

Mental Capacity Act for 16 and 17 year olds attending hospital – A guide for families

What is the Mental Capacity Act (MCA)?

The Mental Capacity Act (MCA) is a legal framework that empowers and protects patients aged 16 years and over.

In law, people over the age of 16 are presumed to have the capacity (legal ability) to make decisions about their medical treatment unless there is a known impairment or there are concerns about a person's behaviour, presentation or circumstances.

The Act also explains how medical decisions are made for adults and young people (16 and 17 years old) who cannot make decisions for themselves.

The law says that we must help people to make their own medical and treatment decisions wherever possible.

To be able to demonstrate capacity to do this, patients need to be able to:

- Understand the information being given to them in relation to a medical decision
- Remember the information long enough to make a decision about their treatment
- Use or weigh up the information provided by the doctor
- Communicate their decision in a way that can be understood by the doctor

If a patient is unable to do the above, the law states that they do not have the capacity to make the medical decision.

When a patient cannot make their own treatment decision, other people have to decide what is in their **best interest**.

There can be a number of people involved in making medical decisions for someone else. It depends on what the decision is.

The medical decision maker is the doctor. They will explain what the treatment is and how it can be provided. The doctor must take into account the views of everyone involved in the young person's welfare. This includes people with parental responsibility.

As a parent can I continue making decisions for my child after the age of 16?

At QVH we prefer to use the MCA framework because it makes the decision making process more transparent.

Children and young people under 16

The MCA does not apply to children under 16 years of age. A different approach is used.

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