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Mental Capacity Act 2005 ASSESSMENT OF CAPACITY

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)

Date of assessment: Place of assessment:

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

.....
.....

A. PRIOR TO UNDERTAKING AN ASSESSMENT

Remember - you should presume an adult can make a decision for themselves, unless there are reasons to doubt the person's ability to do so. This is the case even if the person wishes to make a decision that you do not agree with or seems unwise.

Could the person make this decision if they were provided with practical help and support?

A person cannot be treated as unable to make a decision unless all practicable steps to help them have been taken without success. This might include providing information in an appropriate way, making the person feel at ease and supporting the person. Describe any practical help you have considered or provided below:

Might the person be able to make this decision at a different time?

Are there reasons to believe the person may be able to make this decision at a different time or in different circumstances? For example, a person's decision-making capacity might be temporarily impaired by shock, pain, infection or substances such as alcohol. If so, is it possible to delay the decision until the circumstances are different? Record below any reasons why the decision can, or cannot be delayed:

Do **not** proceed to a formal assessment if the person can reasonably be helped to make the decision for themselves, or if the decision can reasonably be delayed.

B. ASSESSMENT OF CAPACITY - Stage 1, the Diagnostic (or gateway) Test

Does the person have an impairment of, or a disturbance in the functioning of, their mind or brain?

*You **must** show why you believe the person has impaired or disturbed functioning of the mind or brain. This might be because they have a relevant diagnosed condition, for example, dementia. It might be because there is evidence of the person having cognitive difficulties. Describe below, with examples where possible, the evidence that there are reasons to doubt the person's capacity:*

C. ASSESSMENT OF CAPACITY – Stage 2, the Functional Test

The person must be able to do **all** of these things to have capacity for the decision.

Does the person understand the relevant information about the decision to be made?

Relevant information includes a) The nature of the decision b) The reason why the decision is needed and c) The likely effects of deciding one way or another, or making no decision at all. It does not include all possible information about the decision but the 'salient details' the person needs. Record below, using examples, why you believe the person does, or does not, understand the relevant information:

Is the person able to retain the relevant information long enough to make the decision?

The person must be able to hold the information in their mind long enough to use it to make an effective decision. People who can only retain information for a short period of time must not automatically be assumed to lack capacity to decide. Record below why you think the person is, or is not, able to retain the relevant information for long enough to make this decision:

Is the person able to use or weigh-up the relevant information as part of making a decision?

Sometimes a person can understand information but an impairment or disturbance means they cannot use it in making a decision. This might be because they do not believe the information and/or cannot evaluate related risks, or their condition prevents them from being able to consider the information and leads them to make an impulsive decision. Try to keep separate the issue of whether the person can make the decision, from any concerns about the decision they wish to make. Record below, using examples, your view as to whether or not the person can weigh-up the information for this decision:

Can the person communicate their decision in any way?

A person will be deemed to lack capacity if they cannot communicate a decision in any way at all. This occurs in rare situations, such as 'locked-in syndrome', where the person may be able to understand, retain and weigh-up information but has no way of expressing their decision. For patients with significant communication difficulties consider involving specialist professionals, such as a speech and language therapist. Record below your views as to whether the person can, or is totally unable to, communicate a decision:

D. OUTCOME OF THE ASSESSMENT *(tick the appropriate box)*

- On the balance of probabilities, I believe the person has capacity to make this decision
- On the balance of probabilities, I believe the person lacks capacity to make this decision
- I am unsure whether or not the person has capacity to make this decision*

Please explain your reasons below:

Name of assessor:

Job title:

Signature:

Date:

* consult your line-manager / colleagues about the possible need for a second opinion assessment