

Hummingbird Community Activities

Mental Capacity & Decision-Making Policy

Owner: Joanna Kusnierek

Organisation: Hummingbird Community Activities

Version: 1.0

Date: June 2026



1. Purpose

This policy sets out how Hummingbird Community Activities supports individuals with additional needs to make their own decisions, in line with the **Mental Capacity Act 2005 (MCA)** and associated Code of Practice.

The policy ensures that:

- Individuals are supported to make informed decisions wherever possible.
- Capacity is always assumed unless proven otherwise.
- Any decisions made on behalf of a person are lawful, necessary, and in their best interests.
- Rights, dignity, and independence are promoted at all times.

2. Scope

This policy applies to:

- All staff, volunteers, and contractors working for Hummingbird Community Activities.
- All individuals receiving support services, including those with learning disabilities, autism, acquired brain injury, mental health needs, or other conditions affecting decision-making ability.

3. Legal Framework

This policy is based on:

- Mental Capacity Act 2005 (England & Wales)
- Mental Capacity Act Code of Practice

- Human Rights Act 1998
- Care Act 2014 (where applicable)
- Equality Act 2010

4. Key Principles of the Mental Capacity Act

Staff must always apply the five statutory principles:

1. **Presumption of capacity**
Every adult has the right to make their own decisions unless proven otherwise.
2. **Right to support**
Individuals must be given all practical help before being judged unable to decide.
3. **Right to make unwise decisions**
A person is not lacking capacity just because others think their decision is unwise.
4. **Best interests**
Any decision made on behalf of a person must be in their best interests.
5. **Least restrictive option**
Any intervention must restrict rights and freedom as little as possible.

5. Understanding Mental Capacity

Mental capacity refers to a person's ability to:

- Understand information relevant to a decision
- Retain that information long enough to decide
- Weigh up the information to make a choice
- Communicate their decision (by any means)

Capacity is:

- **Decision-specific** (different decisions = different capacity levels)
- **Time-specific** (capacity can change over time)

6. Supporting Decision-Making

Hummingbird Community Activities will support individuals by:

- Using plain language and easy-read materials
- Providing visual aids, symbols, or communication tools
- Offering extra time for understanding and responses
- Involving trusted family members, advocates, or professionals where appropriate
- Choosing the best time and environment for discussions
- Checking understanding in a respectful way

Support must always be tailored to the individual's communication needs.

7. Assessing Capacity

Where there is concern about a person's ability to make a specific decision, staff must follow the two-stage test:

Stage 1: Diagnostic Test

Is there an impairment or disturbance in the functioning of the mind or brain?

Stage 2: Functional Test

Does the impairment mean the person is unable to:

- Understand information?
- Retain information?
- Use or weigh information?
- Communicate their decision?

A formal capacity assessment should be recorded when:

- There is a significant decision (e.g. finances, consent, health-related choices)
- There is doubt about capacity after reasonable support has been provided

8. Best Interests Decision-Making

If a person lacks capacity for a specific decision, any decision made on their behalf must:

- Consider the person's past and present wishes
- Take into account beliefs, values, and cultural background
- Involve family, carers, or advocates where appropriate
- Consider all available options
- Choose the least restrictive option

Staff must never make decisions based on convenience or assumptions.

9. Independent Advocacy

Where appropriate, individuals should be supported to access:

- Independent Mental Capacity Advocate (IMCA)
- Family or informal advocates

- Professional advocacy services

Advocacy must be offered when:

- There is no appropriate family or representative
- The decision is serious (e.g. accommodation, serious medical treatment)

10. Consent

Consent must always be:

- Informed
- Voluntary
- Given by a person with capacity

If capacity is lacking, consent must be obtained via best interests decision-making.

Staff must never assume consent.

11. Record Keeping

All capacity-related decisions must be clearly documented, including:

- Reason for concern
- Support provided to assist decision-making
- Outcome of capacity assessment
- Best interests decision process (if applicable)
- Who was consulted

Records must be:

- Accurate
- Timely
- Stored securely in line with GDPR

12. Safeguarding

Where lack of capacity may expose a person to risk of harm, staff must follow safeguarding procedures immediately.

This includes:

- Reporting concerns to the Designated Safeguarding Lead

- Contacting social services if required
- Acting to protect the individual's safety

13. Staff Responsibilities

All staff must:

- Complete training on the Mental Capacity Act
- Apply this policy in daily practice
- Respect individual rights and choices
- Escalate concerns appropriately
- Work collaboratively with professionals and families

Managers must ensure:

- Staff are trained and competent
- Capacity assessments are properly recorded
- Policy compliance is monitored

14. Review

This policy will be reviewed annually or earlier if:

- Legislation changes
- Regulatory requirements change
- Service needs require updates

15. Approval

Owner: Joanna Kusnierek

Organisation: Hummingbird Community Activities

Date: 20/06/2026