



## North Yorkshire Safeguarding Adults Board

### Mental Capacity Act and Deprivation of Liberty Safeguards Competencies for all staff, volunteers and carers

This competency framework has been produced to support the development of a workforce, both within the local authority and its partner organisations, that is competent and effectively trained in Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) practices, and which is demonstrating continuous improvement.

This document outlines the sets of competencies required for particular categories of job roles, and suggested evidence of how each of these can be demonstrated, along with suggestions of which free NYCC training will help to fulfil these. All training can be accessed via the NYCC Learning Zone: <https://learningzone.northyorks.gov.uk>

Whilst NYCC training is designed to fulfil some of these competencies via outcome based training, to achieve each competence members of staff must also demonstrate a combination of practical skills, knowledge and experience to ensure that these qualities inform practice in a way that is proportionate with an individual's role and responsibility.

#### **Competency Levels**

<b>Level</b>	<b>Suggested Roles</b>	<b>Outcome</b>
1	Staff and volunteers, from all sectors, including, but not limited to, health, social care, housing, district councils, police, probation, prison, ambulance, who come into contact with adults at risk and who may lack capacity to make decision and therefore need appropriate support Outcome:	All staff and volunteers who support adults (age 16+) to make decisions about their lives will work safely within the Mental Capacity Act and know and demonstrate key principles of the Act in normal working practice
2	Provider managers and senior staff from nursing and residential care homes, managers and clinicians from hospitals and hospices, managers of Supported Housing and Domiciliary Care Providers	Regulated health and social care provider organisations which support individuals who lack capacity will work within the requirements of the Mental Capacity Act and Deprivation of Liberty Safeguards
3	Professional Health and Social Care Staff who have responsibilities for making significant and complex decisions with clients who lack the mental capacity to make these decisions for themselves. Including but not limited to qualified professionals in health and social care who would be expected	Professional staff will work in a person centred way to make complex best interest decisions with individuals who lack mental capacity, within the requirements of the Mental Capacity Act and

	to have a role in decisions related to serious medical interventions, changes in accommodation, finances and applications for deprivation of liberty safeguards	Deprivation of Liberty Safeguards
4	Best Interest Assessors, i.e. staff who have completed an accredited Best Interest Assessor (BIA qualification programme)	Best Interest Assessments are undertaken in a quality and timely manner, ensuring individuals are involved so far as is practicable in decisions which are made about them.
5	Executive and Senior Managers, Chief Executive, Owner Manager, Heads of Service and above	Mental Capacity Act and Deprivation of Liberty Safeguards legislation will be embedded into organisational policies and procedures, demonstrating best practice, multi-agency working and ongoing development of the workforce

### Competency Framework

Level	Competencies	Suggested Evidence	Bournemouth Mapping
Level 1	<b>Staff, volunteers and carers at all levels will:</b>		
	1. Be aware of the principles of the Mental Capacity Act	<ul style="list-style-type: none"> <li>• Highlight the five guiding principles of the MCA and how to apply them in day to day work</li> <li>• Understand their role and responsibilities in relation to each principle and be able to describe this to others</li> </ul>	A1,2,3,4,5
	2. To be aware of the key definitions in the Mental Capacity Act and implications on practice	<ul style="list-style-type: none"> <li>• Demonstrate the skills and ability to help people make their own decisions wherever possible</li> <li>• Describe when capacity should be assessed</li> <li>• Demonstrate the skills and ability to communicate with people at an appropriate level to support them in their decision making, listening and giving them time to communicate their wishes</li> </ul>	A1, 2, 4

Level	Competencies	Suggested Evidence	Bournemouth Mapping
		<ul style="list-style-type: none"> <li>• Recognise when a formal assessment of capacity may be needed and who to contact</li> <li>• Understand and apply organisational policies and procedures in relation to mental capacity and assessment</li> </ul>	
	3. How to undertake a capacity assessment: 2 stage capacity test	<ul style="list-style-type: none"> <li>• Describe what the two stage capacity assessment is</li> <li>• Recognise and evidence that some diagnoses that may affect a person's ability to make a certain decision.</li> <li>• Understand that best interests can only be considered if the person has been shown to lack capacity in relation to a specific decision</li> <li>• Recognise that people with capacity can make decisions others may think are unwise</li> <li>• Understand that in some situations a Safeguarding referral may needed if a person has capacity and their consent be sought for this</li> </ul>	A1, 3, 4
	4. How to record best interest decisions: best interest checklist, support planning and daily records	<ul style="list-style-type: none"> <li>• Contribute to best interest decision making processes (proportionate to role)</li> <li>• Demonstrate the ability to record assessments of capacity and best interest decisions in line with good practice and local guidance</li> <li>• Work within the Data Protection Act 1998 in relation to information sharing where risks are identified</li> </ul>	A1, 3, 4
	5. Importance of recognising people may have capacity to make some decisions and not others	<ul style="list-style-type: none"> <li>• Recognise that a person may lack capacity to make one decision whilst having capacity to make another</li> <li>• Identify the specific decision in each case and who might be the most appropriate person to access capacity</li> <li>• Explain examples where this may happen</li> </ul>	A1
	6. Importance of recognising fluctuating capacity	<ul style="list-style-type: none"> <li>• Describe situations when this may occur and why</li> </ul>	A2

Level	Competencies	Suggested Evidence	Bournemouth Mapping
		<ul style="list-style-type: none"> <li>• Demonstrate understanding of how environmental or other factors may impact in a person's capacity</li> </ul>	
	7. Use of advanced decisions and statements when someone has capacity and within best interest decision making process	<ul style="list-style-type: none"> <li>• Recognise when this may be appropriate</li> <li>• Describe how this process would be implemented</li> </ul>	A4
	8. Be aware of the public bodies roles and responsibilities	<ul style="list-style-type: none"> <li>• Describe the roles and responsibilities of the public bodies involved with the process</li> <li>• Recognise where restrictions placed on a person may be out of proportion and know how to raise a concern in relation to this</li> </ul>	A5
	9. Have an awareness of the role of the IMCA, Lasting Power of Attorney	<ul style="list-style-type: none"> <li>• Demonstrate knowledge of the statutory eligibility criteria for instruction of an IMCA</li> <li>• Demonstrate ability to consider if a person will benefit from an IMCA where there are discretionary criteria (adult safeguarding, conflict situations, etc.)</li> <li>• Describe the role of an IMCA</li> <li>• Demonstrate the knowledge of local IMCA services and understand how to make a referral</li> <li>• Demonstrate ability to communicate effectively with the IMCA to ensure the person is supported during the decision making process</li> <li>• Understand the two different types of Lasting Power of Attorney and be able to describes these</li> <li>• Demonstrate knowledge of Deputyship</li> </ul>	N/A
	<p><b>Competencies 1 – 9 are covered on the following free NYCC or SCIE training:</b></p> <p><u>Supporting Adults (age 16+) to make decisions within the Mental Capacity : Half day classroom</u>            This course provides an awareness of the Mental Capacity Act 2005, it includes the principles of the Act, case studies and the importance of record keeping. The course is for anybody with <b>close &amp; regular contact</b> with individuals (adults, age 16+) who may lack capacity to make some or all of their decisions. Open to HAS and wider sector</p>		

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	<p><u>Mental Capacity Act and Deprivation of Liberty Safeguards Awareness: Online Learning (Kwango)</u> This training is suitable for staff that require an awareness of the Mental Capacity Act but have <b>limited and infrequent contact</b> with vulnerable adults. It is also strongly recommended as the refresher for all front line staff who have completed the classroom course and require a refresher as part of their organisational policy. Refresher is advised every 3 years.</p> <p><u>SCIE e-learning Mental Capacity and Deprivation of Liberty Safeguards: Online Learning</u></p>		
Level 2	<p><b>In addition to competencies 1 – 9, managers and senior staff from registered residential &amp; nursing homes will:</b></p> <p>10. Have demonstrated an understanding of the key concepts of the Mental Capacity Act 2005, in relation to deprivation of liberty safeguards (DoLS)</p> <p>11. Have an understanding of the difference between restrictions of liberty and deprivation of liberty.</p>	<ul style="list-style-type: none"> <li>• Demonstrate a working knowledge of how and when capacity should be assessed</li> <li>• Understand the 'Acid test', the concept of deprivation of liberty, and the continuum between restriction and deprivation of liberty</li> <li>• Demonstrate understanding of DoLS in relation to your own role and that of others</li> <li>• Demonstrate an understanding of different DoLS processes that may be in place in care homes and hospitals OR in domestic settings, i.e. supported living in own home</li> </ul> <ul style="list-style-type: none"> <li>• Describe what amounts to a deprivation and of liberty as opposed to a restriction of liberty</li> <li>• Demonstrate use of the two key questions defined by the Supreme Court in practice: is the person subject to continuous supervision and control, and is the person free to leave?</li> <li>• Understand that any act or decision on behalf of a person who lacks capacity must aim to be the least restrictive</li> </ul>	<p>B1</p> <p>B5</p>

Level	Competencies	Suggested Evidence	Bournemouth Mapping
	12. Have an understanding of what Managing Authorities (care homes and hospitals) should consider before applying for an Authorisation of Deprivation of Liberty.	<ul style="list-style-type: none"> <li>• Demonstrate what steps should be considered before applying for an Authorisation of Deprivation of Liberty, e.g. when, why and what? Views of the family? Are there any less restrictive options for delivering care or treatment that avoid deprivation of liberty altogether?</li> <li>• Understand the meaning of "adult at risk" as defined in relevant policy guidance</li> <li>• Recognise the importance of communication skills and identify the tools and training needed to support different forms of communication</li> <li>• Knowledge of the section 4 best interests checklist</li> </ul>	B2, B3, B4
	13. Be able to apply to 'Supervisory Bodies' for 'Authorisation using appropriate forms.	<ul style="list-style-type: none"> <li>• Understand how to make a request for authorisation to the Local Authority</li> <li>• Demonstrate understating of the difference between standard and an urgent authorisation</li> <li>• Work within organisational policies and procedures and the DoLS code of practice when making a request</li> </ul>	B5
	14. Know when authorisation can be reviewed and what happens when they end.	<ul style="list-style-type: none"> <li>• Explain the circumstances when a deprivation of liberty must be reviewed</li> </ul>	B1
	15. Know how and when to apply to the 'Court of Protection' under the Deprivation of Liberty Safeguards.	<ul style="list-style-type: none"> <li>• Define in what situations application to the Court of Protection is applicable and who can do this.</li> </ul>	B5
	16. Be able to explain the role of the Relevant Person's Representative and monitor their contact.	<ul style="list-style-type: none"> <li>• Understand and facilitate the role of the Relevant Person's Representative</li> <li>• Describe who can be a Relevant Person's Representative</li> </ul>	B2
	17. Be able to understand the nature of any conditions	<ul style="list-style-type: none"> <li>• Define the purpose of including of conditions within a</li> </ul>	B5

Level	Competencies	Suggested Evidence	Bourne-mouth Mapping
	attached to the DoL, and how these should be reflected in the care plan and care provision.	DoLs authorisation • Demonstrate that conditions have been clearly recorded and implanted within the care planning process	
	18. Be able to inform appropriately the Care Quality Commission and the Coroner's Office in line with their duties.	• Understand the requirement for the MA to inform the coroner of the death of a person who is subject to a DoLS and the process to do this.	N/A
	<p><b>Competencies 10 – 18 are covered in the following free training:</b></p> <p><u>Deprivation of Liberty Safeguards: For Managing Authorities: 1 day classroom</u></p> <p>The aim of this course is to ensure that staff and volunteers have the skills they need to act in the best interests of those they support and to protect themselves by acting in accordance with the law. The day is dedicated to Deprivation of Liberty Safeguards and the manager's responsibilities for those who manage an adult setting (not suitable for children's settings). It is for managers and senior staff from registered residential &amp; nursing homes, (including private and voluntary sector), and managers from hospitals within the private and statutory sector.</p>		
Level 3	<b>In addition to competencies 1 – 9, Professional Health and Social Care Staff will:</b>		
	19. Understand how to and have the confidence to assess peoples capacity against a range of decisions	<ul style="list-style-type: none"> <li>• Demonstrate a thorough knowledge and understanding of the Mental Capacity Act, it's five principles and apply these in practice</li> <li>• Knowledge of the Care Act 2014 and the wellbeing principle when applied to mental capacity and best interests</li> <li>• Undertake complex capacity assessments (proportionate to time in role)</li> <li>• Support people to plan for when they may lack capacity in the future, e.g. advance decisions, etc</li> </ul>	C1, 4, D1, 2
	20. Have an understanding of how to make Best Interest Decisions	<ul style="list-style-type: none"> <li>• Evidence the ability to decide who would be the most appropriate decision maker</li> <li>• Demonstrate how to complete the best interests checklist</li> </ul>	C2, 3, 4, 5

Level	Competencies	Suggested Evidence	Bournemouth Mapping
		<ul style="list-style-type: none"> <li>• Demonstrate the ability to support the person to participate in the process</li> <li>• Demonstrate skills and ability to involve families and carers in best interest decision making, being clear about the limits of their powers</li> <li>• Understand and demonstrate consideration of the risks and any mitigating options/actions required</li> <li>• Demonstrate recognition and assessment of risks, weighing these up to inform the decision making process</li> <li>• Demonstrate the skill and ability to analyse and critically appraise different views from a variety of people to come to a decision</li> <li>• Be able to justify the reasoning for coming to a given decision</li> <li>• Demonstrate the ability to ensure an individuals care plan contains the least restrictive options in place to meet their outcomes</li> <li>• Recognise that any restrictions in place are proportionate to need</li> <li>• Demonstrate ability to work with unwise decisions and ensure on-going support to the person while protecting their autonomy and how this links to safeguarding issues</li> <li>• Demonstrate knowledge of the Human Rights Act</li> <li>• Recognise what action to take where there are conflicting views, the appropriate legal remedy, or who to escalate the issue to</li> </ul>	
	21. Understand the difference between a Best Interest Decision and a Best Interest Meeting	<ul style="list-style-type: none"> <li>• Describe the key difference between the two</li> <li>• Attend and contribute to Best Interest Meetings</li> </ul>	C5, D4
	22. Have the ability to record decisions into support plans	<ul style="list-style-type: none"> <li>• Demonstrate that decisions have been incorporated</li> </ul>	N/A –

Level	Competencies	Suggested Evidence	Bournemouth Mapping
	appropriately	<p>into a persons support plan in an outcome focused manner</p> <ul style="list-style-type: none"> <li>• Demonstrate how someone has been supported who lacks capacity to illustrate decisions have been made with the person's best interests taken into account.</li> <li>• Evidence that decisions are defensible</li> </ul>	covered in staff group A
	23. Understand and be able to explain to others the best interest principle and its practical application in relation to capacity assessments, best interest decisions and associated record keeping	<ul style="list-style-type: none"> <li>• Describe the best interest principle and demonstrate how you have used this in practice, including examples of defensible recording and record keeping</li> </ul>	C1, 4
	24. Be able to differentiate between when there is a need to do a formal capacity assessment and when an informal capacity assessment is sufficient - and how to record this	<ul style="list-style-type: none"> <li>• Give examples of the differing situations and why each method would be chosen and how you would record this</li> </ul>	C1
	25. Understand the different legal responsibilities of those contributing to a decision i.e. Enduring Power of Attorney, Lasting Power of Attorney, Advanced Decisions, friends, families, professionals and the decision maker.	<ul style="list-style-type: none"> <li>• Describe the legal responsibilities of each role and why these are important</li> </ul>	N/A
	26. Understand the developing role of the Court of Protection and the Office of the Public Guardian	<ul style="list-style-type: none"> <li>• Demonstrate understanding of what the roles of the Court of Protection and Public Guardian are and their significance</li> </ul>	N/A
	27. Understand and be able to explain to others what you can do under sections 5 and 6 of the Mental Capacity Act	<ul style="list-style-type: none"> <li>• Explain to others what you can do under sections 5 and 6 of the Mental Capacity Act</li> </ul>	C1
	28. Understand what a deprivation of liberty is and what to do if you think there is one	<ul style="list-style-type: none"> <li>• Understand the 'Acid test', the concept of deprivation of liberty, and the continuum between restriction and deprivation of liberty</li> </ul>	B4, 5

Level	Competencies	Suggested Evidence	Bournemouth Mapping
		<ul style="list-style-type: none"> <li>• Demonstrate understanding of DoLS in relation to your own role and that of others</li> </ul>	
	29. Understand MCA and Safeguarding overlap, and prosecutions under section 44 of ill treatment or wilful neglect.	<ul style="list-style-type: none"> <li>• Identify harm and risk of harm and make appropriate referrals/seek support in order to safeguard individuals</li> </ul>	D3
	30. Determine the different roles of people at a Best Interest meeting including: Differentiation between the role of decision maker and the role of the chair (including the importance of why these should not be the same person) and the interface between the chair, decision maker and minute taker	<ul style="list-style-type: none"> <li>• Chair best interest meetings where appropriate to role and context where it is deemed an independent chair or lead practitioner may be appropriate</li> </ul>	D4
	31. Effectively weigh up the evidence by: applying the principles of 'issues of magnetic importance' balancing the weight of differing people's contributions (IMCA, friend's, person without capacity), applying principles of 'acceptable risk'	<ul style="list-style-type: none"> <li>• Demonstrate understanding of each principle</li> <li>• Provide examples of complex decision making work in practice</li> </ul>	C3, 4, 5, D3, 4, 5
	32. Gather evidence which focuses on facts not emotions and understand why this is important	<ul style="list-style-type: none"> <li>• Describe why emotions should not play a part in assessments</li> <li>• Where there is no concern over capacity, take all practical steps to empower people to make their own decisions, identify person centred solutions to risk and harm, and recognise their right to make "unwise" decisions</li> </ul>	C3, 5, E1, 2
	33. Make defensible records, demonstrating a reasoned decision making process with an audit trail of what the decision is and how the decision has been reached	<ul style="list-style-type: none"> <li>• Demonstrate awareness of and ability to maintain records to defensible documentation standards</li> <li>• Be able to describe the key elements that need to be recorded.</li> </ul>	N/A – covered in staff group A

Level	Competencies	Suggested Evidence	Bourne-mouth Mapping
	<p><b>Competencies 19 – 33 are covered in the following free training:</b></p> <p><u>Mental Capacity Act: Complex Decision Making Part 1 for Experienced Practitioners and Managers: 1 day classroom</u>            This course is for those who are supporting adults who may lack capacity. It is designed to provide opportunities for discussion on practice issues around the implementation of the Mental Capacity Act and Deprivation of Liberty Safeguards, including ways of decision making, improving communication, capacity assessment, advanced care planning, best interest meetings, decision making and associated record keeping. Topics include how to undertake capacity assessment (formal and informal), importance, how to improve communication, recognition of advanced care planning, the best interest meetings and decision making. How to make records which demonstrate how someone has been supported who lacks capacity to illustrate decisions have been made with the person's best interests taken into account  <b>This training is only for NYCC Health and Adults Services staff and identified wider sector partners in Health and Independent Advocacy Services</b></p> <p><u>Mental Capacity Act Complex Decision Making Part 2: Best Interests decisions and Best Interest meetings: 1 day classroom</u>            This course will develop and enhance practitioner understanding and confidence to the MCA Best Interest meeting. To enable those undertaking this role to be able to obtain, analyse and evaluate complex evidence and differing views and weigh them appropriately in decision-making. The course will include undertaking practical skills sessions and opportunity to discuss individual case work. This course is for staff that are working within Locality Assessment teams and are significantly involved in complex MCA Best Interest meetings. <b>This training is only for NYCC Health and Adults Services staff and identified wider sector partners in Health and Independent Advocacy Services</b></p> <p><b>In addition to competencies 1-9 and 19-33, staff undertaking Best Interest Assessments will</b></p>		
Level 4	<p>Demonstrate the critical ability to keep appropriate records and to provide clear and reasoned report in accordance with legal requirements and good practice</p> <p>34. Demonstrate the professional knowledge and skills necessary to obtain, evaluate and analyse complex evidence and differing views and to weigh them appropriately in decision making</p>	<ul style="list-style-type: none"> <li>• Demonstrate the ability to apply in practice and maintain knowledge of relevant legal and policy frameworks</li> <li>• Demonstrate the ability to work in line with eh presumption of capacity</li> <li>• Demonstrate the ability to take all practical steps to</li> </ul>	F1,2,3,4,5

Level	Competencies	Suggested Evidence	Bournemouth Mapping
		help someone make a decision <ul style="list-style-type: none"> <li>• Demonstrate the ability to assess risk, in complex situations, and use analysis to make proportionate decisions.</li> <li>• Demonstrate the ability to make informed, independent best interest decisions</li> <li>• Demonstrate the ability to balance a persons right to autonomy and self determination with the right to safety.</li> </ul>	
	35. Critically apply knowledge of relevant legislation and codes of practice (including the Mental Health and Mental Capacity acts and the DOLS regulations).	<ul style="list-style-type: none"> <li>• Apply relevant knowledge and legislation in practice when making best interest decisions</li> </ul>	N/A
	<p><b>Competencies 34 – 35 are covered in the following training (this is not provided by NYCC)</b>  <u>Best Interest Assessor Qualification</u>            On completion of this qualification staff will be able to demonstrate the critical ability to keep appropriate records and to provide clear and reasoned report in accordance with legal requirements and good practice, demonstrate the professional knowledge and skills necessary to obtain, evaluate and analyse complex evidence and differing views and to weigh them appropriately in decision making and critically apply knowledge of relevant legislation and codes of practice (including the Mental Health and Mental Capacity acts and the DOLS regulations).</p> <p><b>In addition to competencies 1-9 and 19-33, senior manager level staff will:</b></p>		
Level 5	Lead the development of effective policy and procedures for Mental Capacity Act and Deprivation of Liberties Safeguards	<ul style="list-style-type: none"> <li>• Promote the principles of MCA and DoLS within the organisation you represent</li> <li>• Provide evidence that the five principles are embedded within the organisation, ensuring policies and procedures are aligned to the requirements of the MCA and best practice</li> <li>• Support multi agency working to develop a consistent partnership approach to the implementation of MCA and DoLS</li> </ul>	E1, 2, 3, 4

Level	Competencies	Suggested Evidence	Bournemouth Mapping
		<ul style="list-style-type: none"> <li>• Have a strategic understanding of the scope of MCA and DoLS across the whole organisation</li> <li>• Provide leadership to the workforce stating clear aims and objectives in the implementation and application of MCA and DoLS</li> <li>• Provide assurance that contractual arrangements with service providers include meeting the requirements of MCA legislation</li> <li>• Promote a culture of positive risk and risk management within the organisation</li> <li>• Promote supported decision making and co-production.</li> <li>• Promote awareness of best interests and the factors that need to be considered</li> <li>• Lead on and support a proactive approach to MCA and DoLS</li> </ul>	
	36. Ensuring continuing staff competence	<ul style="list-style-type: none"> <li>• Provide evidence of the organisation's MCA and DoLS training in response to training needs analysis</li> <li>• Provide evidence of the inclusion of MCA and DoLS in the regular audit programme and work of the quality/performance teams</li> </ul>	E4, 5

These competencies have been prepared in line with:

- Care Act 2014
- Bournemouth University and Learn to Care MCA Competency Framework 2017
- London Joint Improvement Partnership MCA knowledge and competencies, created on 19/9/11, authors Lynda Tarpey, S Chamberlain, Linda Tarpey.

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**Overall summary of DoLS/MCA Training Provided by North Yorkshire County Council Health and Adult Services**



All NYCC training can be accessed via the NYCC Learning Zone: <https://learningzone.northyorks.gov.uk>. All available free training is advertised via a booklet which is produced once a year and circulated, to as many organisations as possible via the safeguarding training sub group representatives, MCA Forum, HAS Contracting and Quality Assurance service area, housing commissioning manager, Independent Care Group, and the Internet via the North Yorkshire Safeguarding Adults Internet site or the Care Alliance for Workforce Development site ([www.cawd.org.uk](http://www.cawd.org.uk) )

For any issues accessing training please contact the Training and Learning Team by email or telephone:

@ [trainingandlearning@northyorks.gov.uk](mailto:trainingandlearning@northyorks.gov.uk)

☎ 01609 538010

Health and Adult Services also have a Workforce Development Adviser who covers Safeguarding, MCA and DoLS, Sally Lichfield, who is available to provide advice and guidance on individual and organisational safeguarding training requirements if required. To access this support, contact the Workforce Development Unit support team – 01609 534328 or email [sally.lichfield@northyorks.gov.uk](mailto:sally.lichfield@northyorks.gov.uk)