

Mental capacity principles

Mental Capacity Act 2005 (England and Wales) and Adults with Incapacity (Scotland) Act 2000

These principles guide every decision made with or for someone who may not be able to make a particular decision for themselves. Always follow your organisation's policy and the relevant code of practice.

Mental Capacity Act 2005: the five principles (section 1)

1. **Assume capacity** unless it is established that the person lacks it.
2. **Support decision-making**: take all practicable steps to help the person decide before treating them as unable to.
3. **Unwise decisions**: a decision that seems unwise doesn't mean the person lacks capacity.
4. **Best interests**: anything done or decided for a person who lacks capacity must be in their best interests.
5. **Least restrictive option**: consider whether the purpose can be achieved in a way that restricts their rights and freedom less.

Adults with Incapacity (Scotland) Act 2000: the principles (section 1)

1. **Benefit**: an intervention must benefit the adult, and the benefit can't reasonably be achieved without it.
2. **Least restrictive option** in relation to the adult's freedom, consistent with the purpose.
3. **Wishes and feelings**: take account of the adult's present and past wishes and feelings.
4. **Consultation**: take account of the views of relevant others, such as the nearest relative, primary carer, guardian or attorney.
5. **Encourage skills**: encourage the adult to use their existing skills and develop new ones.

In practice

- Capacity is about a particular decision at the time it needs to be made.
- Give information in a way the person understands, at a good time and place.
- Record what was decided, who was involved and why.
- Ask your manager if you're unsure whether an assessment or best interests decision is needed.