

## Best Interests Meeting Guidance for the Chair

### Preparation

- The Chair should request to see all previous best interests meeting minutes and case notes relevant to the case.
- Is the Chair satisfied that all appropriate documentation has been sent to the invitees in advance of the meeting to allow the participants to prepare for the meeting and to seek any necessary advice and guidance?
- Understand any disputes or known challenges, which will help in making decisions about how to best organise and facilitate the case conference.
- Consider whether to request a legal adviser to be present.
- Understand who the essential attendees are and why any other people are considered relevant to consult in the decision.
- Consider how to manage any issues relating to confidentiality and data protection within the meeting.
- Understand what information and guidance has already been provided to the attendees.

### The day of the case conference

- The Chair should meet in a quiet area with the person and any family members, LPA/EPA/CoP Deputy prior to the meeting commencing to explain the purpose of the meeting, the legislation to be used, who will be attending the meeting and why, and finally to offer the opportunity for any questions/concerns to be explored.
- As with best interests meetings, the Chair should consider whether this should take place immediately before the meeting, or to consider whether it would be more appropriate to offer the opportunity to meet with the person/family at an earlier stage. Where there are known tensions, open and timely communication between the Chair and the person/family etc. can help to reduce any building tensions and help both parties to plan how to achieve a more relaxed meeting process. This process is especially important in situations where there is dispute.
- The Chair must remain mindful that, at this stage, they should not engage in any level of discussion about the decision to be made, but to remain solely focused on supporting attendees to understand the process and be as comfortable as possible throughout.

## Opening the best interest meeting

- Open the meeting by reminding the attendees that the best interest meeting is being held under the principles and provisions as set out in the Mental Capacity Act 2005. The meeting will be paying particular regard to the statutory best interests checklist, and lastly remind all of the need to pay regard to confidentiality. Ask each person to say who they are and why they are attending the case conference.
- The minute taker may find it useful to use the questions set out below as mini headings to capture and clearly record the content of the meeting.
- Inform everyone that the meeting will focus on the decision(s) that is required to be made and no other.
- The following questions should be covered in the meeting and generally in this chronological order:
  1. What is the specific decision(s) to be made? (The meeting must agree as this will be the focus of the meeting from this point onwards).
  2. Why is it being proposed?
  3. What steps have been taken to help the person attend the conference today and be involved in the decision making process?
  4. What steps have been taken to support the person in making the decision themselves? Why have these attempts failed?
  5. Is there an up to date Mental Capacity Assessment to evidence the person lacks the capacity to make the decision required? If not, the meeting must stop.
  6. Is it possible to delay the decision until the person regains capacity and will be able to make the decision themselves. Are there any risks to the person in delaying the decision?
  7. Who is the decision-maker? Is an EPA or appropriate LPA/court appointed deputy (CAD) in place who has the relevant authority to make the required decision?
  8. Is there a valid and applicable advance decision, or advance statement that is relevant to the decision?
  9. What do we already know about the person's values, wants and wishes?

10. What are the available/possible options to be considered? What are the positive and negative aspects of each, keeping the person's views and opinions central and taking into consideration all assessed and known risk?
11. How will the options impact on the following:
  - Any medical aspects
  - Any welfare aspects (how they live their lives)
  - Any social aspects (relationships)
  - Any emotional aspects (how they may feel or react).
12. What health and social care staff/professionals have been consulted? What are their views and opinions?
13. Is there a report from an Independent Mental Capacity Advocate (IMCA)? If the person reaches the qualifying criteria for an IMCA instruction, it becomes a statutory requirement.
14. If the person has reached the qualifying criteria and an IMCA has not been instructed, why is this case?
15. Is there any feedback from an Independent Advocate?
16. Are there any other reports to be tabled?
17. Now that the family, EPA/LPA/CAD have heard all the relevant information, what are their views?
18. Outcome of decision. The identified decision maker to make the final decision once all reports etc. have been tabled. If in complex cases, the decision-maker may decide that he or she requires additional time to reach his or her decision, this should be communicated to the Chair and the Chair should advise the meeting when the decision will be made and how it will be communicated.
19. Has the decision-maker chosen the least restrictive option? If not what is the rationale for the decision made?
20. Identify any actions, who has responsibility for each action and the timescale within which each must be completed.

If there is continued dispute or challenge at this stage, Chair to provide information on how to progress the matter. It may include an attempt at mediation. In the absence of agreement, the matter will need to be referred to the legal department for advice and potential application to the Court.