

## Mental Capacity Assessment

This form has been developed to support your compliance with the Mental Capacity Act 2005. There is a statutory requirement for anyone undertaking an assessment to have regard to the Code of Practice for the Mental Capacity Act which can be accessed via the [Legislation section of the Adult Care Procedures Manual](#).

References given below refer to the relevant paragraphs of the MCA Code.

### 1.1 Service user details

Name:

Date of birth:

Case/ref:

Present address/location:

Home address (if different):

### 1.2 What is the specific decision relevant to this capacity assessment

The MCA Code paragraph 4.4 states:

*"An assessment of a person's capacity must be based on their ability to make a specific decision at the time it needs to be made, and not their ability to make decisions in general."*

### 1.3 Who should carry out the capacity assessment

(see 4.38-4.43 of the Code)

Where the service user is subject to multi-disciplinary care, the professional with greatest responsibility for the specific decision is known as the 'decision-maker' and should ideally assess capacity. Where this is in doubt, agreement should be sought within the multi-disciplinary team. If it is evidenced that a specialist capacity assessment (such as by a psychologist) is needed and which is being relied on for this decision, the decision-maker must be satisfied that this assessment is fit for purpose.

### Person undertaking, or who has undertaken this assessment of capacity

Name:

Role:

Organisation:

Tel:

Email:

Address:

**1.4 Have you been supported to carry out the capacity assessment by another person or professional**

Yes

No

If 'yes', give details of person(s) below

Name:

Profession:

Relationship to person:

Contact details:

Name:

Profession:

Relationship to person:

Contact details:

**1.5 Identify the decision-maker**  
(see 5.8 of the Code)

The decision-maker will be the person or professional who is responsible for making the decision you have identified, or undertaking the action on behalf of the person if it established that they lack capacity unless there is a valid and applicable Enduring Power of Attorney, Lasting Power of Attorney or Court Appointed Deputy then the Attorney or Deputy will be the decision-maker for the decision if it is within the scope of their authority.

**Note:** You must verify the authority before the Attorney or Deputy can be permitted to act as decision-maker.

**Is there an Enduring Power of Attorney (EPA) under previous legislation?**

EPAs only cover property and finance and not personal welfare decisions or continuing healthcare decisions. EPA has been replaced by Lasting Powers of Attorney. They can still be used if they were made and signed before October 2007. The EPA must be registered with the Office of the Public Guardian if the donor is losing, or has lost the capacity to make decisions.

Yes

No

**Is there a registered Property and Affairs Lasting Power of Attorney (LPA)?**

This covers property and finance and not personal welfare or continuing healthcare decisions. An LPA cannot be used until it has been registered by the Office of the Public Guardian. Once registered, it can be used both before and after the donor loses capacity.

Yes

No

**Is there a registered Personal Welfare Lasting Power of Attorney (LPA)?**

This covers personal welfare decisions, which includes continuing healthcare decisions. An LPA cannot be used until it has been registered by the Office of the Public Guardian. Unlike an LPA for finances, a welfare LPA can only be used once the donor has lost capacity.

Yes

No

**Is there a Court Appointed Deputy for Property and Affairs?**

This covers property and finance and not personal welfare or continuing healthcare decisions.

Yes

No

**Is there a Court Appointed Deputy for Health and Welfare?**

This covers personal welfare decisions, which includes continuing healthcare decisions.

Yes

No

**Does the Attorney/Deputy have the authority to make this decision?**

You must check the paperwork to verify that the authority of the Attorney or Deputy has not been restricted by the person or the Court of Protection that it covers this decision and is valid and applicable.

Yes

No

Contact details of named Attorney/Deputy:

Give details and verify you have seen the original:

In the absence of verification you can contact the Office of the Public Guardian who will confirm if there is an existing EPA, LPA or Deputy.

**Record any unsuccessful attempts to contact the Attorney/Deputy, or, if you have been unable to verify existence of these power at the time of assessment:**

For more information on Lasting Powers of Attorney and Court Appointed Deputies, see chapters 7 and 8 of the Code.

**Clearly identify who is the named decision-maker for this decision if the person is assessed as lacking capacity**

Name:

Role:

Organisation:

Tel:

Email:

Address:

**1.6 What concerns or triggers have given rise to this assessment of capacity**  
(see MCA Code 4.35)

There are a number of reasons why people may question a person's capacity to make a specific decision:

- The person's behaviour or circumstances cause doubt as to whether they have the capacity to make a decision.

**1.7 This section evidences your compliance with Statutory Principle 2:**  
(see MCA Code 2.6-2.9)

*"A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success."*

Consider first what kind of help and support you can give the person to help them understand, retain, weigh up information and communicate their decision. Record your evidence here of the actions you have taken to support the person.

**Have you discussed with the person and appropriate others the most suitable venue for the assessment?**

(see MCA Code 3.13)

For example, does the person feel more comfortable in their own room; does it need to be quiet?

**Have you discussed with the person and appropriate others to establish timing of assessment?**

(see MCA Code 3.14)

For example, is there a time of day that is better for the person; would it help to have a particular person present?

**Does the person have any language or communication issues?**

(see MCA Code 3.11)

For example, is the person hard of hearing; do they have speech difficulties; do you need an interpreter; do they communicate using special equipment, e.g. a light talker communication device?

**How have you addressed these (including non-verbal communication and other specialist resources)?**

**What other steps have you taken to help communication?**

**Have you provided all the information the person needs to make an informed decision?**

(see MCA Code 3.7)

The assessor must ensure that the person has:

- Sufficiently detailed alternative plans explained to them to allow them to weigh up the alternatives and make an informed choice where possible.
- Discussion facilitated by the assessor to explore the reasonably foreseeable consequences of deciding one way or another, or failing to make the decision.

**Summarise details of the options you have discussed:**

**1.8 Two-Stage Capacity Assessment**  
(see MCA Code - Chapter 4)

If the service user does not meet Stage 1 the assessment should immediately stop. Each question should have a factual answer. Importantly, none of these questions can be answered with a simple 'yes' or 'no' and you are asked to describe the assessment process.

**Stage 1**

(see 4.11 and 4.12 of the Code)

**Is there an impairment or disturbance in the functioning of the person's mind or brain?**

The service user may not have a diagnosis but you should record here your reasons for believing this to be the case. This could be because of, for example, a head injury, a suspected infection or stroke, a diagnosed dementia, mental illness, or learning disability.

Yes

No

**If the decision is not urgent, can it be delayed because the person is likely to regain or develop the capacity to make it for themselves?**

The decision can be delayed

Not appropriate to delay the decision

Person not likely to gain or develop capacity

**Stage 2**

(see 4.13-4.30 of the Code)

Record here how the identified impairment or disturbance in Stage 1 is affecting the service user's ability to make the decision.

**Can the person understand the information relevant to the decision?**  
(see 4.16-4.19 of the Code)

Yes

No

Describe how you assessed this:

**Can they retain that information long enough to make the decision?**  
(see 4.20-4.22 of the Code)

Yes

No

Describe how you assessed this:

**Can they use or weigh up that information as part of the process of making the decision?**

(see 4.21-4.22 of the Code)

Yes

No

Describe how you assessed this:

**Can they communicate their decision by any means available to them?**

(see 4.23-4.25 of the Code)

Yes

No

Describe the reasons for your conclusion:

If the answer to any of these 4 questions is 'no', the person lacks the capacity to make the decision.

### **1.9 Impaired decisions based on duress and undue influence**

A person who has mental capacity to make decisions may have their ability to give free and true consent impaired if they are under constraint, coercion or undue influence. Duress and undue influence may be affected by eroded confidence due to fear of reprisal or abandonment, sense of obligation, cultural factors, power relationships.

Describe any concerns and action you intend to take:

### **1.10 Determination of capacity**

I have assessed this person's capacity to make the specific decision and determined that they **have the capacity** to make this decision at this time.

Name

Date

Signature

I have assessed this person's capacity to make the specific decision and determined that they **do not have the capacity** to make this decision at this time.

Name

Date

Signature

I have assessed this person's capacity to make the specific decision and **have not been able to determine if they do or do not have the capacity** to make this decision at this time.

Name

Date

Signature

Record here the action you now intend to take:

**If you have been supported to carry out the capacity assessment by another person or professional do they agree with the decision you have reached about the person's capacity?**

Name:

Profession:

Indicate Yes

No

Signature:

Name:

Profession:

Indicate Yes

No

Signature:

**Describe reasons for any difference of opinion and intended action:**

### What to do now

If, on completing Form 1 – Mental Capacity Assessment, it is concluded that the person does not have capacity and the decision cannot be delayed, the decision-maker will proceed to make a best interests decision. This should be recorded on Form 2 – Best Interest Decision Making Checklist.