

# Mental Capacity and Best Interest Decisions

A capacity assessment can be triggered in one of many ways following the establishment of a need for the patient to make a specific decision, e.g. the patient's behaviour, circumstances or previous issues suggests they may lack capacity or someone else has raised concerns.

## Assessment of capacity: who can assess capacity? Any registered professional: nurse/doctor/social worker

A capacity assessment should begin from a presumption that the person has capacity; you must assess their capacity using the Mental Capacity Act (MCA) 2005 Two Stage Test:

STAGE  
**1**

Does the person have an impairment of the mind or brain (temporary or permanent)?

IF YES

STAGE  
**2**

With all possible help, is your patient able to :

- Understand the decision they need to make and why they need to make it
- Retain the information long enough to make a decision or choice
- Understand the consequences and impact of making or not making this decision
- Communicate their decision by any means (ie speech, sign language).

IF YES

Your patient has capacity to make this decision for themselves even if you think this is unwise.

Record all decisions in clinical records.

IF NO

Your patient lacks capacity to make this decision under the Mental Capacity Act 2005.

You must make and record a best interest decision about the care and treatment you are proposing.

### In making a best interests decision you must

- Involve the person who lacks capacity as much as practically possible
- Consider the persons past and present beliefs, values wishes and feelings
- Take into account the views of carers, relatives, friends and advocates
- Consult others who are involved in the persons care
- Consider whether the patient will regain capacity sometime in the future in relation to the decision required
- Not base the decision solely on age, appearance, behaviour or condition.

**YOU MUST RECORD THE TWO STAGE TEST AND YOUR BEST INTERESTS DECISION IN YOUR PATIENTS CLINICAL RECORDS**

# Safeguarding Adults