioned by NHS England are compliant with the MCA
- Assure ourselves that services commissioned locally by CCGs are compliant with the MCA

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NHS Confederation

The NHS Confederation is the membership body for all organisations that commission and provide NHS services. We are the only body to bring together and speak on behalf of the whole of the NHS.

The Confederation will support its members in their efforts to raise awareness and understanding of the MCA. We will use our networks to identify and disseminate best practice. We will use our influence to advocate for the benefits proper implementation can bring to patients.

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Office of the Public Guardian (OPG)

The role of the OPG in respect of mental capacity is to:

- Register Enduring Powers of Attorney (EPAs) and Lasting Powers of Attorney (LPAs)
- Supervise court appointed deputies
- Investigate both Attorneys and Deputies
- Keep a register of powers/court orders that can be searched by interested parties
- Provide a safeguarding hot line for people to report concerns in relation to deputies or attorneys
- Work with others across the MCA arena to ensure that safeguarding is taken forward in a co-ordinated manner
- Provision of guidance/information in relation to making an LPA and becoming a deputy
- Working with relevant bodies (such as the financial sector) to ensure that once a power is granted the attorney/deputy can use it as intended

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Public Health England (PHE)

Public Health England works to protect and improve the nation's health and wellbeing, and reduce health inequalities. PHE is responsible for making the public healthier by encouraging discussions, advising government and supporting action by local government, the NHS and other people and organisations. PHE supports the public so they can protect and improve their own health.

PHE will work to advocate for the importance of applying the MCA in the public health sphere. This will include ensuring that the needs of individuals who may lack capacity are closely considered when designing and implementing public health initiatives such as improved dementia care but also wider healthier living initiatives.

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Royal College of Psychiatrists (RCPsych)

The Royal College of Psychiatrists will advocate for the MCA among psychiatrists and seek to use the influence of psychiatrists in encouraging MCA-compliant practice among other professionals.

Specifically, the RCPsych provides the on-line training for Mental Health Assessors (Deprivation of Liberty Safeguards) and is working with the Department of Health on a revision and improvement of this training. The RCPsych chairs the AoMRC Working Group on the MCA. Furthermore, the RCPsych will work with the Law Society and Law Commission by providing clinical input and highlighting areas of difficulty with the MHA / MCA interface and use of the MCA / DoLS in general and psychiatric hospitals.

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Skills for Care

Skills for Care is the employer-led workforce development body for adult social care in England which is a growing sector that currently has around 17,000 employers and a workforce of around 1.5 million workers. Together, we work with employers and other partners to create a fit for purpose qualifications framework and practical resources to develop the skills, knowledge and leadership of the workforce. Our work helps our sector recruit and retain the right people who have the right skills at the right time to deliver high quality services to people who need care and support in our communities.

Skills for care have developed a range of materials to support MCA-centred practice and will continue to do so in support of front-line social care practice.

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Social Care Institute of Excellence (SCIE)

The Social Care Institute for Excellence (SCIE) improves the lives of people who use care services by sharing knowledge about what works. We are a leading improvement support agency and an independent charity working with adults', families' and children's care and support services across the UK. We also work closely with related services such as health care and housing.

SCIE provides guidance and toolkits to support improvement MCA implementation in social care. It will also host the national repository of MCA materials for the NHS and social care (this will be established following completion of a national call for materials).

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