

Mental Capacity Assessments

Guide for professionals

Do you know how to support adults with communication difficulties?



If you were in a foreign country where you didn't speak the language or only spoke a few words...

Would you feel confident to make a complicated decision?

Would you want someone to make an important decision for you because you couldn't communicate your choice?

This is what life can feel like for an adult with a communication difficulty.

What help would you want?

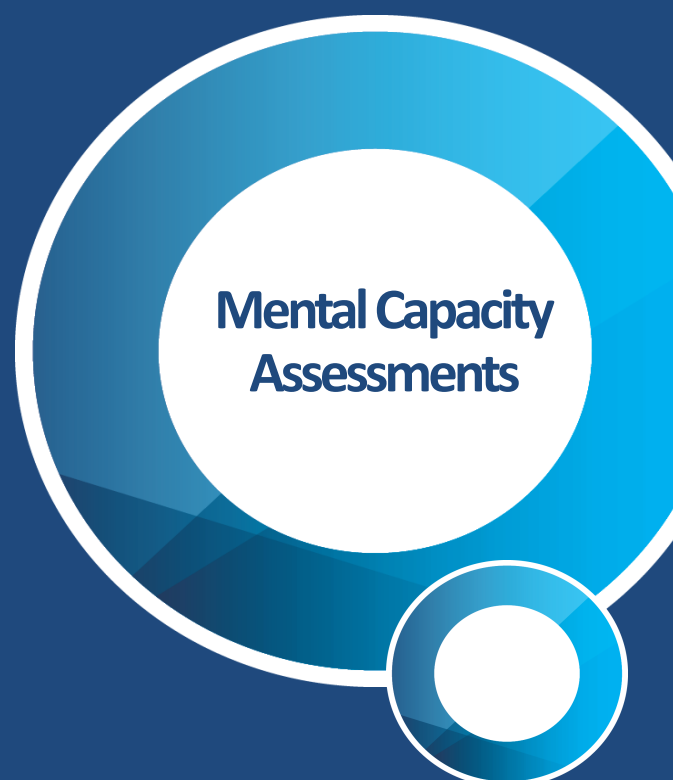


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Introduction

Overview of the Mental Capacity Act

What is The Mental Capacity Act?

The Mental Capacity Act is concerned with the ability of people to **make their own decisions**, and supports the process of decision making.

The Mental Capacity Act is principally about **empowerment** of people by supporting them with decision making, or providing adequate and appropriate support whereby assistance is needed for decision making. The Mental Capacity Act went live in 2007. It is based on the Human Rights Act of 1998. The Act is to be used with persons of 16 years or older in England or Wales. It is to be used with those who may have difficulty or need support with decision making and this includes people with learning disabilities, mental health problems, or other diagnoses which may impact on decision making skills (including communication).

The Act informs and directs the person carrying out the Mental Capacity Assessment with regards to:

- How to support a person to make their own decisions.
- How to establish if a person is able to make their own decisions about particular things.
- What to do if a person is unable (lacks capacity) to make a decision.

A Mental Capacity Assessment (MCA) considers a person's ability to **make an informed decision**. It is a process of making sure that the person is provided with **as much support possible** to make an informed decision. If a person lacks capacity for one decision it does not mean they lack capacity for other decisions.

A Mental Capacity Assessment is not a blanket judgement about a person's ability across all of their decisions. It is decision specific. Each MCA must detail what particular decision is being assessed, such as 'moving house', 'going for an operation', 'taking medication' etc.



"The Mental Capacity Act essentially protects my freedom and my dignity"

Larry Gardiner
Social Care Institute and Excellence (2016)



The Mental Capacity Act can be used to clarify whether a person has capacity in reference to a particular decision.

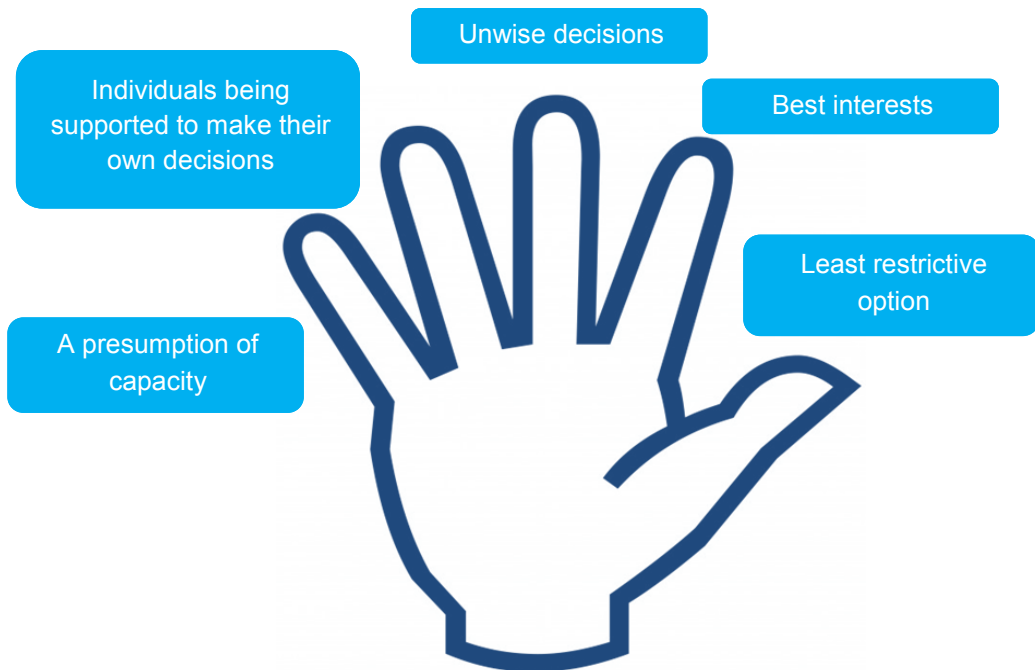


"It's about being able to support vulnerable people and their families."

Sue Jardine
Social Care Institute and Excellence (2016)



It is important throughout to remember the **5 key principles**. Each finger on your hand represents one of the principles:



“ This guide will focus on will
Key principle 2: Individuals being supported to make their own decisions ”

The 5 Principles

- 1 A presumption of capacity**

You should always begin by presuming the person has capacity when making a decision. Where capacity is called in to doubt, it is necessary to prove otherwise.
- 2 Individuals being supported to make their own decisions**

The person should be given as much practical support to make a decision as possible. The person should be encouraged to make a decision. If a person is found to lack capacity it is still important to involve them throughout the process as much as possible.
- 3 Unwise decisions**

The person should be allowed to make a decision even if it is unwise and you do not agree with their decision. Everyone should be able to make a decision. Everyone has their own values, preferences and beliefs which may not be the same as those held by others.
- 4 Best Interests**

If a decision is made on behalf of another person it must be done in consideration of their best interests and in consultation with others who know the person well. 'What would the person want?'
- 5 Least restrictive option**

If you do make a best interests decision, this should be the least restrictive option. It should not interfere with the person's freedom and right to act. It will be specific to the person and the situation.

Information collated from: Mental Capacity Act- Easy Read Summary from Department of Health and <http://www.scie.org.uk/mca/introduction/mental-capacity-act-2005-at-a-glance>

What is the role of Speech and Language Therapy in a Mental Capacity Assessment?

- The Speech and Language Therapist (SLT) as a **decision maker**. This is appropriate where the decision concerns Speech and Language Therapy expertise such as dysphagia (Swallowing difficulties) or communication aid options.
- The SLT as an **advisor**. Where the SLT is familiar with the client and can advise the decision maker on how to optimise the decision making process. This can include how to create and use accessible information, use of symbols, use other visuals etc.
- The SLT as an **educator or trainer**. The SLT can support other professionals through training or provision of aids to enable communication during an assessment. This can include how to adapt and use accessible information, visual aids, Social stories, Talking Mats or Makaton signing (more information on these later in the document).

An SLT may take on one or more of these roles during a Mental Capacity Assessment.

The decision maker should be the most qualified person to assess mental capacity regarding the type of decision to be made. For example if the decision is regarding funding for housing, then a social worker would likely be the most appropriate person to be the decision maker. Alternatively, if the decision was regarding whether to have an operation or not, then a doctor or consultant would be the most suitable decision maker.

How to complete a Mental Capacity Assessment using this Resource Pack

Steps to complete an MCA	Support available in this pack
<p>Understand the person’s communication</p> <ul style="list-style-type: none"> • Get to know the person’s strengths and areas of need 	<p>Gathering information (page 12) Communication screens (page 14 –15 & 55-55) Communication profile (page 21-24 & 57-60)</p>
<p>Plan the MCA</p> <ul style="list-style-type: none"> • Choose the questions you want to ask 	<p>Plan the MCA guidance (page 25)</p>
<p>Select and create/access resources</p>	<p>Accessing resources (page 26) Choosing and creating accessible information/resources (page 27-35) Example resources (page 37-47)</p>
<p>Familiarisation and Education</p> <ul style="list-style-type: none"> • Introduce the person to the resources you will be using to support communication if these are new to the person • Provide information on the decision to be made in an accessible format so that the person has time to understand and consider their options before the assessment. <p><i>(be careful not to give biased information that could influence a decision)</i></p>	<p>Familiarisation with resources (page 36)</p>
<p>Conduct the Mental Capacity Assessment</p>	<p>Checklist for the day of the MCA (page 51 & 61)</p>

Section 1:



**Preparing for the
Mental Capacity Assessment**

Part One: Understanding a Person's Communication

To gain an understanding of a person's communication, there are a number of steps to consider. This section will guide you through the steps required to understand a person's communication, including informal screening tools for your use.

1. **Part One** demonstrates the **gathering of relevant information** to aid communication, such as who should be involved, what is the best time for them, what is the best environment for them, a case history and what is the decision to be made.
2. **Part Two** presents an informal **screen to indicate how many 'Keywords'** a person can understand. A Keyword level is the number of words the person is able to understand within an instruction.
3. **Part Three** presents an informal **screen to indicate a person's understanding of visual information** (symbolic understanding).
4. **Part Four** presents a flowchart demonstrating the considerations to be made about a person's communication.
5. **Part Five** shows a **Communication Profile** that can be used to **collate all this information**. This can be used as **evidence for the MCA**.

Remember be **holistic**
and **involve the person**
throughout the process!



Gathering Information



Timing

What time of day is best for the person? How long might the person be able to engage in the session? Consider the appropriate time-frame from introducing the topic (preparing for the MCA) to carrying out the MCA

Will delaying the decision help the person make the decision independently?



Environment

What is the most suitable environment(s) to carry out preparation and conduction of the MCA – this might include the person's home, day centre or work-place. Also, the person may benefit from visits to places relevant to the decision, such as the hospital or new house.



Case History

Has the person previously been seen by an SLT? If so, what are the recommendations regarding their communication?

Also ask family members and others about the person's communication. Do they have any other health conditions such as vision/hearing/sensory needs?



People to involve

Who knows the person best? Who best facilitates the person's communication? (these might not be the same person, for example a person's parent may know them best, but an established carer may have better day to day communication with the person).

Who are the most appropriate people to involve in the MCA process e.g. other professionals? Is an IMCA needed?



What will the decision be?

Be clear about the decision focus of the particular MCA

BE SPECIFIC

This will help with deciding what kinds of communication support may be needed.

Gathering Information

What is the best time of day?

- Is the person more alert or more able to engage in the morning, afternoon or evening?
- People with dementia are sometimes prone to confusion in the evenings due to 'Sundowning'.
- Some people with a brain injury or a stroke may be fatigued by the afternoon.
- Some people may dislike being seen in the morning as it may disrupt their routine.
- Some people may have periods of increased or reduced alertness due to medication cycles.

Who are the most appropriate people to provide/ offer support?

- Parents/Family/Partner?
- The person's keyworker?
- The person's carer?
- A family friend?

Consider carrying out more than one visit to complete the assessment:

- If the person is not feeling well, consider rearranging the appointment.
- Some people may have fleeting attention, so several short sessions may be more appropriate.

A familiar environment is likely to be the most suitable place:

- Their own home
- Their day centre
- At a friend's home or the family home

Consider the person's vision:

- Do they need glasses?
- Do they have any visual difficulties such as cataracts or glaucoma?
- Remember that the person may be registered blind but this does not mean they have no vision at all. Check the extent and nature of their vision difficulties.

Consider the person's hearing:

- Do they have a hearing aid?
- Does their hearing aid work? Is it switched on? Does it have working batteries?
- Remember that a hearing aid in one ear may signify this is the ear with better hearing. The other ear may or may not have complete loss of hearing.
- Check if the person with a hearing difficulty needs an interpreter. The person may be a British Sign Language (BSL) user or may be able to lip-read. Referral for further help to assess with these aspects might be appropriate.

Consider any sensory needs:

- People have various sensory needs. Some people may be over or under sensitive to sensory information.
- People with autism and people with dementia may be over/under sensitive to noise, smell, vision, touch, body awareness and movement.
- They may need sensory aids to be comfortable and to be able to pay attention, such as a weighted jacket, an object to fidget with, special seating, and ear protectors. Advice from Occupational Therapy (OT) can be sought.

Part Two:

How to test for a person's 'Keyword' Level Understanding

A Keyword level is the number of words the person is able to understand within an instruction.

The tool overleaf indicates how many keywords a person can understand when situational cues are removed.

Situational cues refer to the use of context to deduce meaning, for example 'Do you want a tea?' and pointing to the cup - this sentence requires no keyword understanding as the situational cue of pointing at the cup allows the person to infer your meaning from the accompanying gesture. It is important to test how many keywords a person can understand, as they may mask difficulties understanding spoken language by relying on these situational and contextual cues.

Think of it as being abroad and not knowing the language. Despite not knowing the language, people's cues, facial expression, gesture and pointing can help you to understand. Context can also help your understanding.

Appendix 1 contains a blank version of the keyword screening tool for your use.

Keyword' Screening Tool

(Adapted from the Derbyshire Rapid Screen Test)

Name:

Date:

Completed by:

Instructions

Throughout this test remember:

- Don't accidentally look at the objects you are asking them for.
- Don't put the objects in the order you are asking for.
- Once given the object put it back in the same position before asking the next question.
- Try not to accidentally use your tone of voice to indicate the object you want.
- Be as neutral as possible throughout.

Objects needed:

Cup, spoon, book, fork, knife, pencil, plate and a box (shoe box would suffice)

Note: you can substitute the objects suggested here for objects which are familiar or meaningful to the person.

Testing 1 word keyword level understanding

1. Use the cup, spoon and book
2. Place them in front of the person
3. **Say or say and sign 'Give me the _____'**
4. **Say or say and sign 'Give me the _____'**
5. Replace the objects with knife, plate and pencil
6. Place them in front of the person
7. **Say or say and sign 'Give me the _____'**

Did they get 2 out of 3 correct?

Yes/No

If yes, this is an indicator they can understand at a **one keyword level**.

Testing 2 keyword level understanding

1. Use the box, plate, spoon, knife and cup
2. **Say and sign 'Point to the spoon and cup'**
3. **Say and sign 'Point to the knife and the box'**
4. **Say and sign 'Point to the cup and plate'**

Did they get 2 out of 3 correct?

Yes/No

If yes, this is an indicator they can understand at a **two keyword level**.

Testing 3 keyword level understanding

1. Use the box, plate, spoon, knife, cup and book
2. **Say and sign 'Put the knife under the plate'**
3. **Say and sign 'Put the book on the cup'**
4. **Say and sign 'Put the spoon under the box'**

Did they get 2 out of 3 correct?

Yes/No

If yes, this is an indicator they can understand at a **three keyword level**.

Summary

Tick the level/s at which they have demonstrated understanding:

1 keyword level	2 keyword level	3 keyword level

Part Three:

How to screen for a person’s understanding of visual information

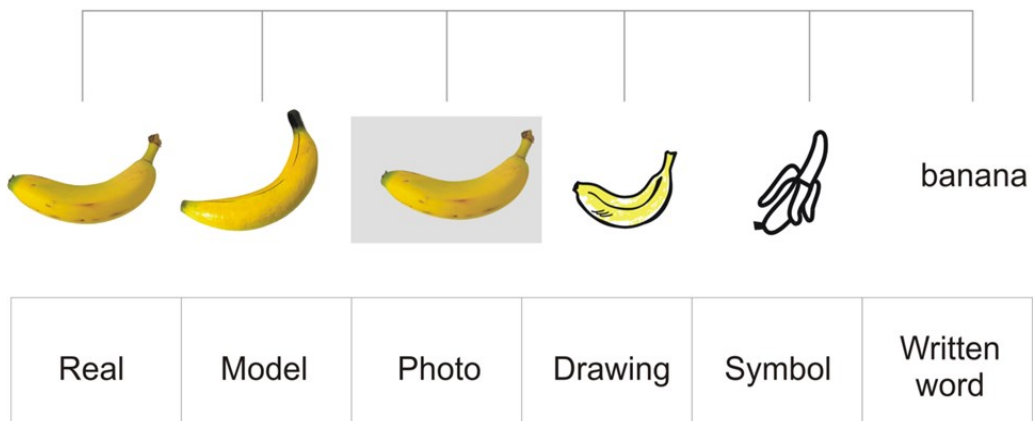
Background

Developing an awareness of the best ways for someone to understand visual information is very useful. Visual information may include writing, formalised black and white line drawings (symbols), formalised coloured line drawings (coloured symbols), a colour photograph, a model or the actual object. It is important to know what they can **understand** and what **their preferences** are. Once you know what the person is able to understand, you can consider using a combination of options.

The more abstract the visual information is, the harder it is to understand, as shown below. The real object is easiest to understand, then a model (such as a miniature version or a toy), then a photograph, then a drawing, then a symbol, then the written word. Speech and Language Therapists call this ‘**Symbolic understanding**’.

Picture to explain Symbolic Understanding

Easy representation → More difficult representation



**The tool tests the person's level of symbolic understanding
e.g. Do they understand pictures better than symbols?
Do they prefer using objects to aid understanding?**

Prior to and during an MCA, it is useful to develop an awareness of a person's level of symbolic understanding. Be aware that if a person demonstrates an understanding of black and white symbols, it does not mean they understand all black and white symbols.

It is important to note that some symbols represent abstract concepts (things you cannot see, smell, touch, taste, hear and feel, such as ideas) and it is not immediately obvious what they represent. Prior learning about and familiarisation with the symbols to be used is necessary. This would be done as part of the preparation process.

The tool

The tool informally assesses a person's understanding of the following formats:

- An actual object
- A colour photo of the object
- A colour picture symbol
- A black & white symbol

All together you should collect **6 different sets**:

6 objects, 6 photos, 6 colour symbols, 6 black and white symbols

(A pack of objects/photos/symbols for the tool is available to borrow from the SLT department.)

It may be more appropriate to select objects which are meaningful to the individual. These may include household objects. A family member or carer can offer support and information regarding this.

In this circumstance, the local Speech and Language Therapy team may be able to provide the relevant symbols.

See the next page for an example of the tool.

Appendix 2 contains a blank tool for understanding visual information, for your use.

Example of screening tool for understanding of visual information

Adapted from Symbolic Development Screening Toolkit by Clare Mander

Name: Jeremy Beagle

Date:

17/09/18

Completed by: Mary Ainsworth- Social Worker

Screening steps:

1. Start with the real objects.
 - Present 3 objects
 - Ask the person to identify the objects one at time e.g. 'Point to the.....' 'Give me the' Or 'Show me the.....'
 - If they are unable to do this, try again with 2 objects
 - If they are able pick the correct one then continue with the other objects.
2. Continue this same process for the coloured photographs.
3. Continue this same process for the coloured drawings/symbols.
4. Continue this same process for the black and white drawings/symbols.

	Toothbrush	Knife	Spoon	Plate	Cup	Pen
Object	✓	✓	✓	✓	✓	✓
Coloured Photograph	✓	✓	✓	✓	✓	✗
Coloured drawing/symbol	✓	✓	✗	✗	✓	✗
Black and White drawing/symbol	✗	✗	✗	✗	✗	✗

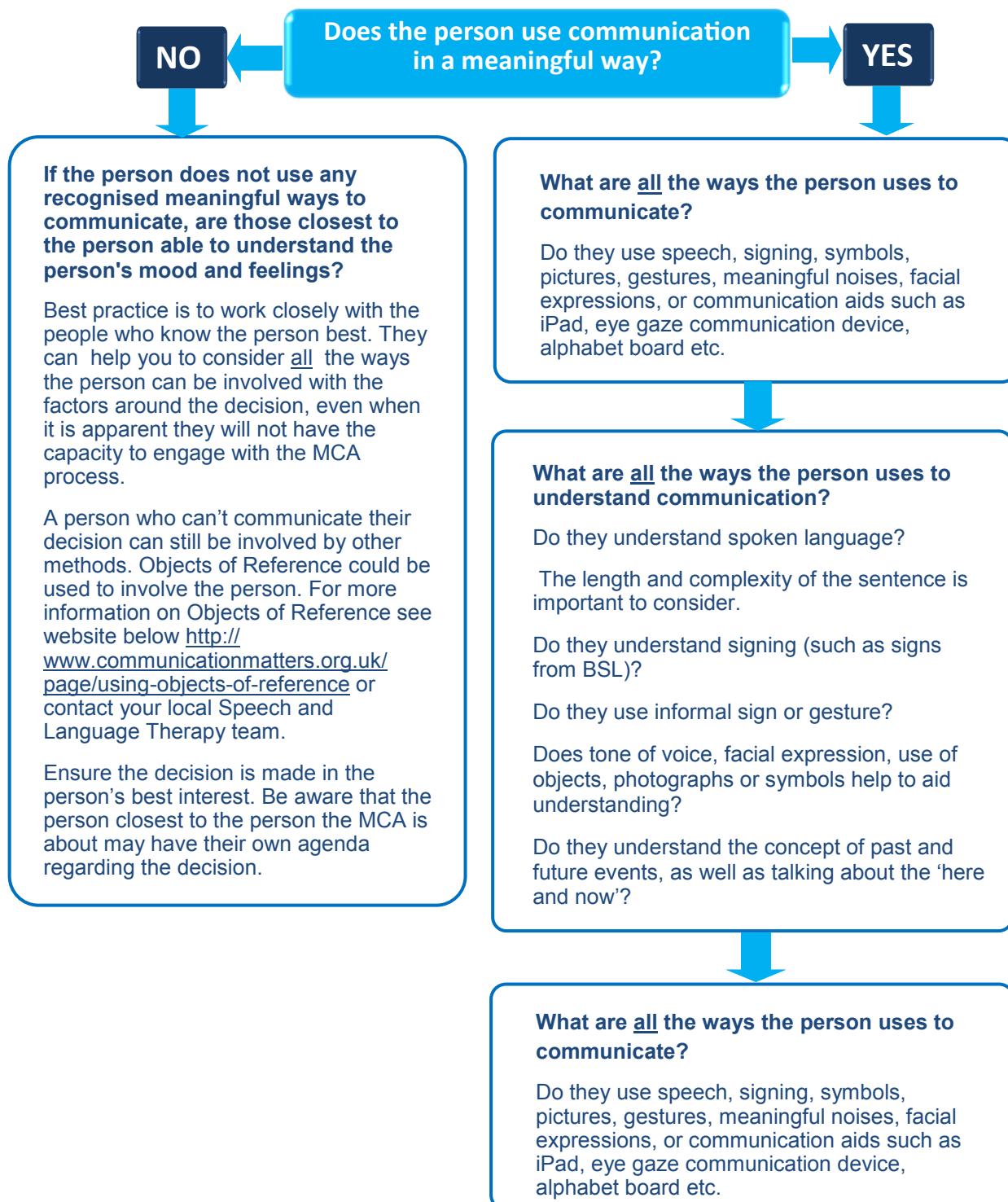
Comments:

Jeremy said 'Pencil' when he pointed at the pen photograph. Jeremy was inconsistent with coloured symbols. He seemed to be pointing at random. It seems best to use objects and photos with Jeremy. He likes the photographs; he smiles more at these and his carer says he looks through photos in his room alone.

Part Four:

Flowchart : Considerations about a person's communication

The person should be involved in every aspect of the process, regardless of the outcome of the MCA!



Another way to consider a person's communication is the **Means, Reasons and Opportunities (MRO) Model**

See the appendix 3 for more information with examples of how to fill it in.

Part Five:

A communication profile

A communication profile can be used to summarise all the information regarding the person's communication.

It can be used to document evidence of steps taken to involve the person and how communication supports have been used.

When preparing a profile, be as thorough and detailed as possible, making sure that what you write reflects the person.

The local Speech and Language Therapy team can provide advice or support if needed.

An example completed profile is shown overleaf. Appendix 4 contains a blank communication profile form for your use.

Communication profile

Name:

D.O.B: 20 / 05 / 1988

Date: 18 / 07 / 2017

Completed by: Social Worker- Cathryn Iso

Have they been seen by Speech and Language Therapy previously?

Yes []

No []

Who are the people that are close to the person and who can help and support with communication?






Patrick's Mum- Mandy

.....

Tick their Keyword level of understanding:

1 Keyword Level	2 Keyword Level	3 Keyword Level
✓	✓	✓

Tick which one/s can they understand:

					banana
real	object	photo	picture	symbol	text
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Do they have a:

- Hearing Impairment** [] **Visual Impairment** []
Physical Disability [] **Sensory Needs** []

Other (Describe briefly)


Patrick has diagnoses of autism, asthma and hay fever.






What are their attention and listening skills?






He can pay attention when there are no distractions. Had an hour long session and could pay attention when environment was quiet.

Please give a brief description of the person’s understanding.

Patrick’s Mum said that he can understand most things and can understand speech on the whole. He sometimes gets confused when someone is joking, being sarcastic or using ‘flowery language’. Patrick’s mum suggests that simple language is best for him. She said that he doesn’t understand idioms. She gave the examples of ‘I’m up to my neck in it’ and ‘You’re driving me up the wall’.

Communication Strategies Used	Tick/ Cross	Please add further comments
<p>Speech (Do they use speech: single words/ sentences?)</p>		<p>Patrick speaks in sentences. When tired or stressed Patrick speaks just in one word replies.</p>

Communication Strategies Used	Tick/ Cross	Please add further comments
<p>Vocalisations (Do they make sounds to express their wants? In what contexts?)</p>		<p>Patrick speaks in sentences. When tired or stressed Patrick speaks just in one word replies.</p>
<p>Gesture and Body Language (This can include pointing, head pointing)</p>		<p>Patrick starts tapping his foot when bored. Patrick's mum said that when he gets angry he starts to pick his skin off his nails.</p>
<p>Facial Expression</p>		<p>He has a fairly blank facial expression. Patrick's mum said this is usual for him and when he is really happy he smiles and when he is upset he shows no difference in his facial expression.</p>
<p>Objects (What objects? What are they used for? Do they use Objects of Reference?)</p>		
<p>Photographs (Coloured? What size roughly?)</p>		<p>Patrick likes to look at pictures. He likes them to be colour and likes them to be A5 size or above.</p>

Communication Strategies Used	Tick/ Cross	Please add further comments
<p>Symbols (What symbol set if any? Black and white symbols? Coloured Symbols? What size roughly?)</p>		
<p>Signs (Are these formal (such as Makaton, Signalong, BSL or informal signs?)</p>		
<p>Communication Aids (iPad- if so what app? Do they use eye gaze, Lightwriter, alphabet board, communication board etc?)</p>		
<p>Drawing/Writing</p>		<p>He likes to draw and is a keen fan of comic books. He likes to draw what he means when he can't express himself.</p> <p>He has a comic book that he made about what he likes and dislikes.</p>
<p>Other</p>		<p>He likes to show his comic book about what he likes and dislikes to new people. It includes the information that he doesn't like it when people raise their eyebrows and he doesn't like it when people tap.</p>

Plan the Assessment

Before beginning the Mental Capacity Assessment, it is useful to plan what questions you are going to ask **and** what answers you could expect to receive.

What is the threshold that the person needs to meet to show that they have capacity?

Remember, the person does not need to be an expert on the subject matter – they do not need to know as much as the professionals in the room. They only need to demonstrate that they know enough to make an independent, informed decision.

The Mental Capacity Assessment will be much more focused and accurate if the team conducting the assessment has an agreement in advance of exactly what questions are to be asked and what responses they will accept as evidence of capacity.

You may find it useful to plan your questions in a format such as the following:

Question	How the question should be presented	Threshold response	Actual Response
How much money do you need to pay for your weekly food shop?	Picture of full shopping trolley Pictures of money (notes and coins)	Within a £15 margin of the value of their typical weekly shop	

Once you have created the questions, use your understanding of the person's communication (in their Communication Profile) to consider the following:

- What support does the person need to understand the questions?
- How do you expect them to communicate their response? What resources should you make available to them?

Knowing this information early on will help you to decide what resources you need to create or gather.

Go on to the next section 'Creating Resources' for information on how to choose the right resources and where to access them.



When you consent to an operation, the doctor doesn't expect you to be able to name all of the organs and tools involved at each stage of the surgery...

What would he expect you to know?



Creating communication resources

Introduction to creating communication resources

Best practice is to create communication resources that are individually made for the person. This may include creating easy read summaries of information, including photographs, symbols and objects or creating/using a video or audio file to aid understanding. This would be based on the knowledge already gathered and recorded on the person's communication profile.



Involve the person, or someone who knows the person well in creating the resource.

It may be beneficial to create resources in a few different modes to aid a person's understanding and expression.

- Adapting written information to make it more accessible
- Adapting verbal information to make it more accessible
- Introduction to and top tips for using symbols
- Introduction to using objects and photographs
- Introduction to using signing and gesture
- Familiarisation of resources
- Example Resources and Information
 - a. Specialist: Talking mats
 - b. Specialist: Social stories
 - c. Accessible information using symbols and simple written language
 - d. Accessible information using photographs and simple written language
 - e. Using photographs to explain about moving house

Creating accessible written information

Here are some tips on making written information accessible. Look below for online guidelines for comprehensive guidance.

- **Keep the language simple.** Don't use complex language or jargon unless necessary.
- When using **jargon** explain the term. You could include a **glossary**.
- **Simplify the message and use short sentences.** Keep in mind the target audience and appropriate language use.
- **Explain abbreviations.**
- **Use easy punctuation** such as full stops and commas. Try not to use semi-colons, hyphens and colons.
- Have a **simple layout**. Don't have lots of information on the page.
- An example of an accessible layout is to use images in the left column with written text to the right.
- **Use images** such as photographs, symbols and drawings. Make sure that they are clear and only represent one concept.
- **Use large font** (at least size 14)
- Don't use *italics* or underline
- **Use bold** to highlight keywords.
- **Use a clear font.** Easier to read fonts include: Arial, Avant Garde, Comic Sans, Tahoma and Verdana.
- **Use good quality paper.** Transparency of a lower quality paper can affect legibility.
- **Use a contrast** such as black font on a cream colour or pale yellow background/paper.
- **Keep to 1 idea per sentence to keep it simple.**
- Put the information in a **logical sequence and where relevant in chronological order.**
- **Try not to use negatives** such as 'Don't'. E.g. 'Don't forget to take medication' and changing it to 'Remember to take your medication'.
- **Use names or people, places and objects** throughout, instead of pronoun words such as He, She, It, His, Their etc.
- **Limit the use of symbols to only what is needed.** For example for 'Take medication regularly' just use a medication picture/symbol.

Making information more accessible

Organisations that provide NHS care and/or adult social care are legally required to follow the Accessible Information Standard (2016). This is a legal requirement to make sure information is accessible for everyone. This may include providing braille, audio, enlarged text or simplified language in documents.

This link provides more information on this standard:

<https://www.england.nhs.uk/ourwork/accessibleinfo/>

Some useful websites and resources for more information on making things easy read or accessible are:

- 'How to make Information more Accessible' by Change People
 - <http://www.changepeople.org/getmedia/923a6399-c13f-418c-bb29-051413f7e3a3/How-to-make-info-accessible-guide-2016-Final>
- 'Making written information easier to understand for people with learning disabilities' by the Department for Health
 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/215923/dh_121927.pdf
- 'Am I making myself clear?' By MENCAP
 - <http://www.easy-read-online.co.uk/media/10609/making-myself-clear.pdf>
- 'How to make Easy Read information' by Barnet Council
 - [https://www.barnet.gov.uk/dam/jcr:dda2a7b5-7394-4ce8-b703-8e1c1ca6d272/Making%20information%20easy%20read%20-%20FINAL%20Feb2016%20update%20\(2\).pdf](https://www.barnet.gov.uk/dam/jcr:dda2a7b5-7394-4ce8-b703-8e1c1ca6d272/Making%20information%20easy%20read%20-%20FINAL%20Feb2016%20update%20(2).pdf)
 - <http://www.bild.org.uk/resources/easy-read-information/>

The website links were up to date as of 11/07/17.

How to make verbal information more accessible

When preparing to conduct an MCA, the topic is often outside the person's routine and daily life and can be quite abstract such as how they receive money or where to live.

Here are some brief tips to make sure you are being as clear as you can when talking to the person:

- When talking about abstract concepts (such as Social Care funding), explain it in the simplest way possible. Ensure that the person understands the key concepts at each stage. You could use images alongside speech to show the sequence of how something happens.

For example:

If a person is receiving their money from a health care fund, firstly check if they understand this. If they don't understand, explain the concept using examples **that they are already familiar with or break down the concept into manageable parts. You could show the process of funding using pictures/drawings/diagrams alongside your explanation.**

- **Use simple clear sentences**, check the person understands at each stage and explain difficult terms or use simpler vocabulary.
- Give the person plenty of time to process the information and respond.
- Use as much visual and gestural support as necessary. **Pictures and photographs can help a person's understanding even if they speak and appear to understand. Visual support is a concrete 'reminder' of the topic of discussion.**

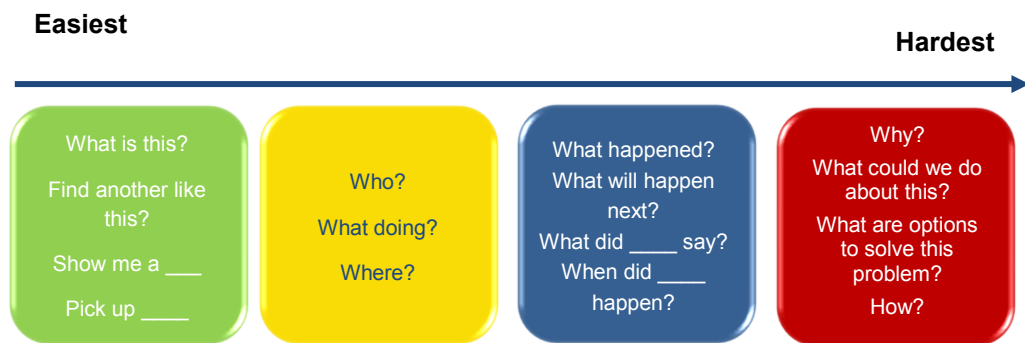


TOP TIP

Some people may be verbal but visual support can help them better understand and express themselves



- Be aware that a person may say they have understood when they have not. Check the person has understood in different ways. You could question them directly or ask them to explain verbally or with pictures. Some people may have a basic understanding, but are not able to grasp the whole concept.
- Prepare the questions you wish to use in the MCA in advance. Re-wording a question on the spot can be tricky.
- Some types of questions are more accessible than others. Below is a diagram to show the progression from the easiest questions to the hardest questions. You can make questions more accessible by re-wording them.



Adapted from Blank Levels by Elkan. The colours match the Blank Levels.
See Elkan for further information: <https://elklantraining.worldsecuringsystems.com/>

Examples of adapting questions to be more accessible:

'Why do you think you should move house?'

This could be broken down, and re-phrased into simpler questions such as:

'Where do you live at the moment?'

'What do you like about living here?'

'Who do you live with at the moment?'

'What would be good about finding a different place to live?'

'What would be bad about finding a different place to live?'

Introduction to using symbols

Symbols can be used with people to aid their understanding and expression.

Does the person already use symbols for communication? Could use of symbols assist with the person's understanding?

A person should have a good level of symbolic understanding to be able to understand symbols. The level of complexity of symbols a person understands will vary. For example, a person may be able to understand a symbol for a food item, but not necessarily for an abstract concept such as 'more'.

A person who already uses symbols may be familiar with a particular 'style' of symbols (symbol set). Common symbol sets include:

- **Picture Communication System (PCS)**
These symbols are included on Board maker software
For further information and examples:
<http://www.mayer-johnson.com/category/symbols-and-photos>
- **Makaton symbol set**
For further information and examples:
<https://www.makaton.org/>
- **Widgit symbol set**
For further information and examples:
<https://www.widgit.com/>

Be aware that symbols are licensed products so you may have to check that there is a licence in place to use certain copyright symbols.

The Speech and Language Therapy Service for Adults with Learning Disability may be able to supply symbols for use in an individual MCA. Please contact the department on 01206 745445 to discuss.



TOP TIP

Use the items that appeal to the individual to prepare for the MCA such as movies that talk about the topic (such as moving house), use Lego, use play dough, use books, use video clips and use drawing!



Top tips for symbol use

- When creating sentences be sure to only represent key words with the symbols. Such as:

I like it when people **help** me with my **communication**.

Only the parts in bold will need a symbol to be understood. Not every part of the sentence will need a symbol. This can be adapted to the individual. Some may need more or fewer symbols to aid them.

- Ensure that the person is already familiar with the symbols you wish to use.
- Keep in mind there may not be an exact symbol for each concept you wish to represent. You may have to be creative, for example use 'tooth' + 'pain' to represent 'toothache'.
- Keep in mind that some symbols are easier to understand than others e.g. 'cat' may be easy to represent, but a concept such as 'more' is harder to represent. This is because the person will need to know the symbol to understand it, as the concept of 'more' is an abstract concept compared to 'cat' which is a concrete object.
- Keep in mind, use of text to accompany a symbol may or may not be supportive to the person.

Introduction to using objects and photographs

Objects and photographs are easier for a person to understand than drawings or symbols. See the diagram explaining this. Real objects are easiest to understand, then a model object, then a colour photo and so on.

You can use objects to check a person's understanding. For example if you are talking about money, using the actual coins/notes can be more helpful in aiding understanding than a picture of money.

“

BE CREATIVE!

You can use photographs, objects and drawing alongside your speech to aid the person's expression and understanding

”



Photographs can also be used to aid understanding. These can include a photograph of the person, places they go, their own home, their family and their friends to aid their expression and understanding.

Top tips for objects and photographs

If you are using objects:

- Use appropriate objects. Choose objects that will show what you would like to communicate.
- For example if you are talking about moving house with a person you could use a toy house or a Lego house if they understand models, or show them the actual house if they understood objects.
- Another example could be if you are talking about medication, use the medication they would take.
- Ensure that you are using objects that the person will respond to. Ask them if they like the objects or ask others who know the person well for advice.
- For example if talking about moving house and you wanted to use a key to explain this, check that they understand what a key means. For example, some people with a learning disability may have never had to use a key so may not understand that this means home.

If you are using photographs:

- Use a large enough size for them to see.
- Use a plain background (if possible).
- Make sure that the picture isn't too busy and includes what you want to show. Minimise distractions such as backgrounds or other things which aren't relevant in the photograph.
- If possible, use an actual photo of what you want to discuss, so for example, if talking about a person, include their actual photo. If it's about moving house, show the actual house in the photograph so that it is more real for the person.
- Only use the person in a photograph if the focus of the photograph is about the person. For example, if you discussing moving house and are showing the person their home, do not include the person in the photograph as they may become distracted and focus on themselves in the photograph.
- Ensure you gain consent if you are using a photograph of a person.

Introduction to using signing and gesture

Signing

Some people may use signing exclusively or in conjunction with other forms of communication. The signs used are usually taken from British Sign Language (BSL). Both Signalong and Makaton use signs from BSL and have been developed to support the communication of adults and children with communication difficulties and in particular those with learning disabilities.



Many people with a learning disability have learned signs and use them in Makaton or Signalong to aid expression and understanding. Makaton and Signalong are multi-modal vocabulary programmes using signs and speech. If you are unfamiliar with the language someone is using, ask for support from a person who is familiar with the client or enlist support from an interpreter. This could include a BSL interpreter or a Makaton qualified practitioner. Some people have created their own unique (idiosyncratic) signs, therefore it is essential to understand how they use these signs to communicate.

Gesture

Informal use of gesture may also inform someone's communication. People naturally use gesture such as 'Do you want a drink?' People may mime drinking from a cup. Intuitive gesture can support people's communication, so keep this in mind when communicating.



TOP TIP

Use non-verbal and verbal ways to communicate!
Ask others who know the person well about how they communicate, such as a non-verbal client who may use gesture to show they are not happy about something. This may only be apparent to those who know the person well.



Familiarisation with created resources

Familiarisation with the communication resources prior to conducting the MCA is beneficial.

A period of familiarisation is advisable and this should be tailored to the individual and the communication resource. It may be better to do this over a number of weeks, days, hours or sessions. Meet with the person on more than one occasion, in a place they feel comfortable. Their increased familiarity with you is also helpful, helping to build rapport and enabling you to get to know the person better and how they communicate best.

An example is to familiarise the person with any photographs, pictures and symbols that you intend to use. Make sure the person understands these and adapt them to suit their needs.

Ensure that carers or family members who they feel comfortable with are present if it helps them feel more at ease, or if it would support with their communication.

Before meeting with the client and their family/carers ensure that a discussion is held regarding the family/carers' role within the MCA. Ensure that you explain that you want to talk to the person directly and that the family's role is to help with communication when requested. Be sensitive to the likelihood that the family have a good understanding of the person. They are probably trying to do what is best for the person by talking for them. However, you want the family/carers to facilitate the communication and reduce the tendency for the family/carers to talk for the person. This is to ensure the person can be supported to communicate their decision themselves.

Example Resources and Information

General

- An accessible document that uses symbols and written text
- An accessible document that uses photographs and written text
- Using photographs to explain about moving house


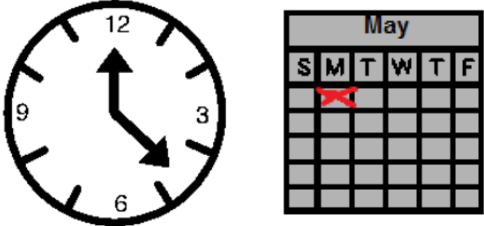


Specialist






(To be used by someone who is familiar or trained to use these resources)

- Talking Mats
- Social Stories

An accessible document that uses symbols and written text

About the Dentist

	<p>You have been asked to go to the Dentist</p>
	<p>This will be at 4pm on Monday 1st May 2017.</p>
	<p>There is a waiting room for you to sit in</p>
	<p>The dentist will remove a tooth</p>

	<p>The dentist will numb your mouth with anaesthesia so it won't hurt</p>
	<p>Then you can have a drink</p>
	<p>Your mouth may hurt a little afterwards</p>
	<p>You may be able take painkillers to make the pain better. Someone can support with this.</p>
	<p>Your mouth will be healthier.</p>

An accessible document that uses pictures and written text

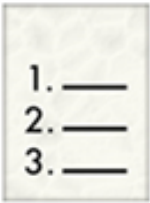



What happens in a Mental Capacity Assessment (MCA)?



Name:



Date:

	<p>A MCA is called a Mental Capacity Assessment</p>
	<p>It will see whether I need help to make choices</p>
	<p>It may be choices of where to live</p>
	<p>It may be choices about money</p>

What happens in a Mental Capacity Assessment (MCA)?



Name:



Date:

	<p>It may be choices about my health</p>
	<p>My social worker will come to see me</p>
	<p>My social worker may show me pictures</p>
	<p>My social worker may ask me questions</p>

What happens in a Mental Capacity Assessment (MCA)?



Name:



Date:

	<p>It is ok to say I don't know</p>
	<p>People special to me can come and help</p>
	<p>My social worker will talk to me about whether I need help with my choices</p>
	<p>The social worker will send a letter</p>
	<p>Someone can help me read this</p>

Example of how to use photographs to explain about moving house



This represents a photo of the person's current home



This represents a photo of the person's previous home



This represents a photograph of the person. Use a photograph of the person with their consent.



This represents a photograph of a person's carer. Use a photograph of the person with their consent.



This represents a photograph of the person's housemate. Use a photograph of the person with their consent.



This represents a photograph of a person's family. Use a photograph of the person with their consent.

“

You can prepare someone for an MCA by showing the person the photos over a number of occasions. Familiarisation with the photos and the idea of moving house is recommended. Introducing the concept of moving to a new house by referring to an experience they have had before (moving house previously) is helpful.

Showing pictures of the people the person currently lives with to see if they understand the concept of where they live. It can also prepare them if they are moving away from these people e.g. moving away from family to another home.

A potentially effective and meaningful way to demonstrate the move would be to place the photograph of the person alongside their current home, and then physically move the photo of them and place it next to the new home.

”

Talking Mats

Talking Mats is a specialist resource. It is a tool to help people on their journey of decision making. It is a visual framework that uses picture symbols to help people with a communication difficulty to communicate more effectively. Talking Mats should be used by a professional who is familiar with this tool, alternatively, the professional can liaise with a Speech and Language Therapist for clarification on using the approach.

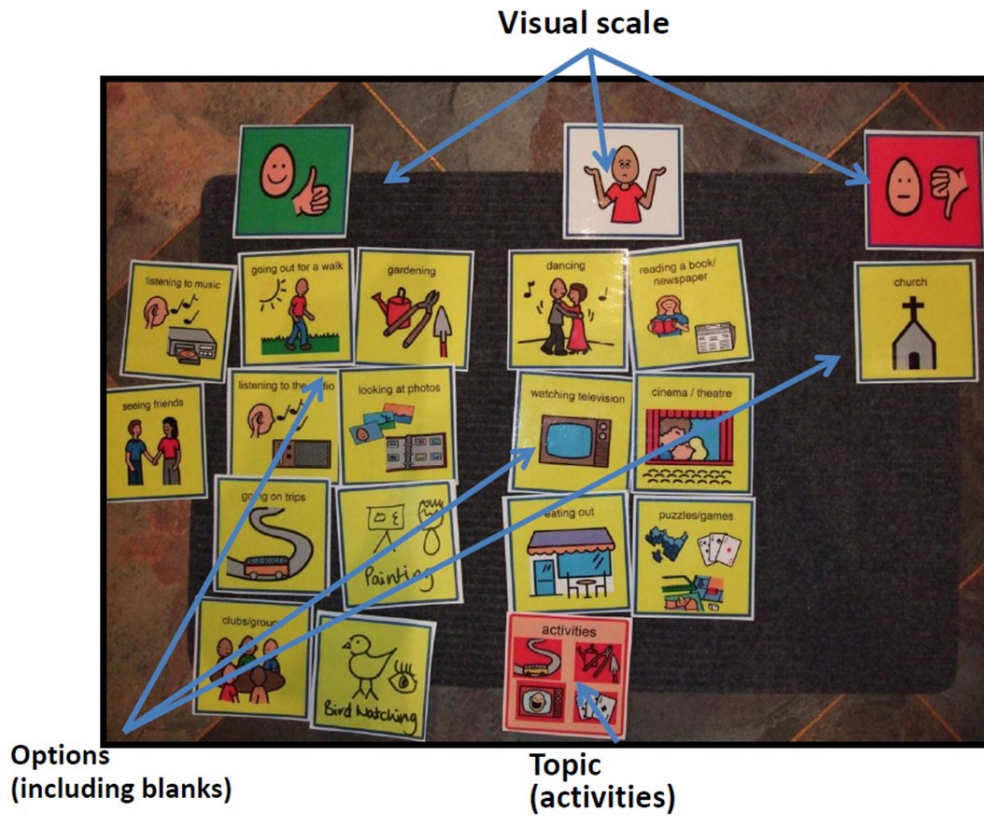
The Talking Mat is a large board with a 'visual scale' at the top. This can be adapted, but commonly, the visual scale includes 'yes', 'maybe' and 'no', or alternatively 'like', 'don't know' and 'don't like'. Individual pictures are handed to the person **for them to place** one by one below the visual scale (thus indicating their response to that picture/ symbol). Talking Mats recommends that symbols/pictures should be 5cm with colour coded borders to define each topic (e.g. animals, activities etc).

Talking Mats are appropriate for people who demonstrate two or more keyword level of understanding. Please refer to the communication profile you have created to identify the person's keyword understanding.

For more information about Talking mats, visit <http://www.talkingmats.com/>

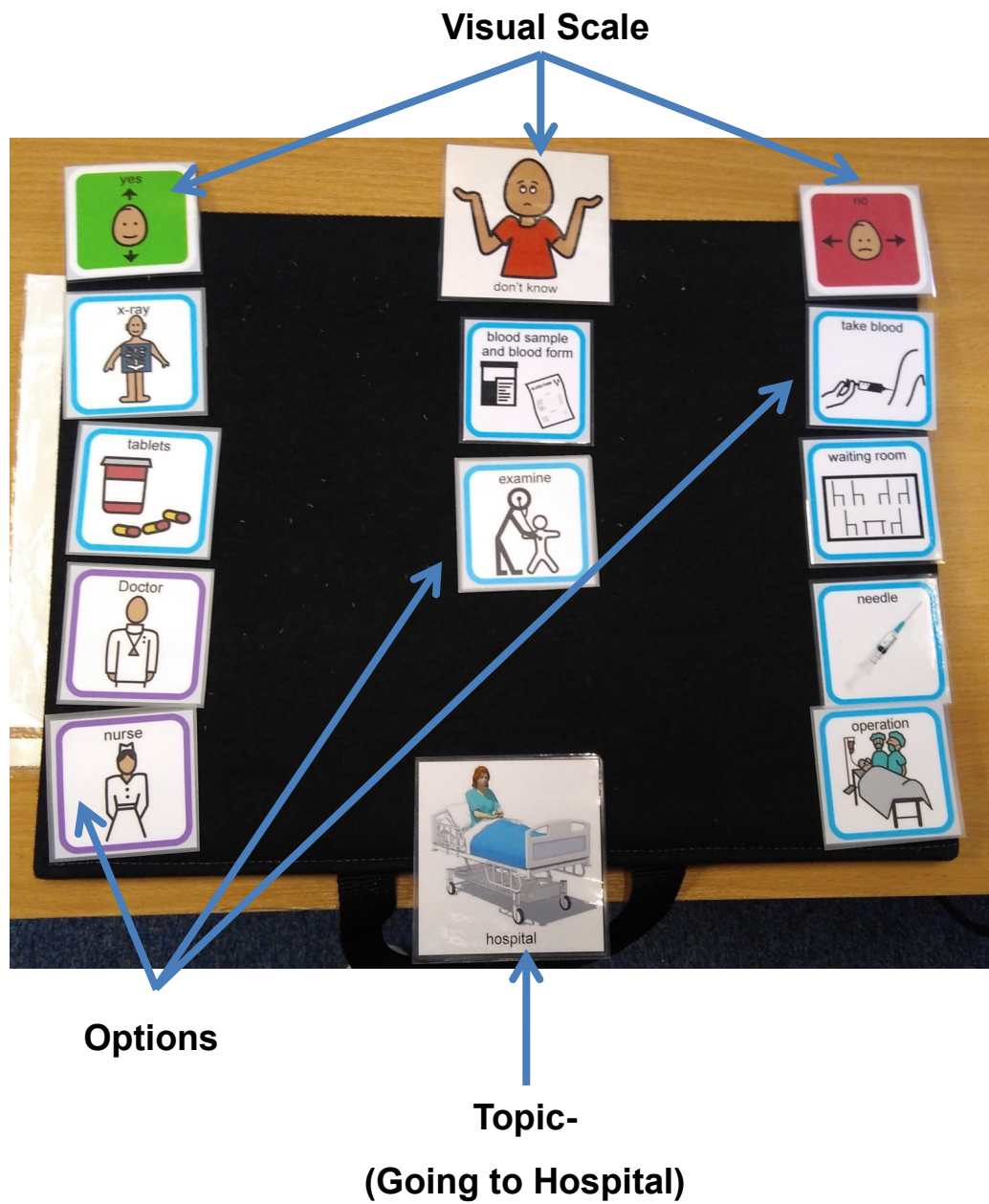
TalkingMats 

Example of a Talking Mat for deciding what activities the person likes and dislikes.



© Talking Mats Ltd. 2012

Example of a Talking Mat for discussing what the person is at ease about when they go to hospital.





“**A Social Story** accurately describes a context, skill, achievement or concept according to 10 defining criteria. These criteria guide Story research, development, and implementation to ensure an overall patient and supportive quality and a format, “voice”, content and learning experience that is descriptive, meaningful, and physically, socially, and emotionally safe for the child, adolescent, or adult with autism.”

Examples of a social story include going to the dentist, moving house, financial decisions, how to behave in public, or what will happen with a hospital procedure. Social stories were primarily created for people with Autism but can be used with other people as well.

If you are unfamiliar with the social stories approach you can request help with creating or implementing a social story from a Speech and Language Therapist. The terms 'social story' and 'social stories' are trademarks originated and owned by Carol Gray.

Social Stories may fit into the MCA process, at the preparatory stage during which it may be necessary to use social stories to teach the person about the topic of their decision, or an aspect of it. It is important that a social story is not used to guide someone to a particular decision. This could count as duress.

For further information

<http://www.autism.org.uk> and <http://www.carolgraysocialstories.com/>
Information collated from <http://www.carolgraysocialstories.com/>

Section 2:

Conducting the Mental Capacity Assessment



Introduction of the Mental Capacity Assessment - 4 principles

When conducting the MCA there are four principles to apply in checking if someone has capacity. If one or more of the following principles cannot be met by the person, then it is deemed that they lack capacity regarding that decision:

- **Understand** information given to them
- **Retain** that information long enough to be able to make the decision
- **Weigh up** the information available to make the decision
- **Communicate** their decision – this could be by talking, using sign language or even simple muscle movements such as blinking an eye or squeezing a hand.

(From www.scie.org.uk/publications/mca/assessing-capacity/~)

Conducting the Mental Capacity Assessment



Recording your assessment - Have you thought about:
How to record the assessment?
Are you clear about the decision to be assessed?
Have you demonstrated the steps taken to promote the person's ability to decide?
Have you shown evidence for understanding, retaining, using/weighing, and communicating?



Understanding - Have you thought about:
Simplifying language used, and providing it in small chunks?
Using visual aids and prompts?
Preparing the environment to help the person absorb the information?
Choosing the time of day when the person is most alert or seeing the person more than once?



Retaining - Have you thought about:
Use of written material or drawings?
Repeating the information in the person's own words?
Subsequent meetings to see if the person has retained information previously given?



Weighing up - Have you thought about:
The list of options presented to the person, including the 'undesirable' or 'unwise' ones?
How the pros and cons of each option and any associated risks were identified?
How the reasons for choosing one option were explored? (There may be an underlying reason which could be addressed, for example worries about using a bus might be the reason someone chooses not to attend a hospital appointment.)



Communicating - Have you thought about:
Using translation and interpretation?
Consulting family, friends, and carers about how best to communicate?
Using non-verbal communication such as diagrams or sign language?
Reducing anxiety: using comfortable, familiar surroundings?

A checklist for the day

Having drawn together all of the information in Section 1 – you can use the following checklist to ensure that all the relevant points have been covered and you can carry out the MCA.

On the next page are some general tips for a MCA.

	Yes	No	Comments
Do you have all the information about how the person communicates?	✓		See Communication Profile attached as evidence.
Do you have the appropriate communication resource supports in place, such as visual support, list of questions and accessible documents?	✓		Pictures of the locations to discuss have been taken and shown in advance.
If they have glasses do they have them with them?	✓		
If they have sensory needs do they have the relevant items with them, such as ear protectors, weighted jacket etc.	✓		Weighted blanket in place. Access to sensory room before session to modulate sensory needs.
Have you checked that the person is feeling well enough to start the assessment and let them know they can stop at any time?	✓		
If they have a hearing aid, is it on and working?		✓	N/A
Is the environment quiet and conducive to holding a meeting?	✓		
Are you facing the person or sitting next to them so they can see your face and the information? (Sitting in front of a window can make it difficult to be seen clearly)	✓		
Are family members and others present for support with communication? E.g. family member, interpreter.	✓		Mum present.
Has the meeting been scheduled for the best time of day?	✓		Best in the morning.
Have you considered how you will record what was discussed in the meeting? Such as taking a photograph/photocopy of resources.	✓		Copies of resources available.

A blank copy of this checklist is available in the Appendix.

Section 3:



Appendices

Section 3

- Keyword Screening Tool
- Screen for assessing a person's understanding of visual information (symbolic understanding)
- Communication Profile form
- A Checklist for the day of the MCA
- Means Reasons Opportunities model
- A checklist for the day of the MCA
- Case Study examples
- References
- Useful websites

Keyword' Screening Tool

(Adapted from the Derbyshire Rapid Screen Test)

Name:

Date:

Completed by:

Instructions

Throughout this test remember:

- Don't accidentally look at the objects you are asking them for.
- Don't put the objects in the order you are asking for.
- Once given the object put it back in the same position before asking the next question.
- Try not to accidentally use your tone of voice to indicate the object you want.
- Be as neutral as possible throughout.

Objects needed:

Cup, spoon, book, fork, knife, pencil, plate and a box (shoe box would suffice)

Note: you can substitute the objects suggested here for objects which are familiar or meaningful to the person.

Testing 1 word keyword level understanding

1. Use the cup, spoon and book
2. Place them in front of the person
3. **Say or say and sign 'Give me the _____'**
4. **Say or say and sign 'Give me the _____'**
5. Replace the objects with knife, plate and pencil
6. Place them in front of the person
7. **Say or say and sign 'Give me the _____'**

Did they get 2 out of 3 correct?

Yes/No

If yes, this is an indicator they can understand at a **one keyword level**.

Testing 2 keyword level understanding

1. Use the box, plate, spoon, knife and cup
2. **Say and sign 'Point to the spoon and cup'**
3. **Say and sign 'Point to the knife and the box'**
4. **Say and sign 'Point to the cup and plate'**

Did they get 2 out of 3 correct?

Yes/No

If yes, this is an indicator they can understand at a **two keyword level**.

Testing 3 keyword level understanding

1. Use the box, plate, spoon, knife, cup and book
2. **Say and sign 'Put the knife under the plate'**
3. **Say and sign 'Put the book on the cup'**
4. **Say and sign 'Put the spoon under the box'**

Did they get 2 out of 3 correct?

Yes/No

If yes, this is an indicator they can understand at a **three keyword level**.

Summary

Tick the level/s at which they have demonstrated understanding:

1 keyword level	2 keyword level	3 keyword level

For further help and support, refer to your local Speech and Language Therapy Team.

Screen for understanding of visual information

Adapted from Symbolic Development Screening Toolkit by Clare Mander

Name:

Date:

Completed by:

Screening steps:

1. Start with the real objects.
 - Present 3 objects
 - Ask the person to identify the objects one at time e.g. ‘Point to the.....’ ‘Give me the
 - Or ‘Show me the.....’
 - If they are unable to do this, try again with 2 objects
 - If they are able pick the correct one then continue with the other objects
2. Continue this same process for the coloured photographs.
3. Continue this same process for the coloured drawings/symbols.
4. Continue this same process for the black and white drawings/symbols.

Fill in the objects you used in the blank space on the top row.

Object						
Coloured Photograph						
Coloured drawing/ symbol						
Black and White drawing/symbol						

Comments:

.....

.....

.....

A communication profile

Name:

D.O.B: / /

Date: / /

Completed by:

Have they been seen by Speech and Language Therapy previously?

Yes []

No []






Who are the people that are close to the person and who can help and support with communication?

.....
.....
.....

Tick their Keyword level of understanding:

1 Keyword Level	2 Keyword Level	3 Keyword Level

Tick which one/s can they understand:

					banana
real	object	photo	picture	symbol	text
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Do they have a:

Hearing Impairment []

Visual Impairment []

Physical Disability []

Sensory Needs []

Other (Describe briefly)

What are their attention and listening skills?

Please give a brief description of the person's understanding.

Communication Strategies Used	Tick/ Cross	Please add further comments
<p>Speech (Do they use speech: single words/ sentences?)</p>		

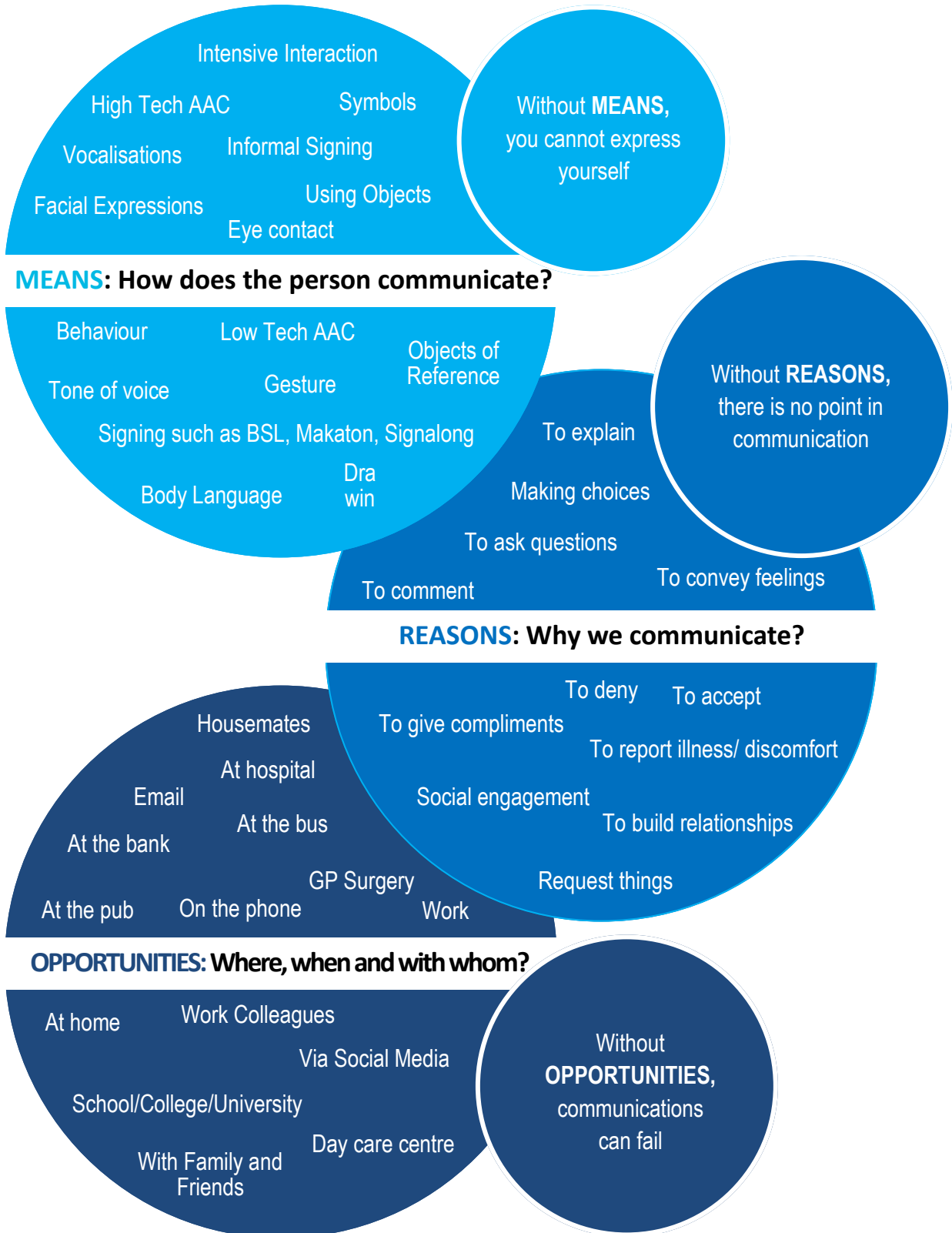
Communication Strategies Used	Tick/ Cross	Please add further comments
<p>Vocalisations</p> <p>(Do they make sounds to express their wants? In what contexts?)</p>		
<p>Gesture and Body Language</p> <p>(This can include pointing, head pointing)</p>		
<p>Facial Expression</p>		
<p>Objects</p> <p>(What objects? What are they used for? Do they use Objects of Reference?)</p>		
<p>Photographs</p> <p>(Coloured? What size roughly?)</p>		

Communication Strategies Used	Tick/ Cross	Please add further comments
<p>Symbols</p> <p>(What symbol set if any? Black and white symbols? Coloured Symbols? What size roughly?)</p>		
<p>Signs</p> <p>(Are these formal, such as Makaton, Signalong, BSL or informal signs?)</p>		
<p>Communication Aids</p> <p>(iPad- if so what app? Do they use eye gaze, Lightwriter, alphabet board, communication board etc?)</p>		
<p>Drawing/Writing</p>		
<p>Other</p>		

Appendix 4 - Checklist for the day of the MCA

	Yes	No	Comments
Do you have all the information about how the person communicates?			
Do you have the appropriate communication resource supports in place, such as visual support, list of questions and accessible documents?			
If they have glasses do they have them with them?			
If they have sensory needs do they have the relevant items with them, such as ear protectors, weighted jacket etc.			
Have you checked that the person is feeling well enough to start the assessment and let them know they can stop at any time?			
If they have a hearing aid, is it on and working?			
Is the environment quiet and conducive to holding a meeting?			
Are you facing the person or sitting next to them so they can see your face and the information? (Sitting in front of a window can make it difficult to be seen clearly)			
Are family members and others present for support with communication? E.g. family member, interpreter.			
Has the meeting been scheduled for the best time of day?			
Have you considered how you will record what was discussed in the meeting? Such as taking a photograph/photocopy of resources.			

Appendix 5 - Means Reasons Opportunities (Money & Thurman 1994) with examples



From: Money D & Thurman S (1994) *Talkabout Communication* Bulletin of the College of Speech and Language Therapists, **504**: 12-13

Appendix 6 - Case Studies Examples

Case Study 1 - Joe Bloggs

Background:

Joe was born with a severe learning disability and is non-verbal. He is 42 years old, is a wheelchair user, he has cerebral palsy and requires support with activities of daily living. He moved to his current home 2 years ago. Before this, he lived in the family home with his mum who passed away two years ago. His father passed away 5 years ago. His current home is a supported living residence with 24 hour carer support. Four other people with a learning disability live with Joe. Joe's care staff say he communicates with vocalisations such as shouting/crying when he is unhappy and when he is happy, he smiles and 'soft yelps'. They state he does not use speech. He has a sister but she is unable to support Joe daily as she has other family commitments. His current home is closing down so Joe will need to move to a new home.

What is the decision?

Where does Joe want to live?

Who is the decision maker?

Joe's Social worker- Steve Steveyson

What concerns/triggers have given rise to this assessment of capacity?

Joe has a learning disability and previously needed an MCA when he moved to his current home. The outcome of his previous assessment was that he lacked capacity and a best interests decision was made. Currently the care manager, Jill Dawson, does not think he will understand the options available and why he needs to move home.

Actions to support the person:

Have you discussed with the person and/or appropriate others the most suitable venue for the assessment?

Steve Steveyson (Social Worker) spoke to the care home manager, Jill. She advised that he feels most comfortable in the home environment. Steve also spoke to Joe's sister, Josephine, who agreed his home would be best.

Have you discussed with the person and/or appropriate others to establish timing of assessment?

Jill informed Steve that the morning would not be suitable as Joe has care needs, he is anxious during this, and sometimes displays challenging behaviour. Jill said he would feel more settled after lunch time.

Does the person have any language/communication issues?

Joe has significant communication difficulties. He needs support with expressing himself and understanding language. His usual means of communication include: Objects of Reference and vocalisations. 'Objects of Reference' is a communication system whereby objects are used to represent a concept.

For Joe, he has a toilet roll to mean toilet, a cup to mean drink, a key to mean home, a plate to mean dinner, swimming shorts for swimming and a face cloth for washing. When using Objects of Reference you shouldn't substitute an object such as using different cups. The same set should always be used. The objects are kept in a box at the end of his bed. Care staff the object to Joe before an activity so that Joe can understand what will happen next and the carer can gauge his response. Joe's understanding of the objects has been gained through repeated use and immediate follow up with the action. The action is done immediately to ensure that he makes the association between the object and the action. Joe understands all his current objects. Care staff are working to develop others with Joe. However, Joe is inconsistent in his ability to use the objects to make requests. For example he may show a cup for a drink but then refuse the drink when given.

Joe has received input by the Speech and Language Therapy team previously and it is recommended to use Objects of Reference to aid his understanding. The Speech and Language Therapist stated that he has not shown an understanding of symbols, photographs or drawings and therefore objects are best for his communication.

People who know Joe well understand his expression. He uses a combination of vocalisations, gesture and facial expressions. A communication passport was created to help new people understand his expression as it isn't always clear to people who don't know him. The Speech and Language Therapy Team provided support with this. The communication passport contains information, such as when Joe cries, he is in pain but he cannot show you where the pain is. When he wants to go to the toilet, he scrunches up his face and when he is hungry, Joe bangs his head with his hand.

Have you provided all the information the person needs to make an informed decision?

Joe cannot read and his comprehension of verbal information is limited. Joe demonstrates understanding of 'toilet?' when presented with the associated Object of Reference, the toilet roll. Joe may also have some comprehension of other verbal language at a very simple level. However this is difficult to assess with a degree of certainty.

Information was adapted to simple verbal sentences and objects were shown to aid Joe's understanding. No photographs, drawings or symbols were shown as the SLT report stated this was inaccessible for him.

If the decision is not urgent can it be delayed because the person is likely to regain or develop the capacity to make it for themselves?

The decision is not urgent. The home will be closing in a year. Joe's capacity is not likely to change if the decision is delayed.

Can the person understand the information relevant to the decision?

How was this assessed?

Steve (Social Worker) referred to SLT for advice on how to aid his understanding. Laura Sharp (SLT) suggested showing objects over a number of occasions.

Joe already understood that a 'key' meant his home. He has a door key that is red on a red key-ring to represent his home. Joe's care staff said when he goes to his day centre he understands it is home time when the key is shown. This is demonstrated by him moving towards the carers and trying to touch the key and smiling with vocalisations. This shows he understands and reacts to the object when presented. Another example of Joe's reacting to the red key is when Joe's sister shows him the key when he visits her. When Josephine shows him the key and says 'home' he moves towards the front door and tries to open it.

To support Joe with the concept of moving home, a new blue key on a blue key-ring was introduced to Joe. On visits to his potential new home, the blue key was shown to Joe in order to attempt to build an association between the blue key, and the new home. It was hoped that the blue key would offer Joe a way of conceptualising being in a new home in contrast to the association of his red key with his current home.

Steve also knew that Joe liked movies, so he tried to relate the concept of moving home to a relevant movie that depicted this concept. He watched the film with Joe and afterwards said 'George (the character in the film Steve pointed at the TV to gesture who he meant) moved home, you (gesturing to Joe) will move home' and then showed the blue key and said 'new home'.

Can they retain that information long enough to make the decision?

How was this assessed?

Steve visited Joe at home on three occasions and used the 'new key' each time to gauge Joe's response to the key. Joe looked past the key and was inconsistent in his approach to it. He sometimes picked up or threw the key or didn't interact with the new key. On the visit to the potential new home, Joe lacked eye contact and looked around the home during the visit. Joe made no vocalisations during the visit. Joe was shown the blue key during the visit and Joe did not vocalise or try to touch the key. He moved to another room when it was shown. Joe was shown the red key when it was time to go home and he vocalised and moved towards the front door. Joe did not seem to understand that the blue key meant the new home or remember what the blue key represented. Despite attempts to use methods of communication that may be accessible to Joe, he demonstrated he was unable to retain information about the decision due to a lack of understanding of the concept.

Can they use or weigh up that information as part of the process of making the decision?

How was this assessed?

Joe was inconsistent in his interaction with the key to symbolise his potential new home. Joe sometimes tried to touch the key, at other times he threw the key and sometimes he did not look at the key. Steve also explained the concept. As Joe did not seem to understand the concept of new home he could not weigh up the information. Despite attempts to use methods of communication that may be accessible to Joe he demonstrated he was unable to weigh up the decision.

Can they communicate their decision, by any means available to them?

How was this assessed?

Joe demonstrated an ability to communicate using objects and vocalisations. His care staff showed Steve that Joe could make a choice when shown two drink options. He vocalised when the preferred drink option was shown to him. Joe also could, at times, show an object to request his wants/ needs. When he wanted to go to the toilet he showed a toilet roll but this was inconsistent.

When Steve left the blue key with the care staff to see if Joe could express wanting to see the new home when Steve was not there, Joe did not make an attempt to use the key. Joe did not interact with the key. Joe did not look or try to pick up the key.

At this time, use of the Objects of Reference approach did not appear to be able to help Joe express his decision in regards to moving house, due to him not appearing to understand the concept of moving home. He did not appear to understand the concept of moving home so therefore could not express a decision related to it. Joe can communicate decisions in relation to activities of daily living, but was unable at this time to express his decision about moving home, despite different ways being used to help him communicate.

Impaired decisions based on duress and undue influence?

There was no duress seen. Joe's sister was involved in the process by providing supportive information and did not attend the sessions with Joe. A care worker (Georgie Smith) accompanied Joe on most sessions as he required 24 hour support. Georgie has a good rapport with Joe as Joe smiled and reaches out for her when she enters a room and softly yelps when with her. The care home manager, Jill, said 'Joe likes Georgie best out of the carers. He seems calmer when he is around her'. Georgie can facilitate his communication when it is unclear. One time, when Georgie was ill, another care worker supported Joe and helped to facilitate his communication when it was unclear. The care workers did not demonstrate any coercion relative to the decision in hand.

Do they have capacity at this time?

No. The decision maker concluded from the evidence that Joe did not have capacity at this time to make a decision about where to move to. It is felt that Joe could not understand the decision so could not retain, weigh up or communicate his decision.

Who (if anyone) helped make this decision?

The care manager- Jill Dawson

The Speech and Language Therapist - Laura Sharp

Care Worker- Georgie Smith

Joe's Sister- Josephine McJoeface

They all agreed with the decision made by the decision maker - Steve Stevyson.

Case Study 2 - Maria Hopwell

Background:

Maria is 55 years old, has Downs Syndrome, and received a diagnosis of dementia 14 months ago. She currently lives independently and spends a lot of her leisure time with her boyfriend, who lives nearby. John also has Downs Syndrome and he lives with his parents. Maria's parents can only visit weekly as they live 2 hours away by car. Over the last few months, there have been a number of occasions when Maria has wandered out of her home, resulting in her being picked up and brought home by the police. She has also demonstrated less independence in her ability to carry out meal preparation tasks, and her personal appearance has declined. Maria's care package alongside her supported living currently includes 1 daily visit to assist with activities of daily living (such as budgeting for weekly food, shopping and outings, and ensuring she has carried out her daily routine, laundry etc.). In light of Maria's decline in abilities, a decision needs to be made regarding the level and type of increase in her care and support for her continued well-being and safety.

What is the decision?

Should Maria increase the number of times a carer supports her daily?

Who is the decision maker?

Maria's Social Worker: Lynne Andrews

What concerns/triggers have given rise to this assessment of capacity?

Maria has a learning disability and a diagnosis of dementia. Maria is showing signs of increased vulnerability. This has triggered concerns by her parents as well as her care staff who have contacted Maria's social worker. Her parents and her care staff gave examples such as a less well groomed appearance, getting lost, being forgetful, being more upset and being anxious. Maria's care staff noted when cooking her usual Sunday dinner she forgot that the cooker hob was on and the fire alarm was set off.

Actions to support the person:

Have you discussed with the person and/or appropriate others the most suitable venue for the assessment?

As Maria lives in her own house, she is most comfortable there and this is a suitable location for the meeting(s) to take place. Maria has agreed that this would be best. Her parents and her care staff support this.

Have you discussed with the person and/or appropriate others to establish timing of assessment?

Maria suggested she doesn't mind what time of day the meeting(s) take place, However care staff have remarked Maria sometimes becomes more confused and anxious in the evenings. Her parents and care staff agree that a morning or afternoon meeting would be more appropriate.

Does the person have any language/communication issues?

When Maria was a child, she received Speech and Language Therapy input. Maria has not received any Speech and Language Therapy input as an adult, according to her parents.

Maria communicates verbally with Makaton signing alongside. She can speak in sentences and uses Makaton signs for key parts, such as: 'I like when I go to shops'. Her carers say that people new to her can understand her speech but she speaks in short sentences and has limited vocabulary. The carers state 'People know what she means but sometimes need a bit of time to work out what she is trying to say... She gets the main point across... She doesn't always give the context and is very good at acting out what she wants to say'.

Maria can use gesture, miming, and facial expression to aid her speech. Maria has a notepad with her at all times as she likes to draw when people do not understand her. Her parents gave an example of when she was telling a stranger about a holiday. She drew a picture of Mickey Mouse to show that she went to Disneyland.

She understands a wide range of Makaton signs that fall outside of the Core Vocabulary. Her parents state that she knows approximately 150 signs. Her boyfriend, carers and family use Makaton signs and speech to communicate with her.

Have you provided all the information the person needs to make an informed decision?

Maria can read written information, but has difficulty understanding the content. Maria can read the text aloud but when asked what it means her carers state she will make up what it said or she says that she doesn't know. Maria's carers support her with this by reading out important documents and paraphrasing or simplifying the language.

Lynne Andrews (social worker) had a preliminary meeting with Maria to introduce the idea of increasing her care. Lynne took along pictures and photos to help with this. Lynne and Maria did some drawing throughout the discussion to aid communication. During the course of the discussion, and following the meeting, Maria became distressed and upset. She remarked 'I don't want change... It all good'. Maria repeatedly said 'I don't want move' 'want to be with John... too far'. This indicated that Maria did not want to move out of her house and that she wants to be close to her boyfriend. Maria demonstrated confusion about the content of the discussion.

A follow-up meeting was held a week later. Lynne explained about increasing care so that Maria could be kept safe. Maria was more open to the idea. She said 'More care is good, it's good to be safe... I won't get lost or forget'. She had a better understanding what care support would mean. Photographs and drawing helped Maria. An example of this is that Maria drew a picture of herself in her house and drew another person and drew a cross through it and said 'I don't want care all day... Only sometimes... I don't want to be watched all the time... I want privacy'.

If the decision is not urgent can it be delayed because the person is likely to regain or develop the capacity to make it for themselves?

Initial meetings were delayed until Maria's health improved following a period of delirium due to a urinary tract infection. This ensured that Maria had an increased ability to access the information and make decisions for herself. This aspect was kept in mind throughout the MCA process, and meetings were stopped if Maria became confused or anxious.

Can the person understand the information relevant to the decision?

How was this assessed?

Due to Maria's states of fluctuating anxiety and confusion, she is at times able to understand the information if communication support is offered in the form of simple descriptions of the options accompanied by pictures/ charts of the various care options available.

When shown the option of a full-time live in carer, Maria indicated this is not what she would want. Maria said 'I don't want to be watched'. Maria was also shown an option of carer support twice daily, morning and evening. Maria said that she felt that she would be left alone for too long during the day. Maria then suggested increasing her day time care to 3 times daily so she had support in the morning, at lunch-time and in the evening. She commented that 'more support will make me feel more happy'.

Can they retain that information long enough to make the decision?

How was this assessed?

3 days after the meeting, Lynne Andrews (social worker) visited Maria at home to check Maria was still happy with the decision in place. Maria did not initially demonstrate her memory of the discussion when Lynne asked her verbally. However, when shown the paperwork and drawings they had used previously, Maria indicated the same choice by showing and signing that she felt support 3 times a day would be appropriate.

Can they use or weigh up that information as part of the process of making the decision?

How was this assessed?

Maria positively demonstrated the ability to weigh up the information as demonstrated by her earlier comments. When asked 'why wouldn't you want someone to live with you to give you help?' Maria replied 'no alone time'. When asked 'why would it be good if someone lived with you to help you?' Maria replied 'always safe, but don't want it'.

Can they communicate their decision, by any means available to them?

How was this assessed?

Maria communicated her decision verbally with accompanying signs from the Makaton Vocabulary. When Maria's speech and signing was unclear, she sometimes drew a picture to help her explanation. Maria's boyfriend was present at some of the meetings. He sometimes assisted by clarifying Maria's meaning with her in an interpretive role.

For example, when signing 'help', John (Maria's boyfriend) checked if she meant 'carer', Maria said, yes she had forgotten the word 'carer'.

Impaired decisions based on duress and undue influence?

There was no evidence of duress or undue influence noted. The presence of John (Maria's boyfriend) at some of the meetings didn't raise any concerns about coercion. Lynne Andrews (social worker) also visited Maria individually and Maria demonstrated the same decision.

Do they have capacity at this time?

Yes, Maria demonstrated capacity through demonstrating abilities in all four of the principles. She showed she could understand, retain, weigh up, and communicate her decision.

Who (if anyone) helped make this decision?

John (Maria's boyfriend) assisted with communication.
Maria's carer provided supporting information.
Maria's parents provided supporting information.

Lynne Andrews (Social Worker) was the key decision maker regarding the MCA, and concluded Maria did have capacity to make the decision regarding her care support.

Case Study 3 - Giles Kingston

Background:

Giles is 18 years old and he has autism. He uses speech, gesture and facial expressions to communicate. Giles has said that at times he struggles to understand jokes, humour and sarcasm. He remarked 'people don't say what they mean. It's hard to work out if they are being sarcastic or sincere. Some people think my jokes aren't funny. I like slapstick humour. I don't get other humour'. Giles is considered to be 'high functioning' regarding activities of daily living. He attended a mainstream school and Further Education College and is planning to go to college. He was previously involved in a local football team and won awards for this. He no longer plays football due to a knee injury.

Giles currently lives with his parents. However, some conflict of opinion has arisen between Giles and his parents. Giles's parents, Kenneth and Margaret, feel he is not ready to live by himself yet. His parents would prefer he lives at home or lives in supported living as a last resort. Giles has become angry at his parents and has smashed furniture when his parents say he cannot move house. Giles feels that he can look after himself and feels that they are being controlling and don't want him to be happy. His parents asked for a capacity assessment as they feel he does not understand how to look after himself if he wants to move out. They feel he will display further challenging and destructive behaviour if he moves out and will not be safe. Giles agreed a discussion about moving would be a good idea.

What is the decision?

Should Giles move house?

Who is the decision maker?

Giles's Social Worker: Bob Rabbitson

What concerns/triggers have given rise to this assessment of capacity?

Giles has a learning disability and is displaying behaviours that challenge, such as smashing furniture. His parents don't worry for their safety, and have never felt the police have needed to be involved. They worry that Giles's behaviour may escalate and he may harm himself or others by accident when he is throwing furniture. Giles and his parents disagree about whether he understands the full implications of moving home and all that needs to be considered. His parents feel that he does not understand the options and Giles feels that they don't trust him.

Actions to support the person:

Have you discussed with the person and/or appropriate others the most suitable venue for the assessment?

Giles requested that his parents don't attend the MCA meetings by saying 'I want to talk about it on my own'. Giles suggested meeting Bob Rabbitson (Social Worker) in a café close to where Giles works part-time in a local shop. Bob Rabbitson wondered whether they could meet in the staff room of his workplace, so that there is less noise distraction and the meeting room is more confidential than a café. Giles agreed this was a good idea.

Have you discussed with the person and/or appropriate others to establish timing of assessment?

Giles finishes work at 12.30pm on Tuesday lunch time, and would like to have the meeting at that time. Other follow-up meetings were held at a similar time.

Does the person have any language/communication issues?

Giles's parents stated that he expresses himself through speech, gesture and facial expression and that he makes himself understood the majority of the time. Giles generally uses short phrases. When he is anxious or frustrated, Giles's expressive communication becomes more limited and he may reduce his expressive language to a few short phrases, which he repeats. On occasions, Giles becomes frustrated and agitated, either when he cannot make himself understood, or if his view is at odds with others. He will sometimes break/damage furniture or other household items.

Regarding his understanding of language, Giles understands verbal language when it is restricted to clear, simple sentences containing up to two pieces of key information. Giles has some reading ability, but cannot read passages of text with comprehension of the content, so his comprehension of written material is quite limited. Giles stated 'I can read but don't understand it sometimes'. Giles said 'I draw a timetable on my whiteboard each week of what I meant to do'. Giles showed the social worker a photo on his phone of the plan he made for that day. The social worker asked if pictures or symbols help. The social worker showed key symbols and pictures (such as pictures of the various options for housing, symbols for mum and dad and himself). Giles could name the pictures and symbols. Giles said 'Those pictures/symbols help me lots. I don't get as confused'.

Have you provided all the information the person needs to make an informed decision?

Accessible documents that included short simple sentences and photographs/pictures/symbols were provided for Giles. For example 'You can live in a house with 4 others at Reed Road' with a picture of the house and 'You can live by yourself', with a symbol of a house and a symbol representing Giles. These documents also incorporated details about how Giles's finances might be incorporated into the various options. The Social worker felt that Giles could also use accessible documents to assist him with discussing with his parents the various options available to him. Both Giles and Bob Rabbitson felt that he could use the accessible documents to help him discuss the different housing options during the MCA meeting.

If the decision is not urgent can it be delayed because the person is likely to regain or develop the capacity to make it for themselves?

There is no reason to delay the decision at this time. The decision is not urgent as there are no issues regarding Giles being made homeless due to his behaviour. His parents state 'He can live at home as long as he wants. There is no rush'. Giles also expressed he wanted to go ahead and not delay.

Can the person understand the information relevant to the decision?

How was this assessed?

Through verbal discussion with simple short sentences and simple language, accompanied by specially created visual accessible documents for Giles, he demonstrated that he understood the options available to him regarding accommodation options. Giles also demonstrated some awareness about the financial implications of some of the options, and remarked he knew he would need further support with this aspect.

Can they retain that information long enough to make the decision?

How was this assessed?

Giles was visited a day later by a different social worker (Clive Owain) to see if he could remember the previous meeting and could express his wants. Giles remembered that housing was discussed with Bob and that he might need help with financial support.

Can they use or weigh up that information as part of the process of making the decision?

How was this assessed?

Giles was given different options to explain about housing. The social worker asked firstly 'Where would you like to live?' Giles answered 'I want to live in my own place'. The social worker asked why this was, and Giles answered 'I'm sick of my parents running my life...Don't want people telling me what to do'. The social worker then asked further questions about housing. Bob detailed the different options available for Giles at this time that were within his budget and in an area that was near to his parents and work. Giles expressed he would like to be near home and work. He also wanted to live near college as he might want to go in a couple of years.

Bob showed 3 options:

1. Living by himself, with support with finance,
2. With other people with a learning disability in a shared house with similar needs like him,
3. Stay at home with mum and dad for another year and review.

Bob and Giles discussed each option one by one. Bob began with option one, living by himself. He showed Giles an accessible document about this. Giles said he wanted this, he said 'no one else' and 'could bring a girlfriend home'. Bob asked why this could be a bad option. Giles explained 'It could be bad if I lose my key. It also might be bad if I get lonely. My parents can help me. They can help if I run out of money'. Bob asked if he could look after his money. Giles replied 'I look after my money. I buy my clothes and food. I don't know about bills or rent. Mum and Dad can help me'. Bob discussed that someone else could help with his money. Giles said he wanted his parents to help.

Bob then introduced the option of living with others in supported living. He showed Giles an accessible document about this. Giles said 'I know what you're trying to get at.

I would be safer. I have not lived by myself before. I want a chance. I feel I am good as I have a job and have gone to normal school'.

Bob then showed Giles the option of living with mum and dad for a year. He showed Giles an accessible document about this. Giles replied 'I don't want that. I want to move out. We will be happier if not together in the same house. I get angry and break stuff. Mum and dad scared if leave I get hurt. I might hurt them by accident when I get angry'.

With each option he was pointing at the corresponding accessible document to help show and explain his thinking. Giles throughout said he wanted to live by himself and could show that he understands the pros and cons of this decision.

Can they communicate their decision, by any means available to them?

How was this assessed?

Giles communicated his decision verbally but used the accessible documents to support his communication. He pointed at each option such as the 'living by myself' accessible document. When asked to choose which option he wanted, Giles also handed the 'living by myself' accessible document to Bob and said 'This one please. By myself. No one else'.

Impaired decisions based on duress and undue influence?

The social worker felt that there was no duress or undue influence. His parents were consulted for background information but did not attend the meetings. Giles did not want them to attend as they had an opposing view to his.

Do they have capacity at this time?

Giles has capacity at this time to make a decision about appropriate accommodation.

Who (if anyone) helped make this decision?

Social worker- Bob Rabbitson- Key decision maker

Social Worker- Clive Owain

His parents - gave background information.

Following the meetings and decision, Giles and Bob were able to dispel any fears that Giles's parents had about him living alone safely and they were in agreement with the decision, providing he had the support necessary in place. They also remarked that they could continue to support Giles with various aspects. Giles's parents commented 'we thought he would have to move far away and we didn't know about the different types of support available for him and us'.

A further referral will be held regarding finances and Giles's anger. Clive Owain agreed with Bob and will follow up regarding finances.

Appendix 7 - References

Social Care Institute and Excellence (2016) 'Using the Mental Capacity Act' Available from: <http://www.scie.org.uk/mca/introduction/using-mental-capacity-act>

Accessed on [13/07/17].

Gray, C. (n.d.). What is a Social Story? Retrieved from <http://carolgraysocialstories.com/social-stories/what-is-it/>

Appendix 8 - Other useful websites

Easy Read Health Leaflets	www.easyinfo.org.uk
Mencap	www.mencap.org.uk
Inclusive Communication Essex	www.essexice.co.uk
Change Picture Bank	www.changepeople.co.uk
Photosymbols	www.photosymbols.com
Intensive Interaction	www.intensiveinteraction.org
British Institute of Learning Disabilities	www.bild.org.uk
Royal College of Speech and Language Therapists	www.rcslt.org
The British Association of Social Workers	www.basw.co.uk

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