

Mental Capacity Act and Tenancy Agreements

A one day course

If a vulnerable person is deemed capable of living fairly independently (say in supported living accommodation) but lacks the capacity to sign a tenancy agreement as they do not have the ability to understand its implications who can sign the agreement? How do we determine whether the person has the capacity and whose responsibility is it? This course explores the decision making framework offered by the Mental Capacity Act as well as key case law relating to capacity assessment and best interests decision making. We will also examine the Court of Protection procedure that applies in the event of potential tenants lacking capacity. The course will challenge the myths, assumptions and misconceptions around the issues of consent, capacity assessments and best interests.

By the end of the course delegates should be clearer about the rights of potential tenants, who is the decision maker and when the Court of Protection should be engaged. 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 vulnerable people who may be under consideration for any form of independent, but supported, living which involves the signing of a tenancy agreement whether qualified or unqualified or working in the voluntary or statutory sectors. This may include staff such as housing officers, social workers, care managers, support workers, housing association staff, potential landlords, advocates and service commissioners.

- Session 1** The MCA and tenancy agreements – introduction and overview
Create agenda board
Reflective practice sheets
Human rights framework - the right to liberty and the right to family life
The purpose of the MCA and its key principles
- Session 2** The decision maker and their role
Frameworks for assessing capacity and best interests determination
- Session 3** Role of attorneys and advocates
Relevant case law including:
- *AH and Hertfordshire Partnership NHS Foundation and Ealing PCT*
 - *CC and KK and STCC*

Session 4 Court of Protection procedure
Revisit agenda board
Sources of further information
Discussion and questions
Case study

Learning Outcomes

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

- determine whether a potential tenant has the capacity to sign a tenancy agreement
- understand how to make a best interests decision on behalf of the potential tenant
- apply the Court of Protection procedure
- apply the relevant case law to such circumstances
- understand the rights of the potential tenant
- understand the relationship between public policy and the best interests of the individual