Balancing rights and risks: The role of technology under the Mental Capacity Act

Introduction

Assistive and remote monitoring tools and technologies are increasingly used in health and social care to enhance independence, mitigate risks and make care more proactive. Driven by workforce pressures and digital transformation, these tools align with NHS priorities to shift care to communities, make technology-enabled care accessible and focus on lowering hospitalisation.

However, the use of technology raises significant legal and ethical considerations, especially regarding individuals who may lack mental capacity. If implemented without care, it can restrict rights or infringe on freedoms. Keeping this in mind, our assisted living solution, Beanbag Care prioritises person-centred, ethical technology that supports dignity and promotes independence.

This paper explores how the Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) guide technology decisions, ensuring they are lawful, ethical, and in the best interests of individuals who may have limited mental capacity.

About Secure and Beanbag Care

Secure, founded in 1987, is a global provider of energy management solutions with a strong vision to help users save money, reduce consumption, and live in comfort. Today, we have over 7,200 people working across nine countries, with our products, solutions, and services reaching over 60 countries across six continents.

Building on this technical and operational expertise, Secure expanded into the assisted living sector with Beanbag Care. This service is designed to support independent living for vulnerable individuals. Beanbag Care employs discreet, non-intrusive monitoring using sensors and a smart alert system that prioritise dignity, safety, and ethical practice, ensuring technology empowers rather than restricts.

By uniting Secure's global innovation with frontline health and social care experience, and guided by Occupational Therapist expertise, we deliver technology-enabled care that not only meets the standards of the MCA and DoLS but also supports a better quality of life for vulnerable individuals.

Legal framework overview

Mental Capacity Act (2005)

The Mental Capacity Act 2005 (MCA) is a key piece of legislation in England and Wales that provides a legal framework for making decisions on behalf of individuals who lack the mental capacity to make specific decisions for themselves. It ensures that any decision made for these individuals is in their best interests and as least restrictive as possible.

The Act outlines five key principles:

1. **Presumption of capacity** – Every adult has the right to make their own decisions and must be assumed to have capacity unless it is proven otherwise.
2. **Support to make decisions** – A person must be given all practical help and support before anyone concludes that they cannot make their own decision.
3. **Right to make unwise decisions** – People have the right to make decisions that others might consider unwise or unconventional. This does not mean they lack capacity.
4. **Best interests** – Any decision or action taken on behalf of someone who lacks mental capacity must be in their best interests.
5. **Least restrictive option** – Any action taken must be the least restrictive of the person's rights and freedoms while still achieving the intended outcome

Under this Act, **Lasting Power of Attorney (LPA)** and deputies play important roles:

- **Lasting Power of Attorney (LPA):** An LPA is a legal instrument that allows a person (the donor) to appoint someone they trust (the attorney) to make decisions on their behalf if they lose cognitive ability in the future. There are two types of LPA: one for health and welfare and one for property and financial affairs. The donor must be mentally capable at the time of making the LPA.
- **Deputy:** If a person loses capacity without making an LPA, the Court of Protection may appoint a deputy (usually a family member or professional) to make decisions on their behalf. Deputies must act in the person's best interests. The court supervises deputies to ensure they carry out their responsibilities properly.

Both LPAs and deputies must adhere to the principles of the MCA, ensuring that decisions remain balanced and respectful of the individual's rights.

Deprivation of Liberty Safeguards (DoLS) and Liberty Protection Safeguards (LPS)

The Deprivation of Liberty Safeguards (DoLS) and upcoming Liberty Protection Safeguards (LPS) are legal frameworks under MCA, designed to protect individuals who have a reduced ability to make informed choices and may be deprived of their liberty in care settings.

DoLS, introduced in 2009, apply to people aged 18 and over in care homes or hospitals where care or treatment arrangements amount to a deprivation of liberty. It ensures that any such deprivation is lawful, necessary, and in the person's best interests. Authorisations are issued by local authorities following a series of independent assessments.

In contrast, LPS was introduced in the Mental Capacity (Amendment) Act 2019 to replace DoLS with a more flexible and less bureaucratic system. LPS will apply to individuals aged 16 and over in any setting, aiming to streamline assessments by aligning them with existing care planning. Its people-centric approach will also place greater emphasis on the person's wishes and the involvement of those close to them. However, as of September 2025, LPS has not yet been implemented, and DoLS remains the current legal safeguard.

Cheshire West ruling

The Cheshire West ruling (2014) is a landmark decision by the UK Supreme Court that clarified what constitutes a **deprivation of liberty** under the MCA. The court established that a person is deprived of their liberty if they are under **continuous supervision and control, not free to leave, and lack the capacity to consent to their care arrangements** - regardless of whether the setting is considered normal or the person appears content or compliant.

This ruling significantly broadened the definition of deprivation of liberty, bringing more people, particularly those with learning disabilities or dementia in care homes, hospitals, or supported living, under the protection of the DoLS. The judgment emphasised that the focus should be on the objective situation, not the person's diagnosis, behaviour, or the benevolence of the care arrangements.

Introduction

The MCA and DoLS directly affect how assistive and monitoring technology tools, such as GPS trackers, fall sensors, door alarms, or CCTV, can be used to support individuals who may have limited decision-making ability.

Under the MCA, the first step is to evaluate whether the individual has the capacity to consent to the use of technology. If they lack the capacity, any decision to implement technology must be made in their best interests, following the five statutory principles, including using the option with minimum restrictions.

DoLS becomes relevant when technology leads to continuous supervision and control, the person is not free to leave, and they lack the capacity to consent to their care. For example, door sensors that prevent someone from leaving a care home may constitute a deprivation of liberty, requiring formal authorisation.

Overall, while such tools can greatly enhance safety and independence, their use must be carefully assessed to avoid unnecessary infringements on a person's liberty, autonomy, or privacy. Regular reviews, clear documentation, and involvement of family or advocates are also key to ethical and lawful practice.

Innovative systems like Beanbag Care are designed to align with these principles. For example, Beanbag Care's motion sensors discreetly monitor an individual's movements and send alerts in case of an emergency like a fall, enabling timely intervention. Likewise, its sleep monitoring feature provides valuable insights into the sleep patterns of people and identifies health issues early without compromising their privacy.

This kind of non-intrusive, proactive care, without continuous direct supervision exemplifies the least restrictive approach.

The Beanbag Care approach

Beanbag Care is purpose-built to support independent living while upholding individual rights and dignity. It is developed in close collaboration with health and social care professionals, individuals, and families to ensure technology is introduced thoughtfully and ethically.

A central feature of Beanbag Care is its use of non-wearable, wireless monitoring technologies, such as motion and bed sensors, rather than cameras. These provide insights into daily routines and wellbeing, generating alerts only when necessary.

We are proud to have an in-house Occupational Therapist who provides clinical leadership in the prescription of technology, ensuring alignment with the principles of the Mental Capacity Act and promoting best practice in care planning.

This clinical expertise, combined with our user-focused design, helps ensure that Beanbag Care not only meet safety and compliance needs but also supports human-centred, compassionate care.

Beyond technology provision, Beanbag Care offers comprehensive guidance and training for organisations. We help teams navigate the complexities of legal and ethical decision-making around technology use. This fosters confidence and clarity in balancing safety, independence, and rights.

Ethical considerations

While technology-enabled care offers clear benefits, its use raises important questions about autonomy, dignity, and the proportionalityof care. The MCA and DoLS provide the legal framework to ensure that such tools are applied in ways that protect individual rights. This section explores key ethical considerations for health and social care professionals while using such technologies.

Respect for autonomy

Even when an individual lacks mental capacity, their autonomy should be respected as far as possible. The ethical use of technology involves supporting individuals to participate in decisions to the fullest extent possible. This includes offering accessible information and adopting supported decision-making approaches. Avoiding blanket practices ensures that the technology use aligns with the person's known values and preferences.

Example: Before fitting a GPS tracker for a person with dementia, staff should attempt to explain its purpose using simple language or visual aids and take account of the individual's past attitudes towards independence and privacy.

Proportionality and the least restrictive option

Technology should only be used when it is necessary and represents the least restrictive option available. Care teams must balance the benefits of increased safety with the potential for restriction or control.

Intrusive technologies, like continuous video monitoring, should only be used when there are clear risks and not as a default.

Example: Using the Beanbag Care system's motion sensors may be a less restrictive alternative to a camera while still supporting fall prevention.

Informed consent and capacity assessment

Capacity to consent to the use of technology must be assessed on a decision-specific basis. If a person lacks capacity, decisions must be made in their best interests through a structured process that includes consultation with family, carers, or advocates. Regular reviews should be undertaken, particularly for individuals with fluctuating or progressive conditions.

Tip: Decisions about technology use should be recorded clearly, including the rationale, alternatives considered, and how the person's wishes and values were considered.

Privacy and dignity

Privacy is a fundamental right that should be preserved in all care settings. Technology that monitors individuals in private spaces like bedrooms or bathrooms requires heightened ethical scrutiny. Measures should be taken to minimise intrusion and ensure data is handled sensitively.

Example: Avoiding constant video surveillance unless there is a clear, documented need. Explore less invasive options first.

Equity and digital inclusion

Ethical care requires that all individuals can benefit from appropriate technology, regardless of digital literacy, cognitive ability, or socio-economic background. Inclusive design and accessibility must be considered at the outset.

In developing our product Beanbag Care, we collaborated closely with the Older People's Forum in Bristol to ensure that our technology-enabled tools are easy-to-use and meet diverse needs while reflecting the voices of those it is intended to support

Transparency and accountability

All stakeholders, including care providers, families, and advocates, must understand why a technology is being used, what it does, and who is responsible for its supervision. Clear documentation, data protection compliance, and audit trails are essential.

Tip: Align practices with the UK GDPR, NHS digital standards, and MCA Code of Practice to ensure lawful and ethical data use.

Balancing safety and positive risk-taking

An overly risk-averse culture can lead to unnecessary restrictions. Ethical care requires enabling individuals to take reasonable risks that enhance wellbeing, independence, and choice. Technology should support, not replace human judgment and compassionate care.

Further resources:

Skills for care:
https://www.skillsforcare.org.uk/Effective-deployment/Working-with-risk.aspx

https://www.rcot.co.uk/explore-resources/rcot-publications/embracing-risk

Recommendations for practice

Assessment guidance: Embed MCA and DoLS checks into assistive technology assessments to ensure capacity and best interests are always considered.

Best interests framework: Add prompts specific to assistive technology within decision-making forms to support thorough, context-sensitive evaluation.

Training: Provide targeted training for occupational therapists, care staff, and other professionals on the legal and ethical implications of technology use.

Multi-disciplinary working: Strengthen collaboration between safeguarding teams, social care, IT departments, and health professionals to ensure technology is implemented safely and lawfully.

Policy development: Advocate for the creation and adoption of clear, consistent guidance around the use of digital monitoring in care settings.

Supplier choice: Choose suppliers who understand and follow MCA and DoLS rules, like Beanbag Care, which combines clinical expertise with innovative, person-centred technology.

Conclusion

The integration of assistive and monitoring technologies in health and social care offers tremendous opportunities to enhance independence, safety, and care quality for those with impaired decision-making abilities. However, their use must be carefully guided by legal and ethical frameworks.

By adhering to the principles of the Mental Capacity Act and Deprivation of Liberty Safeguards, and prioritising user-centred, least restrictive approaches, technology can be a powerful enabler rather than a constraint. Beanbag Care strikes this balance by offering thoughtful solutions that reduce isolation, uphold dignity, and support independent living, while also enabling proactive care.

Beanbag Care remains committed to supporting organisations in navigating this complex landscape through expert guidance, innovative technology, and a shared focus on ethical, compassionate care.

Together, we can harness technology to promote safer, more respectful, and empowering care environments for all.

Want to know more?

Call **0800 048 8351** or email **beanbag@securemeters.com** to explore how we can support secure, respectful, and person-focused care.

Let's work together to make a real difference.

References and further resources

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