



# 7 MINUTE MYTH BUSTER

## Mental Capacity and Maternity

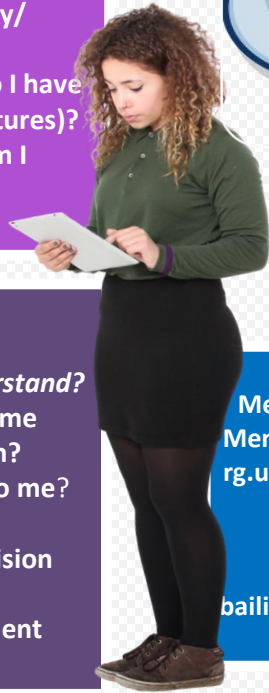


Midwives have always considered Mental Capacity (MCA)  
· Informed Consent can be seen throughout maternity notes. YOU can assess capacity (and do all the time)- don't be anxious, seek support- practice will help.  
MCA provides protection for people and support for Professionals. Capacity is decision AND time specific. Assess the person; don't judge the decision- Capacious decisions can also be unwise!

- 1. Presume capacity**  
*'Start with I CAN make a decision'*
- 2. Support decision making**  
*'Help me make a decision'*
- 3. Unwise decisions**  
*'Don't say I lack capacity because my decision seems unwise'*
- 4. Best interests**  
*'Use a best interest checklist if I can't make a decision'*
- 5. Least restrictive option**  
*'Don't stop my freedom more than is needed'*



- ### Impacts on Capacity
- Am I hungry, thirsty, fatigued, in pain? Under the influence of drugs or alcohol? Am I scared for myself or of anybody else?
  - Is this the right time & do I need support (friend/family/advocate)? Can the decision be delayed?
  - Is this information in a form that I can understand? Do I have additional needs (glasses, hearing aid, interpreter, pictures)?
  - Have I just taken my medication, or stopped them? Am I detoxing? How is my mental health impacting decision making right now?



- ### Supporting Decision Making
- If I am frightened or unwell- *how do you know I understand?*
  - Do I need support and/or Advocacy? Have you asked me about the elements above to help me make a decision?
    - Was the MCA two stage test of capacity applied to me?
  - Could I understand the information relevant to the decision, retain it, use the information to inform my decision and communicate my decision?
  - If 'NO' to any of the above, is this because of an impairment or disturbance of my mind or brain?

**USEFUL LINKS**  
[Mentalcapacitytoolkit.co.uk](http://Mentalcapacitytoolkit.co.uk)  
[Mentalcapacitylawandpolicy.org.uk/capacity-pregnancy-risk-and-the-courts](http://Mentalcapacitylawandpolicy.org.uk/capacity-pregnancy-risk-and-the-courts)  
[39essex.com](http://39essex.com)  
[Scie.org.uk/mca](http://Scie.org.uk/mca)  
[bailii.org/ew/cases/EWCOP/2023/5.html](http://bailii.org/ew/cases/EWCOP/2023/5.html)



**You are not alone!** You may be THE most experienced person around the woman. Involve legal teams as early as possible if required.



**Keep 5 elements of MCA to hand & apply to practice.** Find out about what to do if Professionals disagree.



**Store following details on work phone of 1. Trust MCA Leads 2. Local Advocacy Services & don't forget friends/family 3. Safeguarding Leads for your Trust**