

Mental Capacity Act and Young People

A one day course

At what age is a person deemed to be able to make decisions about their own healthcare, treatment and wider care? What is the law in relation to under 16s and how is it different for young people over that age? What role do the so called Gillick competences play and how do we determine whether any young person (irrespective of age) is able to make decisions for themselves and if so which decisions? Whose responsibility is this? This course explores the decision making framework offered by the Mental Capacity Act (for over 16s) and the Gillick competences for the under 16s. As well we look at key case law relating to capacity assessment and best interests decision making as well as the fundamental human rights basis for the law. The course will challenge the myths, assumptions and misconceptions around the issues of consent, capacity assessments and best interests for those aged both under and over 16 faced by practitioners every day.

Staff working in services that serve both under and over 16s are required to be familiar with two different set of rules and know when and in what circumstances they should be applied. They need also to be familiar with the rights of parents and guardians and any limits on their responsibilities. By the end of the course delegates should be clearer about the rights of young people, the responsibilities of those caring for them and who the decision maker is in respect of a particular matter. The course will address how to undertake a capacity assessment and how a best interests decision should be determined. We will compare and contrast the law for each age group. Every element of the course will be framed in the context of best practice, research, court rulings and government guidelines.

Who is it for? The course is designed for anyone who works directly with young people in both the pre and post aged 16 groups whether qualified or unqualified or working in the voluntary or statutory sectors. This may include staff such as healthcare practitioners and staff, social workers, care managers, support workers, advocates and young persons' safeguarding teams.

Timetable (may be subject to amendment)

Session 1 The MCA, Gillick competencies and young people – introduction/overview
Create agenda board
Reflective practice sheets
The human rights framework - Right to liberty and the right to family life
The purpose of the MCA and its key principles

Session 2 The Gillick competencies
The decision maker and their role
Frameworks for assessing capacity and best interests determination

Session 3 Roles of parents, attorneys and advocates
Relevant case law including:
CC and KK and STCC

Session 4 Deprivation of liberty under the MCA
Revisit agenda board
Sources of further information
Discussion and questions
Case study

Learning Outcomes

On completion of this course, participants will be able to:

- Understand the consent framework for both pre and post 16 year olds
- understand how to determine capacity and make a best interests decision
- interpret and apply the principles of the MCA
- understand the similarities and differences between the rules for both age groups
- apply the relevant case law
- understand the rights of the young person as well as those of their parents and guardians

Training Techniques

Taught, group exercises/case studies, Q&A