

Scenario 11: Mental Capacity Act (Finance Based)

Please note the content of this training scenario is correct as of July 2024. It is up to individuals using the scenario to confirm if there have been any subsequent changes in case law or guidance requiring inclusion prior to use.

Capacity Assessment

What has promoted this capacity assessment?

Mabel's care provider has contacted LCC to request consideration of a corporate appointee. This request was made due to carers noticing unopened mail and offering support to open. Upon opening the mail, several final demand bills have been sent and they have outlined the number of attempts of contacting Mabel to arrangement. The carers have asked Mabel if she needs support paying her bills, but she didn't acknowledge there being a problem or anything additional she needed help with.

What is the Specific decision to be taken?

Can Mabel manage her finances independently?

What information is relevant to the decision?

I have identified the below information as the salient information for the decision and below is what I discussed with Mabel during my visit on 16/04/24.

1. A referral has been received to social care highlighting concerns about Mabel's ability to manage her finances due to discovering final demand letters.
2. Mabel is responsible for arranging payment for her bills which I believe to be the following: utility bills, council tax, phone and her care contribution. I will attempt to confirm the information during my visit.
3. If Mabel does not pay her bills, she is at risk of the debt being passed to debt collectors. Debt collectors could visit her property in an attempt to recoup funds.
4. This could affect Mabel's credit rating and the companies could take the unpaid bills to court which could result with a CCJ (County Court Judgement). The initial debt can significantly increase due to the associated costs of debt collects and court.
5. Mabel's income (benefits / pension) should be sufficient to pay her bills and shopping. I will attempt to confirm the information during my visit.
6. Mabel's income will be held in her bank and payments can be arranged directly from her bank.
7. If Mabel does not recognise transactions on her banking statements, she needs to speak with her bank to ensure the payments are legitimate.
8. There are people in the community who can try to take advantage of others for financial gain. They could pretend to sell a service or product to access people's bank accounts / details. If you think you have experienced something like this, you need to contact your bank or the police for assistance.
9. A capacity assessment is required to establish if Mabel has the capacity to manage her finances independently or if support needs to be arranged by way of a corporate appointee.

What practical steps have been taken to help the person make the decision for themselves?

Before meeting with Mabel, I spoke to the care agency to gather further information. I wanted to identify how long they have been concerned about Mabel's ability to manage her finances and if they had any other concerns relating to how she safeguards her finances. The agency confirmed the times they visit, when Mabel is most engaging and the carer she had a good rapport with.

I reviewed information held on the adult social care system to establish Mabel's diagnosis' and care and support needs.

Mabel is able to communicate verbally.

Mabel had no family or friends to consult with.

Home visit to Mabel 16/04/24

Upon meeting with Mabel, I introduced myself, explained the purpose of my visit and discussed the referral from the care agency. After discussing the above salient information, I asked Mabel the following questions and have noted her responses.

Mabel, please can I have a look at the final demand letters you have received?

I don't know where they are. With support from the carer, the letters were found and passed to me.

Mabel, have you responded to any of these letters?

No.

Mabel, please can you explain why you haven't responded or arranged payments for these bills?

I'll get round to it.

Mabel, do you remember what I explained could happen as a result of not paying these bills?

I can't remember. You think I might get in trouble.

I reiterated the salient information identified at points 3 and 4.

Mabel, what income do you receive, and do you know how much?

I get a small pension, about £200 per week.

Mabel, who do you bank with?

Natwest.

Mabel, how would you get in contact with them if there was a problem with your account?

I'd ring them.

Mabel, what number would you contact them on?

I don't know, but I have it here somewhere.

Mabel, please could you find the number for me?

Mabel looked through some letters and then stated she didn't know the number. She said she would ask for help.

Mabel, do you have any bank statements I could look at to confirm you are receiving an income?

I don't know. Carer prompts Mabel to the letters and points out one which looked like a banking letter.

Mabel, this is a Lloyds bank account, do you think this is where your pension is sent?

Yes, I meant Lloyds.

Mabel, I can see your pension is going into your account and there are a number of direct debits being deducted from your account can you tell me what these are for?

I don't know.

Mabel, I can't see any payments for your house hold bills and this will be why you've been receiving the final demand letters. Can you tell me why you haven't been paying your bills?

Well, I thought those direct debits must be for those bills.

Mabel, what would you ordinarily do if you don't recognise a payment or transaction on your bank statement?

I'd ask the carers or you, from social services. Can't you help with this?

Mabel, have you spoken to the bank about these payments?

Oh, yes.

Mabel, what has the bank said or done about this?

They said not to worry.

Mabel, that seems an unusual response from the bank. Ordinarily, if someone has concerns about direct debits, the bank would cancel them. Could you tell me how you spoke to in the bank? Or do you think you need to speak to them again?

I can't remember and I don't think so. You've here to help.

Mabel, can you remember why I've been asking you all these questions?

Because you're worried about me.

Mabel, can you remember why I'm worried about you?

Something to do with the bank.

Mabel, thank you for answering all my questions. From our discussion, I am concerned about the lack of support you have managing your finances and how you aren't quite sure what your direct debits are for. I'm also concerned about your unpaid bills. I want to be confident in that your income is maximised and your finances are safe. Following my visit today, I will be making a best interests decision to determine how your finances will be managed and exploring what support is available. Do you have any views or wishes you want to share with me before I leave?

Thank you for visiting.

Assessing to make a decision

Is the Person able to understand the relevant information?

Please detail.

Mabel was able to understand some basic information about her finances. Although she mentioned the wrong bank name, it was evident Mabel knew what a bank was. Mabel did not have a robust understanding of the payments leaving her bank account. Mabel had incorrectly assumed the bills leaving her account were paying the final demand letters. However, I'm not confident Mabel truly believed this as she had not known where the payments were going. Mabel had difficulties identifying who she banked with and what steps she would take if she didn't recognise direct debits. It appears Mabel is unable to understand the salient information regarding the management of her finances.

Is the person able to retain the relevant information?

Please detail.

Given Mabel was not able to understand the salient information, she was unable to retain the information. The information was discussed with Mabel before I asked her questions about her finances. Steps were taken to support her with understanding the information, but she was unable to and therefore unable to retain the information.

Is the person able to use or weigh the relevant information?

Please detail.

Given Mabel was not able to retain the salient information, she was unable to weigh the information whilst considering the decision as to her financial management. Steps were taken to support Mabel with understanding the information, but she was unable to and therefore unable to use or weigh the information.

Is the person able to communicate their decision?

Please detail

Mabel can communicate verbally. Mabel didn't express an opinion as to how her finances should be managed or if she needed support. However, Mabel did reference that she would ask for support. Although, given Mabel's current position, it does not appear Mabel would be able to identify an issue with her finances and therefore would not seek support.

Is the person able to make the decision?

Please detail.

Given the above considerations, I do not believe Mabel has the mental capacity to decide how her finances are to be managed.

Diagnostic test

If the person cannot make the decision at, is there an impairment or disturbance in the functioning of the persons brain?

Please detail.

Mabel has a diagnosis of dementia.

If so; do you have reasonable belief that the person's inability to make the decision is because of the impairment or disturbance in the functioning of the mind or brain?

Please detail.

I believe Mabel's diagnosis of dementia and the associated memory issues she experiences, is the reason why she cannot retain the salient information and therefore make the decision herself.

Is the impairment or disturbance in the functioning of the mind or brain temporary, fluctuating or permanent?

Please detail.

Mabel's diagnosis is permanent as of 16/04/2022. Confirmed by her GP surgery on 04/04/2024.

Why do you consider this to be an incapacitated decision as opposed to an unwise one?

Please detail.

Mabel had no concerns about her financial situation even though she was receiving final demand letters. Mabel had not taken any steps to stop unrecognised payments on her bank account. When Mabel was asked about the final demand letters and the direct debts, she did not demonstrate having previously considered the situation or what the impact could be. The carers concern over Mabel's finances have increased since January 2024 and appears to be linked to her memory deteriorating. Therefore, I do not believe Mabel is making an unwise decision to not pay her bills or cancel the direct debits.

Does anyone disagree with the finding in this mental capacity assessment (including the person themselves)?

Yes/No (give details)

Summary and next steps

A best interest decision needs to be made in regard to how Mabel's finances will be managed.

Is determination of best interest required? If so this will open the Determination of Best Interest