



Hampshire Mental Capacity Toolkit

Assessment of Capabilities and Best Interests Decision Making

August 2010

Tool to assess whether an individual lacks mental capacity in relation to a specific decision.

Person's name _____

Address _____

Client ref – swift/nhs number _____

What is the decision that needs to be made? (See guidance notes)

Decision maker/assessor – usually the person who would be responsible for making the decision if the client lacks mental capacity to make it for themselves.

Name: _____

ASSESSMENT QUESTIONS

<p>I. Is there an impairment or disturbance in the functioning of mind or brain? (permanent or temporary.)</p>	<p>YES Impairment is present – record symptoms /behaviours or any relevant diagnoses that lead to your belief. (see guidance notes)</p>	<p>NO Impairment is not present – record evidence for this belief. If NO the person is deemed to have capacity – assessment is ended now.</p>
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If the answer to Q.1 was 'Yes', proceed to Q.2

<p>2a) With all possible help given is the person able to understand the information relevant to the decision? E.g. What is their understanding of decision in question? Can they tell you why they think the decision needs to be made? What do they think the consequences of the decision will be? See guidance notes.</p>	<p>YES – able to understand info. Record views/evidence to show they understood it.</p>	<p>NO – unable to understand info. Record steps taken to explain info and views/evidence why they did not understand it.</p>
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b) Are they able to retain the information long enough to make the decision? See Guidance notes.	YES – able to retain info, record evidence.	NO – unable to retain information, record any help given and evidence.
c) Are they able to weigh the information as part of the decision making process? Are they able to understand the consequences of making or not making the decision? See guidance notes.	YES – able to weigh information, record evidence.	NO – unable to weigh info record evidence.
d) Are they able to communicate the decision in any way? There may be many methods to communicate and assistance may be required.	YES – able to communicate, record evidence.	NO – unable to communicate, record evidence.

Date of assessment	
How was the assessment completed? Who was present, where did it happen, how did you enable the person to make their own decision?	

Conclusion - If the answer to 1. is YES and the answer to any of 2. a) - d) is NO then the person lacks capacity under the Mental Capacity Act 2005.	Fluctuating capacity: Always consider whether the person has fluctuating capacity and whether the decision can wait until capacity returns. If this is the case, explain and enter reassessment date in outcome below.
	Outcome:
	Decision maker / assessor signature:

Best interests consultation - Service User

Consultation with the person lacking capacity	Supporting evidence (record here or note here where the information is recorded on their case file/ SWIFT etc)
What are the issues that are most relevant to the person who lacks capacity?	
Specify their past and present wishes, feelings and concerns in relation to this decision.	
What are the person’s values and beliefs (eg. religious, cultural, moral) in relation to this decision?	
Does the person have any previously held instructions (eg. advance decisions) relevant to this decision? Give details	
Are there any other “relevant circumstances” that should be taken into account in this case?	

Best interests - checklist for undertaking wider consultation

Use this page to record who is involved in the consultation.

Decision / action being consulted upon.

In relation to:

(person deemed to lack capacity)

Checklist of persons	Dates consultations were undertaken
<p>Anyone named by the person lacking capacity as someone to be consulted (specify person/s)</p>	
<p>Anyone engaged in caring for the person or interested in their welfare (specify person/s)</p>	
<p>Any attorney appointed under an Enduring/ Lasting Power of Attorney specify person/s and type/s of authority. Always see documentary evidence as proof of authority. If the attorney has the authority to make this decision, a Best Interests Decision is not required and the attorney should make the decision. If the attorney does not have authority over this specific decision, they should be consulted with as an interested party, but not asked to decide.</p>	
<p>Any deputy appointed by the Court of Protection</p>	
<p>In cases where the person lacking capacity has nobody in the above 4 categories other than paid carers, and faces a decision about serious medical treatment or a change of residence, you will need to refer the person to the IMCA service in the area where they are currently residing. You may also refer the person to IMCA if this decision relates to a safeguarding concern and it would not be in the person's best interests to consult their family members or friends.</p>	

Best interests consultation - Relevant parties

Person(s) being consulted:

Name (List)	Views

Questions	Views
<p>1. What do you consider to be in the person’s best interests on the matter in question? (list names, with views opposite)</p>	
<p>2. Do you have any information about the person’s wishes, feelings, values or beliefs in relation to this matter? (list names, with views opposite)</p>	

Best interests decision – Risk assessment

See your local risk policy guidance

Eg for HCC see ‘policy to promote independence and choice’ on Hantsweb and see DoH guidance ‘Independence, choice and risk: a guide to best practice in supported decision making.’

1. What is the decision or choice to be made?	
2. What are the potential benefits?	
3. How likely are these to be achieved?	
4. What could go wrong? Is there a possibility that anyone may be harmed?	
5. a) How likely is this to occur? b) If something went wrong, what would the severity of the outcome be?	
6. What are the existing factors which promote benefit and reduce the chances of anything going wrong?	
7. What additional actions would promote benefits and reduce the chances of something going wrong?	
8. What risks will remain after action plan is in place?	

ADDITIONAL INFORMATION considered by the decision maker in making the best interests decision specified.

Best interests decision – risk assessment

See your local risk policy guidance

Eg for HCC see ‘policy to promote independence and choice’ on Hantsweb and see DoH guidance ‘Independence, choice and risk: a guide to best practice in supported decision making.’

Specify the different options that are being considered	Is this in the person’s best interests Y/N	Reasons
1		
2		
3		
<p>If your final decision is at odds with anybody who was consulted please highlight the reasons for your decision</p>		

<p>Decision maker:</p>	<p>Date:</p>
<p>Manager:</p>	<p>Date:</p>