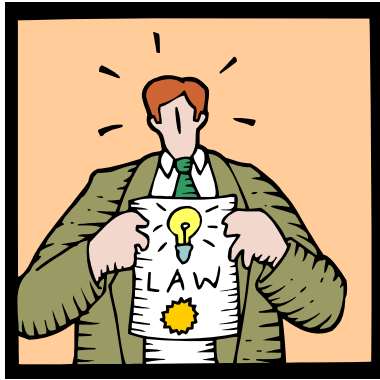
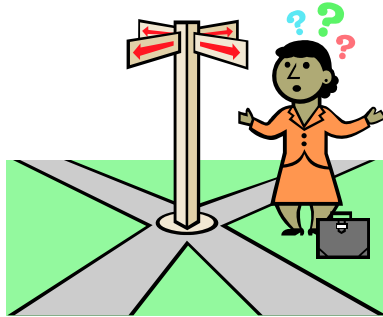


# Simon Blackburn





# Mental Capacity Act 2005



and making  
decisions



about your  
money



banks



saving



spending



food



bills



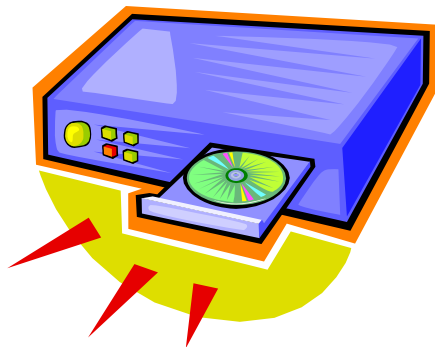
gifts



house



holiday



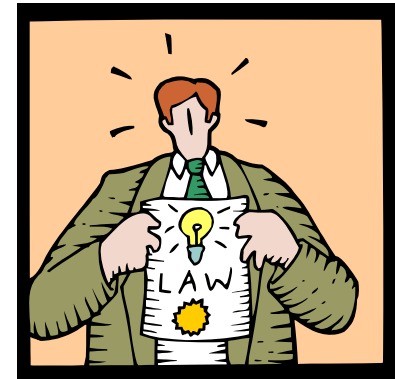
music

What decisions do  
you make about  
your money?

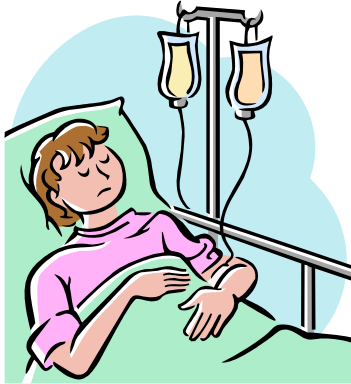


# Mental Capacity Act

- The Mental Capacity Act is a law passed by the Government.
- It says you should be able to make a decision unless someone can prove that you can't.



# The Mental Capacity Act



treatment



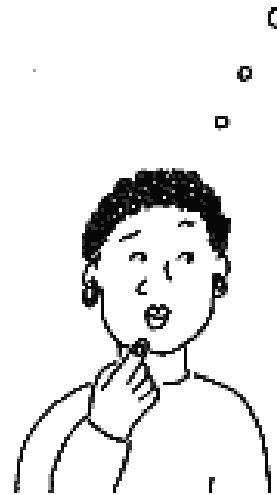
moving home



money

# Capacity

Means being  
able to make  
decisions



# Support to make decisions

When people have to make important decision, they get the right support to do this.



# Making decisions for others

Sometimes you may not be able to make a decision because you do not understand or you are not feeling well.



# Making decisions for others

If this happens  
then people  
around you will  
make a decision  
for you.



# Being fair

So;

when you are supported to make decisions,

OR, when someone has to make a decision for you,

the Act makes sure that this is done fairly by using five rules.

# The five rules

1: Believe a person has capacity unless proved otherwise.



# The five rules

2: Do not treat people as if they are unable to make a decision, unless every effort has been made to help them make the decision for themselves.



# The five rules

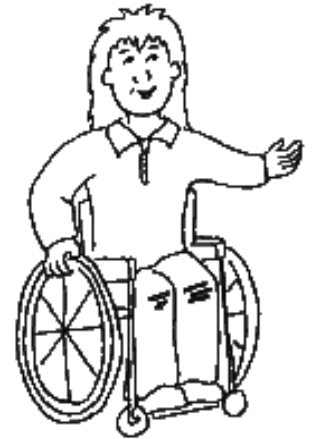
3: A person should not be treated as being unable of making a decision just because someone else thinks it is the wrong decision, (an unwise decision)



# The five rules

4: If someone has to make a decision for you, they must make sure the decision is the best one for you.

This is called a best interest decision.



# The five rules

5: When someone makes a decision for you, they must try to avoid restricting your life as much as possible.



# 3 examples



Julie



Aled



Eva

# Julie



Julie is 25 years old. She lives on her own and gets support. She wants to open a bank account but needs help to do this.

# Aled



Aled lives with his friends John and Mike. This year he wants to go on holiday on his own. It will cost a lot of money. He is not sure if he should and wants support to decide.

# Eva

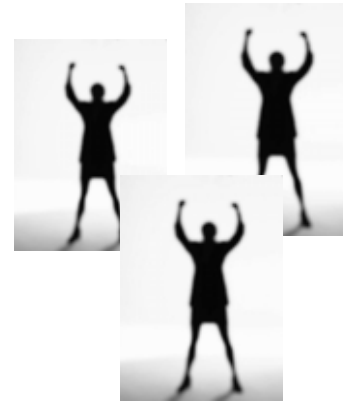
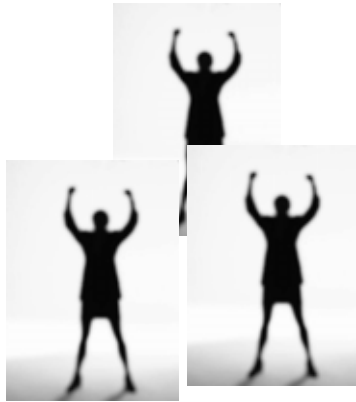


Every day Eva makes decisions about how she leads her life. She is not always able to understand enough to make decisions to do with her money.

Someone needs to make some decisions for her about where to save her money.



# Three groups



1. What things would you do to help Julia, Aled and Eva understand the decision they have to make about their money?

2. How would you help and/or involve them in making a decision?



# Sources

- Mental Capacity Act 2005; Implications for people with learning disabilities. BILD
- [www.publicguardian.gov.uk](http://www.publicguardian.gov.uk) for information about the Court of Protection
- [www.legislation.gov.uk/ukpga/2005/9/contents](http://www.legislation.gov.uk/ukpga/2005/9/contents) for information about the Mental Capacity Act
- [wales.gov.uk/topics/health/nhswales/healthservice/mentalhealthservices/mentalcapacityact](http://wales.gov.uk/topics/health/nhswales/healthservice/mentalhealthservices/mentalcapacityact)

Thank you.

The end.

# Capacity Test

- Is there an impairment of, or disturbance in, the functioning of the person's mind or brain?
- Is the impairment or disturbance sufficient that the person lacks the capacity to make that particular decision?

# Capacity Test contd..

A person is unable to make a decision for himself if he is unable:

- to understand the information relevant to the decision
- to retain that information
- to use or weigh that information, or
- to communicate his decision

# Capacity Test contd..

- Does the person have general understanding of what the decision is and why they are being asked to make it?
- Do they understand the consequences of making, or not making, the decision?
- Are they able to understand the information relevant to the decision?
- Can they assess the relative importance of the information?
- Can they use the information as part of the decision making process?

# The Mental Capacity Act

- **capacity**
- **best interests**
- **advance decisions**
- **independent mental capacity advocates (IMCAs)**
- **lasting powers of attorney (LPAs)**
- **Court of Protection,**

# Advance decisions

- **A decision made by somebody when they have capacity to refuse treatment once they have lost that capacity. The Act clarifies the law and makes an important change.**
- **Advance decisions can be made orally and they can be altered or withdrawn orally. The person making the decision must be over 18 years old. The treatment being refused must be specified; for example, a statement giving a general desire not to be treated is not enough to make the decision valid.**
- **The main change in the Act is that refusal of life-sustaining treatment must be in writing, containing a statement that it applies even if life is at risk, signed by the patient and witnessed.**

# IMCA's

- **An IMCA must be instructed and consulted for patients lacking capacity who have no family or friends to support them whenever an NHS body is proposing to provide serious medical treatment, or an NHS body or local authority is proposing to arrange or change accommodation in hospital or a care home, and the person will stay in hospital longer than 28 days or in a care home for more than eight weeks.**

# Lasting Power of Attorney

- A person can appoint someone who they know and trust to make decisions on their behalf for a time when they lack capacity. The LPA must be made when the individual has capacity, and comes into force when the individual lacks capacity.
- 1. The **Properties and Affairs LPA** covers issues of finances and decisions regarding the property of the person.
- 2. The **Personal Welfare LPA** is a new way for an individual to appoint someone to make health and welfare decisions on their behalf at a time when they think they might lack capacity.

# Court of Protection Deputy

- The Court of Protection can appoint a Deputy to make decisions for a mentally incapable person where a series of decisions are required.
- The appointment must be in the “best interests” of that person
- The Deputy will have a duty to:
- Allow that person to make their own decisions wherever possible
- To act in their “Best Interests”
- There are two types of Deputy:
  - One to deal with Property and Affairs
  - One to deal with Personal Welfare issues

# Department of Work and Pensions Appointee

- A person may choose to appoint someone they trust to manage their money for them; e.g. bank account, bills etc.