

Welcome to April 2023 edition of welearn. #welearnWednesday

Each Month we will present **key learning themes** from local **serious incidents, investigations, complaints, litigation, or coroner cases.**

The learning may not have a direct link to your area of work. However, the learning provides an opportunity to reflect on some of the wider issues that could be for you to consider.

This Month we are learning from locally reported incidents where we have not followed the correct

**Principles related to Mental Capacity Act (MCA) Inc. Deprivation of Liberty Safeguard (DoLS) and Best Interests (BI).**

and

**The negative impact that this can have on Patient Safety & Experiences of Care, as well as regulatory compliance.**

Where we can we improve ?

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**Mental Capacity Principles Incidents reported have identified:**

we are not always following the Law by completing a Full Mental Capacity Assessment (MCA) prior to a Deprivation of Liberty Safeguards (DoLS) being put in place.

Under the MCA you are required to assess capacity before carrying out any care or treatment – the more serious the decision, the more formal the assessment of capacity needs to be.

We are not always providing comprehensive records of decisions made. Recording in Medical Records is a must if a person lacks capacity. Any actions taken, or any decision made on their behalf, must be made in their best interest (BI) and recorded as such.

We are not always ensuring an optimum level of care by making reasonable adjustments for those if their condition prevents them from e.g. understanding or retaining information.



## Lessons Learnt from Incidents

### Incident 1:

Patient admitted from a nursing home not eating and drinking with Safeguarding concerns. Patient unable to give all their medical history and declined full medical examination. Sometimes patient consent given for treatment but mostly declined. The patient appeared confused, but capacity not assessed.

Key issues:

Required NGT feeding but unnecessary delay as declined.

Use of sedation to manage NG being pulled out by the patient with no MCA, DoLS in place.

Once MCA and DoLS a Best Interest decision was not made in a timely manner.

The balance between psychiatric, medical and nutrition problems was challenging to manage and not coordinated.

### Incident 2:

Patient viewed as not having capacity with a diagnosis of dementia. She had been declining Enoxaparin. This had not been escalated and a full MCA not completed to inform BI decision to administer Enoxaparin or for alternate preventative treatment.

Key Issues:

Developed a DVT: as the patient did not have capacity and a DOLs not applied for which would have given nurses the ability to provide preventative treatment in their best interests.

### Learning:

**Completing a Mental Capacity early means the right clinical decisions can be made with if required a deprivation of liberty and Best Interest Decision Making**

## Learning From Complaints

Young Person with complex care needs and without capacity for decision making attended ED with their carer. Considering care needs this person should have had reasonable adjustments made inc. being seen sooner and provided a quiet place to wait.

The **Reasonable Adjustment Flag** is a national record which indicates that reasonable adjustments are required for an individual and optionally includes details of their significant impairments and key adjustments that should be considered.

Improvement required at local level: Check if a flag is in place for your patient where appropriate.

**#Safeguarding**

## Examples of Types of Reported Incidents that breaches MCA Principles:

- Tilting a bed head down to “keep the patient from getting out of bed” **THIS IS RESTRAINT**
- Wrapping bandages around a patient's hand “to stop them pulling out an IV” **THIS IS RESTRICTIVE**
- Not enabling patients to be discharged home as “unsafe to go home” with no MCA, DoLS or BI in place.
- Putting a DoLS in place with no MCA completed.



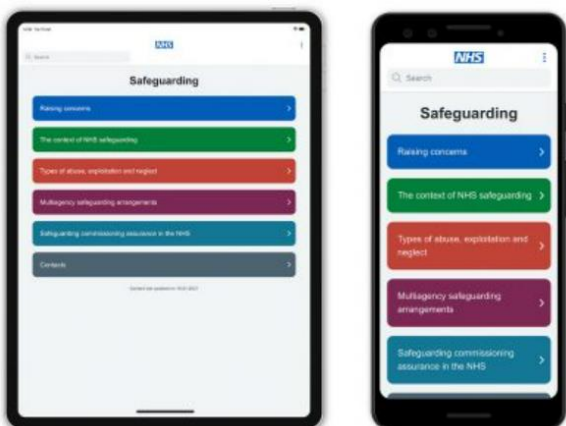
- MCA completed that states a patient lacks capacity: restrictive practice in place but no DoLS completed.
- Use of Bedside as “risk of falls” with no recorded MCA and therefore inability to evidence in the patients Best Interest.
- Application of Therapeutic Intervention Policy: 1:1 care but no evidence of an MCA or DoLS completed. **THIS IS A BREACH ARTICLE 5 OF THE HUMAN RIGHTS ACT.**

# The MCA is underpinned by 5 principles for supporting young people and adults:



## Resources: Download the Safeguarding APP

It can be accessed via Apple iOS, Google Play or it can be downloaded by visiting your device's appropriate app store and searching for 'NHS Safeguarding'.



## Local Policies @SWB

<https://connect2.swbh.nhs.uk/safeguarding/child-safeguarding/safeguarding-policies/>