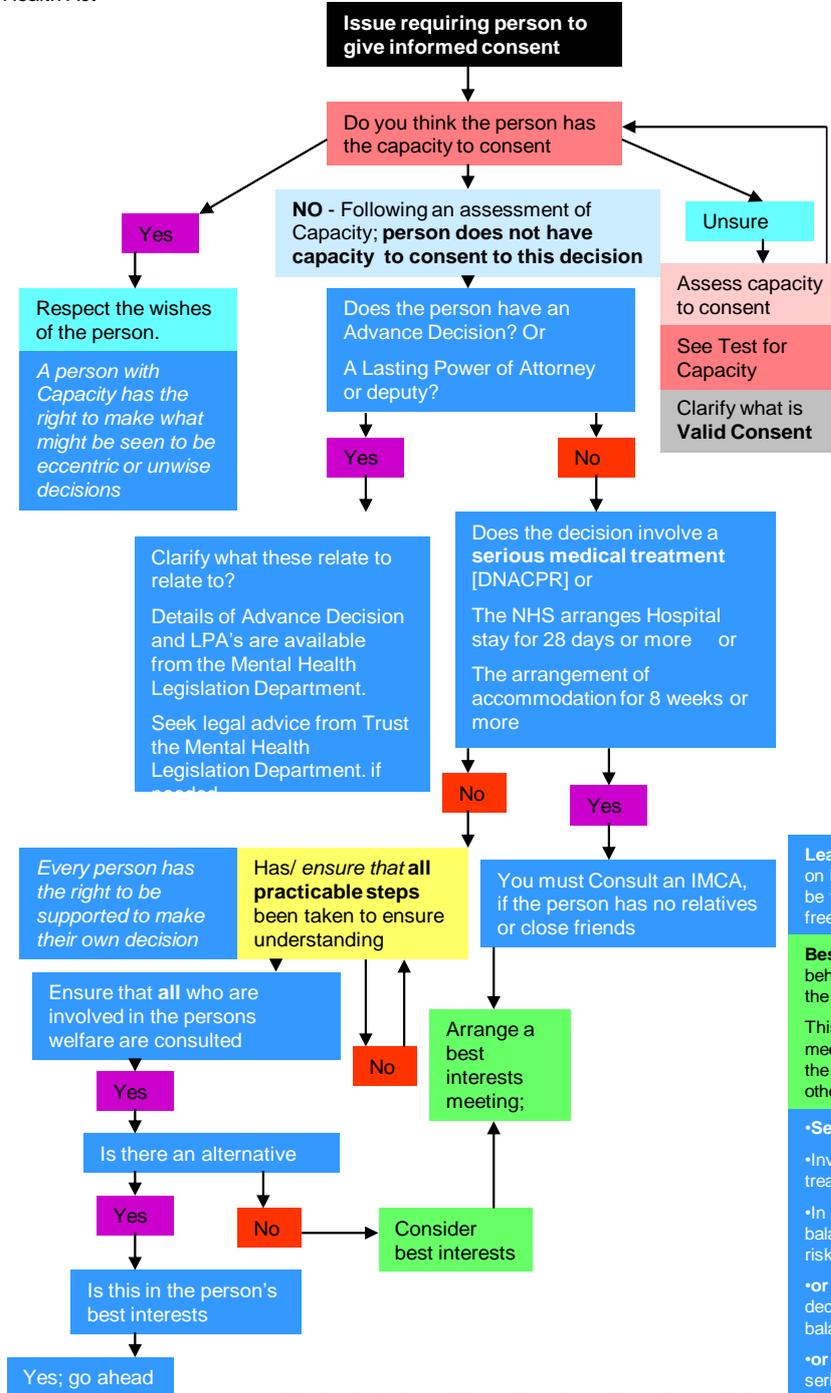


# Mental Capacity Act - Decision Making Pathway

All adults should be presumed to have capacity unless the opposite has been demonstrated. Consent must be obtained by the person undertaking the procedure and is specific to the decision to be made – This does not relate to treatment if the patient is subject to the Mental Health Act



## Legal/Statutory requirements of the Mental Capacity Act (2005)

### Test for Capacity:

Does the person have an impairment or disturbance in the function of their mind or brain

Does the impairment or disturbance mean that the person is unable to make a decision

*This can only apply if all practical and appropriate support to help the person has failed.*

**If the answers to the above questions is YES, a person is unable to make a decision if they cannot;**

- Understand the information given to them
- Retain the information long enough to make the decision
- Weigh up the information available to make the decision
- Communicate the decision

### Valid Consent is:

- Given by a competent person
- Be given voluntarily
- Given following receipt of adequate information

### All practicable steps:

- Consider use of real objects or photographs/hierarchy of symbolic development
- Arrange visits to treatment areas
- Develop information packages that are accessible
- Give the person extra time
- Make reasonable adjustments

**Least restrictive option:** Anything done for or on behalf of the person without capacity should be the least restrictive to their basic rights and freedoms

**Best Interests:** Anything done for and or on behalf of a person without capacity must be in the person's best interests

This does not always have to be a face to face meeting as long as the decision maker follows the guidance and consults with all relevant others **[See Best Interests Pathway]**

### •Serious medical treatment;

- Involves providing, withdrawing or withholding treatment in specific circumstances where;
- In what is being proposed, there is a fine balance between the likely benefits and the risks to the person,
- or where there is a choice of treatments, and a decision as to which one to use is finely balanced
- or what is proposed would be likely to involve serious consequences for the person, include DNACPR