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## CSAB MCA week of action: Day 3 Unwise Decisions

Cumberland Council sent this bulletin at 21-06-2023 08:00 AM BST

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The banner features the Cumbria Safeguarding Adults Board logo on the left, which includes a stylized 'X' made of blue and purple lines and the text "Cumbria Safeguarding Adults Board". In the center, the text "5 minute briefing" is written in large, bold, blue letters. Below this, a green horizontal bar contains a white Twitter icon and the handle "@cumbriasab". On the right side, there is a large, stylized 'X' made of blue and purple lines. The date "21st June 2023" is positioned at the bottom right of the banner.

Cumbria Safeguarding Adults Board

**5 minute briefing**

[@cumbriasab](#)

21st June 2023

**Principle 3: Individuals have the right to make unwise decisions**

Welcome to day 3 of our MCA week of action where today we will share information and resources relating to Principle 3: 'A person is not to be treated as unable to make a decision merely because he makes an unwise decision.' (section 1(4)) [Mental Capacity Act 2005 Code of Practice](#)

The Mental Capacity Act is designed to uphold and promote a person's rights. Therefore, if they are judged to have capacity to make a specific decision, then it is not our role to judge an individual's choices, even if we perceive them to be unwise.

Everybody has their own values, beliefs, preferences and attitudes. A person should not be assumed to lack the capacity to make a decision just because other people think their decision is unwise. This applies even if family members, friends or healthcare or social care staff are unhappy with a decision.

There may be cause for concern if somebody:

- repeatedly makes unwise decisions that put them at significant risk of harm or exploitation or
- makes a particular unwise decision that is obviously irrational or out of character.

These things do not necessarily mean that somebody lacks capacity. But there might be need for further investigation, taking into account the person's past decisions and choices. For example, have they developed a medical condition or disorder that is affecting their capacity to make particular decisions? Are they easily influenced by undue pressure? Or do they need more information to help them understand the consequences of the decision they are making?

The MCA Code of Practice (link above) also provides useful scenarios which can support learning and improve application of the MCA.

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## "Unwise decisions' and adults who use alcohol or substances



The Mental Capacity Act 2005 can apply to people who are alcohol dependent. However, research identified that, at times, these dependent drinkers may be wrongly viewed as having mental capacity, which places them at risk. This can relate to the mistaken view, that these people are making a 'lifestyle choice'.

The Act is clear: "A lack of capacity cannot be established merely by reference to... a condition of his, or an aspect of his behaviour, which might lead others to make unjustified assumptions about his capacity."

The question, therefore, is under what circumstances do chronic, highly vulnerable, dependent drinkers lack capacity to make key decisions about their care, treatment or living conditions? The Mental Capacity Act 2005 does not, as is sometimes suggested, give a right to make unwise decisions; however, it requires professionals to demonstrate that the person does not have capacity to take a decision at a particular point in time.

For more information you can read [A Quick Guide to.....Substance Misuse and Self Neglect](#)

### Alcohol and capacity

There are significant safeguarding risks, to adults who use substances for themselves and others. Without action, these people and those around them can experience serious dangers, including neglect, abuse, and untimely deaths. This group of people often requires more robust support, by using legal powers. Practitioners need to be aware of the legal frameworks and how the legislation, including the MCA can be applied to improve outcomes. Alcohol Change UK has published guidance for practitioners working with adults who use alcohol to support practice -

[How to use legal powers to safeguard highly vulnerable dependent drinkers in England and Wales](#)

## Alcohol related brain damage and capacity

Watch this '[in conversation](#)' recording with Alex Ruck Keene where he discusses the issue of alcohol related brain damage and the impact this can have on capacity. They also discuss when and why thinking about capacity to manage alcohol is actually useful in the abstract.

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## Self-Neglect & Mental Capacity

Learning from Safeguarding Adult Reviews locally and nationally indicate that in some cases professionals can be quick to assume capacity, respect autonomy assuming that it is a “it’s a lifestyle choice”. However, learning from SARs often indicates a lack of professional curiosity and that mental capacity and risk assessments are not robust.



You can read the learning from recently published local SARs on CSAB [website](#).

Practice with people who self neglect is more effective when practitioners demonstrate professional curiosity and keep constantly in view the question of the individuals mental capacity to make self-care decisions. You can view a [presentation](#) from Professor Michael Preston-Shoot at our recent Safeguarding Conference on 8<sup>th</sup> March 2023. The presentation uses real stories and experiences to remind practitioners of the need to consider and assess capacity when working with adults who self neglect and the importance of avoiding what is often referred to as a ‘lifestyle choice’.

For more information about self-neglect you can watch a '[lunch & learn](#)' recording and also refer to [CSAB self-neglect guidance](#).

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## Respecting unwise decisions - Raymond's story



People have the right to make decisions that others might think are unwise and should not automatically be labelled as lacking the capacity to make a decision. SCIE have published a short film depicting scenes in a domestic setting between an older man and his domiciliary care worker.

The film introduces the principles of the Mental Capacity Act in relation to a financial decision and portrays Raymond, a man in his 80s and recently diagnosed with dementia, and Wendy his paid care worker. The setting is Raymond’s flat. Wendy visits daily to provide Raymond with practical support to manage at home. The context of the drama is whether Raymond has capacity to make a decision about spending 50 pounds on lottery tickets.

Watch the film [here](#).

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## Join the lunch and learn session today: Principle 3 - Unwise decisions

Today's lunch and learn session will explore what is meant by the term “unwise decisions”. The session will commence at noon aiming to finish by 12:45pm. [Click here to join the session](#)

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## RESOURCES

CSAB are sharing learning resources for practitioners for personal development and can also be useful during team meetings and/or supervision sessions.

### CSAB MCA 'learning zone'

You can access a range of resources [here](#)



### Social Care Institute for Excellence

SCIE have produced a whole series of short learning videos for practitioners based on the 5 principles of the MCA. Watch [here](#)

### MCA easy read guide

You can access an MCA easy read guide and summary [here](#)

### Legal advice and guidance

39 Essex Street Chambers has developed an unrivalled set of resources for those seeking to apply and understand the Mental Capacity Act 2005, as well as to understand the place of mental capacity within the law more generally. There is a dedicated MCA section of the website which gathers together sets of resources which you can [access](#).

### Edge Training Ltd resources

There are a series of briefings and information sheets intended to support practitioners working with the MCA. This includes case law updates, guidance and templates find out more [here](#)

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## Get in touch!

For more information please contact us:

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