

Mental Capacity & Decision-Making Policy

J&V Activity Buddies

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Organisation: J&V Activity Buddies

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1. Policy Statement

J&V Activity Buddies is committed to promoting the rights, dignity, independence, and well-being of all individuals we support. We recognise that some people may have difficulty making certain decisions due to learning disabilities, autism, brain injury, mental health conditions, or other additional needs.

This policy is based on the **Mental Capacity Act 2005 (MCA)** and its five statutory principles. We ensure that all decisions are made in a way that is lawful, person-centred, and least restrictive.

2. Purpose of the Policy

This policy ensures that staff:

- Understand and apply the principles of mental capacity
- Support individuals to make their own decisions wherever possible
- Assess capacity appropriately when needed
- Make “best interests” decisions only when necessary
- Respect legal rights and safeguard vulnerable individuals

3. Legal Framework

This policy is based on:

- Mental Capacity Act 2005 (England and Wales)
- Mental Capacity Act Code of Practice
- Human Rights Act 1998
- Care Act 2014 (where safeguarding duties apply)

4. The Five Key Principles of the Mental Capacity Act

Staff must always follow these principles:

1. **Presumption of capacity** – Every adult has the right to make their own decisions unless proven otherwise.
2. **Support to make decisions** – All practicable steps must be taken to help a person decide.
3. **Right to make unwise decisions** – People cannot be treated as lacking capacity just because others disagree with their choices.
4. **Best interests** – Any decision made on behalf of someone lacking capacity must be in their best interests.
5. **Least restrictive option** – Any action taken must restrict the person's rights and freedoms as little as possible.

5. Supporting Decision-Making

Staff will:

- Use clear, simple language
- Use visual aids, objects, gestures, or communication tools
- Choose appropriate timing and environment
- Involve family, advocates, or carers where appropriate
- Allow sufficient time for understanding and response
- Record all support offered

6. Assessing Mental Capacity

Capacity is:

- Decision-specific
- Time-specific

A person is considered to lack capacity only if they are unable to:

1. Understand relevant information
2. Retain that information long enough
3. Use or weigh that information in decision-making
4. Communicate their decision (by any means)

Staff must always assume capacity unless there is clear evidence otherwise.

7. Best Interests Decision-Making

If a person lacks capacity, any decision made must:

- Consider the person's wishes, feelings, values, and beliefs
- Involve the person as much as possible
- Consult family members, carers, or advocates
- Consider past and present wishes
- Avoid assumptions based on age, appearance, or diagnosis
- Choose the least restrictive option available

A written record of best interest decisions must be completed.

8. Consent

- Consent must be obtained before any support or activity is provided
- Consent must be informed, voluntary, and ongoing
- If capacity is lacking, best interests principles apply

9. Independent Advocacy

Where appropriate, J&V Activity Buddies will support access to:

- Independent Mental Capacity Advocates (IMCA)
- Family advocates or nominated persons
- Other communication support services

10. Safeguarding and Risk

Where there is concern about risk of harm:

- Safeguarding procedures will be followed immediately
- Decisions will balance safety and individual rights
- Restrictions will only be used as a last resort and must be lawful and proportionate

11. Staff Responsibilities

All staff must:

- Complete training on Mental Capacity Act principles
- Apply this policy in all relevant situations

- Record decisions clearly and accurately
- Report concerns to management or safeguarding leads
- Respect dignity, choice, and independence at all times

Managers must ensure:

- Staff are trained and competent
- Policies are implemented consistently
- Capacity assessments and best interest decisions are reviewed

12. Record Keeping

Records must include:

- Reason for capacity assessment
- Steps taken to support decision-making
- Outcome of assessment
- Best interest decision rationale (if applicable)
- Names of those consulted

All records must be stored securely in line with GDPR.

13. Complaints

Individuals or representatives can raise concerns through:

- J&V Activity Buddies complaints procedure
- Advocacy services
- Local authority safeguarding teams (if required)

14. Policy Review

This policy will be reviewed annually or sooner if:

- Legislation changes
- Guidance is updated
- A serious incident or safeguarding concern occurs