

Mental Capacity Assessment – for complex decisions

Anyone undertaking an assessment using this form must refer to the Code of Practice for the Mental Capacity Act. This may be accessed on www.kent.gov.uk/mentalcapacityact. The CoP references given below refer to the relevant paragraphs of the CoP.

Name: _____ DoB: _____

Ethnicity: _____ Identifying Convention: _____
(Case/Ref no, etc.)

Present Address/Location: _____ Home Address: (If different)

Person undertaking this assessment of capacity

Name: _____ Role: _____

Organisation: _____

Address: _____ Tel: _____

_____ Email: _____

STATE THE SPECIFIC DECISION RELEVANT TO THIS ASSESSMENT OF CAPACITY

Mental Health – CoP – Chapter 13

Is the person subject to the Mental Health Act 1983?

Y N

Details

If there are concerns in relation to deprivation of liberty, you must seek further advice. Refer to DOL checklist for the Managing Authority from: www.kent.gov.uk/mentalcapacityact

People who have planned ahead

Is there an Enduring Power of Attorney (under previous legislation)? Y N

- *Does this Attorney have the relevant authority in relation to this decision?* Y N

Details

- *Contact information of the named Attorney*
Details

- *Verify you have seen original*

Signature: _____

Date: _____

Attach copies to this document (if relevant)

Is there a registered Property & Affairs Lasting Power of Attorney? Y N

- *Does this Attorney have the relevant authority in relation to this decision?* Y N

Details

- *Contact information of the named Attorney*
Details

- *Verify you have seen original*

Signature: _____

Date: _____

Attach copies to this document (if relevant)

Is there a registered Personal Welfare Lasting Power of Attorney? Y N

- *Does this Attorney have the relevant authority in relation to this decision?* Y N

Details

- *Contact information of the named attorney*
Details

- *Verify you have seen original*

Signature: _____

Date: _____

Attach copies to this document (if relevant)

Is there a Court Appointed Deputy relevant to this decision?

Y N

- Does this Deputy have the relevant authority in relation to this decision?

Y N

Details

- Contact information of the named Deputy

Details

- Verify you have seen original

Signature: _____

Date: _____

Attach copies to this document (if relevant)

Note: Attorneys and Deputies who do not have the relevant authority in relation to this decision, must be consulted.

Is there a relevant Advance Decision?

Y N

Give details if valid and applicable

Attach copies to this document (if relevant)

If the person lacks the capacity to make the specific decision, the relevant decision making authority listed above, makes the decision.

Note: Attorneys and Deputies who have the relevant authority in relation to this decision, must act in the person's best interests, under the Mental Capacity Act (2005).

Assessment

What concerns/triggers give rise to this assessment of capacity?

Details

Are you aware of any previous assessments of capacity under MCA?

Date

Decision Required

Outcome

Have you discussed with others to establish the most appropriate venue for the assessment?

Y N

Details

Have you discussed with others to establish timing of assessment?

Y N

Details

Communication

Are there language/communication issues?

Y N

Details

How have these been dealt with (including non-verbal communication and other specialist resources)?

Details

People consulted in relation to this Capacity Assessment - (CoP – Chapter 5.49)

Name: _____

Relationship to Person: _____

Address: _____ Tel: _____

_____ Email: _____

Name: _____

Relationship to person _____

Address: _____ Tel: _____

_____ Email: _____

Name: _____

Relationship to person _____

Address: _____ Tel: _____

_____ Email: _____

(Continue on separate sheet if necessary)

Independent Mental Capacity Advocacy (IMCA) - (CoP – Chapter 10)

**Kent & Medway IMCA Service: SEAP, Ground Floor, 7 Vale Avenue, Tunbridge Wells, TN1 1DJ
Tel: 01892 543870 Email: kent.imca@seap.org.uk**

Has a referral to the IMCA Service been made? Y N
(See guidance in CoP 10.1 – 10.30 and Making Decisions Booklet no. 6 - web address as above.)

Details

Date of Referral to IMCA: _____

IMCA SERVICE (IF DIFFERENT FROM ABOVE)

Name of IMCA Service: _____ Mobile No: _____

Name of IMCA: _____ Email: _____

Assessment of Capacity – (CoP - Chapter 4)

(Note. All the determinations below are specific to this decision; made on the Balance of Probabilities.)

The two-stage test:

(a) Is there an impairment of, or disturbance in, the functioning of the person's mind or brain?

Details Permanent Temporary N

(b) Does the impairment or disturbance make the person unable to make the decision, or is it likely to interfere with their ability to do so?

The four-stage test for capacity:

Consider first what kind of support you can provide for the person to help them understand, retain and weigh up information and communicate the decision.

(1) Can the person understand the information relevant to the decision? Y N

Details

(2) Can they retain that information long enough to make the decision? Y N

Details

(3) Can they use or weigh that information as part of the process of making the decision? Y N

Details

(4) Can they communicate their decision, by any means available to them? Y N

Details

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

Capacity should be assessed at the time the decision needs to be made. Consider whether this decision can be delayed because the person is likely to regain or develop capacity in the relevant future.

- The decision can be delayed
- Not appropriate to delay the decision
- Person not likely to regain or develop capacity

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 _____

Signature _____ Date _____

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 _____

Signature _____ Date _____

IF THE PERSON DOES NOT HAVE THE CAPACITY AND THE DECISION CANNOT BE DELAYED, THE DECISION MAKER WILL PROCEED TO MAKE A BEST INTERESTS DECISION.

Best Interests Decision Making

Complex Decisions

Is the decision of such complexity that it will be necessary to:

Get a second opinion

Y N

Details

Convene a Best Interests Meeting or equivalent

(If Best Interest Meeting is not convened, make sure all requirements under the Best Interest Checklist are met).

Details

Y N

Go to mediation

Details

Y N

Consult the Public Guardian

Details

Y N

Consult the Court of Protection

Details

Y N

5 Statutory Principles – CoP Chapter 2

You must be able to assert that you have followed the 5 principles of the MCA:

1. Have you assumed the person has capacity until it has been proved otherwise?

Details

Y N

2. Have you provided all possible support to the person?

Details

Y N

3. Have you ensured that you have not based your assessment on unwise decisions made by the person?

Details

Y N

4. Have you acted in the best interests of the person in making the decision or assisting them to make it?

Details

Y N

5. Is the decision or action to be undertaken the least restrictive option available?

Details

Y N

Best Interests Checklist – CoP Chapter 5

Refer to Best Interests Meetings Form

You must be able to assert that you have met the requirements of the Best Interest Checklist of the Mental Capacity Act:

- Have you avoided making assumptions based on the person's age, appearance, condition or behaviour?
Details Y N

- Have you considered all the relevant circumstances?
Details Y N

- Have you considered whether the person is likely to regain capacity and whether the decision can be delayed?
Details Y N

- Have you tried whatever is possible to permit and encourage the person to take part, or to improve their ability to take part, in making the decision?
Details Y N

- Have you considered your motivation in withdrawing life-sustaining treatment?
(You must not be motivated by a desire to bring about the person's death.)
Details Y N N/A

- Have you considered the person's past and present wishes (expressed verbally, in writing or through behaviour or habits)?
Details Y N

- Have you considered any beliefs and values (religious, cultural or moral) and any other factors which would be likely to influence the decision?
Details Y N

- Have you consulted all relevant people as far as it is practical and appropriate to do so?
Details Y N

- Have you considered other options that may be less restrictive of the person's rights?
Details Y N

IMCA

Report Received:

Y N

Date _____

IMCA's recommendation:

Details

Is there a disagreement?

Y N

Details

Arbitration

Record all steps taken in arbitration.

Best Interests Decision

Outcome:

Date: _____

Best Interests Decision Maker

Name: _____ Role: _____

Organisation: _____

Address: _____

Telephone: _____ Email: _____

Signature: _____ Date: _____

Review

This assessment of capacity will be reviewed on/before: _____

This Best Interest Decision will be reviewed on/before: _____