Clinical holding, the Mental Capacity Act and balancing needs, rights and risks on medical treatment

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Clinical Holding

The use of restrictive physical interventions that enable staff to effectively assess or deliver essential care and treatment to individuals who lack capacity.
Clinical Holding

What about those who have capacity?
Clinical Holding

- Clinical Holding is restricting the person’s movement to do something that the person concerned resists.
- You must reasonably believe that it is necessary to hold the person who lacks capacity in order to prevent them coming to harm.
Mental Capacity Act

All adults are presumed to have sufficient capacity to decide on their own medical treatment, unless there is significant evidence to suggest otherwise.
Beneficence and Non Maleficence

Beneficence is action that is done for the benefit of others.

Non-maleficence means to “do no harm.” Clinicians must refrain from providing ineffective treatments or acting with malice toward patients and service users.
Beneficence and Non-Maleficence
MCA Code of Practice

- Best Interests of the person
- Decision Making:
  - Family and carers
  - MDT
  - Decision maker
  - Court of Protection
  - Lasting Power of Attorney
Mental Capacity Act and Treatment

- MCA provides legal protection from liability for providing care and treatment, as long as you:
  - have observed the principles of the MCA
  - have carried out an assessment of capacity and reasonably:
    - believe that the person lacks capacity in relation to the matter in question
    - believe the action you have taken is in the best interests of the person
Common areas of concern

- Diagnostic examinations and tests
- Assessments
- Medical and dental treatment
- Surgical procedures
- Admission to hospital for assessment or treatment
- Nursing care
- Emergency procedures
Best Interests

Whose Best Interests?
Best Interests

- In considering the best interests of this particular patient at this particular time, decision-makers must look at their welfare in the widest sense, not just medical but social and psychological
Best Interests

- It is essential to consider the nature of the medical treatment in question, what it involves and its prospects of success
- It is imperative to consider what the outcome of that treatment for the patient is likely to be
Best Interests

Experts by Experience
Current Practice

- Legal dilemmas
- Professional grey areas
- Ethical concerns
- Confidence in decisions
- Confidence in actions
- Need for training
The use of clinical holding when providing essential care & treatment

1.

2.

3.

4.

5.

6.
Court of Protection
Evidence and Research

- Case Law
- Evidence of similar case scenarios
- Developing new and more effective ways of treating a condition
- Improving the quality of health and social care services
Mental Capacity Act

Person Centred Decision-Making
Values and Decision-Making
Considerations of Clinical Holding

- Last resort.
- Reasonable and proportionate.
- Least restrictive.
- Shortest amount of time.
- Minimise injury, avoid pain.
- Benefits outweigh risks.
- Prevent misuse and abuse.
Reducing the Use of Clinical Holding

- Functional assessment.
- Manage aspects of the environment.
- Manage aspects of the procedure.
- Use augmentative communication.
- Acclimatisation and desensitisation.
- Create an individual and flexible approach
When to Stop Holding
Questions people ask us most