Cyngor Sir Pembrokeshire County Council

Cyngor Sir Gâr Carmarthenshire County Council

GIG CYMRU NHS WALES | Bwrdd Iechyd Hywel Dda Health Board

Mental Capacity Act 2005
BEST INTERESTS ASSESSMENT & CHECKLIST

For further guidance and examples please consult the Mental Capacity Act 2005 Code of Practice and your organisation's own policies and resources. *All* sections of the form need to be completed to ensure you comply with the requirements of the Mental Capacity Act 2005.

PATIENT / SERVICE USER DETAILS

Surname: …… **First Names:** ……

Date of birth: …….. **Identification number:** ……
(e.g. NHS number / Care First number)

A PRIOR TO UNDERTAKING A BEST INTERESTS ASSESSMENT

Confirmation that the person lacks capacity for this decision.
The best interests process only applies to people who lack capacity for the decision. Provide the required information below to confirm the person lacks capacity:

Name of assessor: …… Date of capacity assessment: ……

***Remember**, you must consider if the person is likely, at some time, to regain capacity for this decision and, if so, when this is likely to be and can the decision wait until that time. Do **not** proceed to make a best interests decision unless you believe it is unlikely that the person will regain capacity or the decision cannot reasonably wait until that time.*

Is there an alternative source of decision-making authority?
Tick where appropriate and complete supplementary information:

- **The person has made an advance decision which is valid and applicable** ❑

  Date of advance decision: …….. Date seen: ……

- **There is a person with a Lasting Power of Attorney (health and welfare) with authority for this decision** ❑

  Date registered with the Office of the Public Guardian: …… Date seen: ……

- **There is a Court Appointed Deputy with authority to make this decision** ❑

  Date of court appointment: …… Date seen: ……

*A valid and applicable advance decision refusing the care or treatment subject to this decision will be binding on involved professionals. Where there is an attorney or deputy with the relevant authority they will be the decision-maker. **You will not need to complete the remainder of this form if the authority for this decision is an advance decision or lies with an attorney or deputy**. Consult your MCA Lead or Legal Services Department if you are unsure of the validity of any advance decision, or the authority of an attorney or deputy, or if you feel an attorney or deputy is not acting in the person's best interests.*

What is the particular decision that needs to be made at this time?

……

……

Who is the decision-maker?
Whilst it is possible for a group to make a best interests decision, it is good practice for there to be an identified decision-maker.

Name of decision-maker: …….. Job title: ……..

***Remember**, you cannot base a best interests decision on unjustified assumptions about the person's age, appearance, condition or behaviour. You must consider all the circumstances of which you are aware that can reasonably be regarded as relevant.*

Participation of the person who lacks capacity
The MCA requires that the person is assisted to participate as fully as possible in the decision-making process. Describe below how you have supported the person to be as involved as possible. Explain any limitations to the person's involvement:

B INFORMATION ABOUT THE PERSON WHICH IS RELEVANT TO THE DECISION

The person's known past or present wishes in relation to this decision

The MCA and the Code of Practice require that the views of a person who lacks capacity should be considered and their wishes taken fully into account. Record below what is known about the person's past or present wishes. If it is not possible to find out the person's views or wishes explain why this is the case:

Does the person have particular beliefs and values relevant to this decision?

The MCA requires that decision-maker considers the beliefs and values that would be likely to influence a person's decision if they had capacity. Record any information you have about the person's beliefs or values relevant to this decision. If the person does not appear to have any relevant beliefs or values, or you are unable to find out, explain why this is the case:

Are there relevant 'other factors'?

The decision-maker is required to consider any other factors which the person who lacks capacity would consider if they were able to do so. These can include the effect of the decision on other people, obligations to dependents or their duties as a responsible citizen. Record any such factors which are relevant to this decision below:

C CONSULTATION WITH OTHERS

Where it is practical and appropriate to do so, the following people should be consulted about the person's best interests (even if they do not have authority to make the decision).

- Anyone previously named by the person as someone they want to be consulted
- Anyone interested in their welfare (family carers, close relatives, or an advocate already working with the person)
- A court appointed deputy who does not have authority to make this decision
- Anyone involved in caring for the person
- An attorney appointed through a Lasting Power of Attorney/Enduring Power of Attorney who does not have authority to make this decision

Give the name of people consulted below:

Name of consultee:	Relationship: *(to person who lacks capacity)*	Method of consultation: *(e.g. meeting, telephone call, letter)*	Date:
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Use the balance sheet below to record how you have weighed up the person's known views and wishes, and the views of consultees about what is in the person's best interests:

Option A *(describe below)*: Pros and cons of this option:	Option B *(describe below)*: Pros and cons of this option:	Option C *(describe below)*: Pros and cons of this option:

Were any disagreements encountered?

The Code of Practice suggests disputes might be resolved through involvement of an advocate, getting a second opinion, holding a best interests meeting, attempting mediation or pursuing a complaint. Whilst the MCA does not require a consensus to be reached, intransient disputes for important decisions may require the involvement of the court. Consider seeking advice from your MCA Lead or Legal Services Dept. Record below the nature of any unresolved disagreements:

E THE BEST INTERESTS DECISION

Record below the decision that is considered to be in the person's best interests:

Record below your reasons for arriving at this particular decision:

Name of decision-maker: **Job title:**

Signature: **Date:**