



Resource impact statement

Resource impact

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This guideline covers decision-making in people aged 16 years and over who may lack capacity now or in the future. It aims to help health and social care practitioners support people to make their own decisions where they have the capacity to do so. It also helps practitioners to keep people who lack capacity at the centre of the decision-making process.

The guideline resulted from:

- The Care Quality Commission identifying serious issues with the practical implementation of the Mental Capacity Act (MCA), 2005.
- This was subsequently reported on by a House of Lords Select Committee in 2014, adding further momentum towards the need for improvement in practice.
- It is within this context that the Department of Health commissioned NICE to produce the [decision-making and mental capacity guideline](#) for people aged 16 years and older.

The guideline supports the MCA, 2005, and its code of practice.

The challenges to implementation which may have a resource impact depending on current local services are:

- Access to independent advocacy (MCA, 2005; Mental Health Act, 2007; Care Act, 2014). This is affected by a range of factors including a shortage of well-trained advocates, uncertainty (among commissioners, public bodies, practitioners and people who use services) around advocacy and the different types of advocacy, practitioners being unaware of the duty to refer for advocacy and advocacy services being under-resourced and in high demand (commissioned by local authorities).
- Ensuring a greater focus on supporting decision-making.
- Ensuring a workforce is well-trained and well-developed in supporting decision-making and implementing the MCA.
- Cost of re-training staff on the concept of supporting decision-making and the emphasise on advance care planning.

The resource impact does not result directly from the guideline as it reflects existing legislation and associated codes of practice.

Implementing legislation properly and involving people appropriately may reduce the risk of challenge to decision-making and may reduce costs associated with this.

Services where people may need support with decision-making activities are commissioned by local authorities, NHS England and clinical commissioning groups. Providers are health and social care practitioners, independent advocates and practitioners working in services (including housing, education, employment, police, immigration and criminal justice).