



Norfolk County Council

CONFIDENTIAL
Adult Social Services

Mental Capacity Assessment

Details	
Title	
Surname	
Forename	
LAS ID	
Primary Address	
Assessor	

Mental Capacity Assessment			
Question	Question Type	Guidance	Answer
Details of assessor			
Name of decision maker/assessor	User Chooser		
Position held	Text		
Team	Text		
Names, roles and details of other professionals present during the assessment (include Advocates or Independent Visitors)	Text		

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Details of the person being assessed			
NHS Number	Custom element		
Next of Kin for person	Custom element		
Primary Carer for person	Custom element		

Question	Question Type	Guidance	Answer
Attorneys/deputies/advance decisions			
Do any of the following apply?			
Enduring Power of Attorney?	Radio buttons	Please ensure you include any you are aware of, even if they do not apply to this decision. It shows consideration of the circumstances and could impact on a future capacity assessment/decision to be made.	<input type="checkbox"/> Yes <input type="checkbox"/> No If No go to Lasting Power of Attorney?
Please provide details of the EPA - including the date the document was drawn up, and when it was registered within the Office of the Public Guardian	Text		
Professional Involvements	Custom element		
Lasting Power of Attorney?	Radio buttons	Please ensure you include any you are aware of, even if they do not apply to this decision. It shows consideration of the circumstances and could impact on a future capacity assessment/decision to be made.	<input type="checkbox"/> Yes <input type="checkbox"/> No If No go to Court of Protection Deputy
Please provide details of the LPA	Text		

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- including the date the document was drawn up, and when it was registered within the Office of the Public Guardian			
Professional Involvements	Custom element		
Court of Protection Deputy	Radio buttons	Please ensure you include any you are aware of, even if they do not apply to this decision. It shows consideration of the circumstances and could impact on a future capacity assessment/decision to be made.	<input type="checkbox"/> Yes <input type="checkbox"/> No If No go to Is there an Advance Decision to Refuse Treatment (ADRT)?
Their role/relationship with the individual	Text		
Professional Involvements	Custom element		
Is there an Advance Decision to Refuse Treatment (ADRT)?	Text	Please ensure you include any you are aware of, even if they do not apply to this decision. It shows consideration of the circumstances and could impact on a future capacity assessment/decision to be made.	
If the person has made an advance decision(s), please detail specific treatments that the person wishes to refuse - must be valid and	Text	Please ensure you include any you are aware of, even if they do not apply to this decision. It shows consideration of the circumstances and could impact on a future capacity assessment/decision to be made.	

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<p>applicable to the situation. Specific criteria will apply if the decision concerns life sustaining treatment</p>			
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Question	Question Type	Guidance	Answer
<p>Decision to be made</p>			
<p>The five statutory principles are:</p> <ol style="list-style-type: none"> 1. A person must be assumed to have capacity unless it is established that they lack capacity 2. A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success 3. A person is not to be treated as unable to make a decision merely because they make an unwise decision 4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in their best interests 5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action <p>DECISION</p> <p>Every adult should be assumed to have the capacity to make an informed decision; unless it is proved that they lack capacity. An assumption about someone's capacity cannot be made on the basis of a person's age, appearance, condition, or aspect of their behaviour.</p>			
<p>What is the decision the person needs to make?</p>	<p>Text</p>	<p>There must be a separate Mental Capacity assessment completed and recorded for each decision.</p>	
<p>NB. Any assessment of capacity must be related to a specific issue. Where there is more than one issue, more than one capacity assessment must be carried out.</p>			

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Question	Question Type	Guidance	Answer
Stage 1 - Diagnostic assessment			
Is there an impairment of or disturbance in the functioning of the person's mind or brain?	Radio buttons	The impairment/disturbance will usually be diagnosed by a clinician, although a formal diagnosis is not necessarily required. It can be temporary or permanent. The worker should highlight where the mental impairment is likely to be temporary. (ADASS, July 2016)	<input type="checkbox"/> Yes <input type="checkbox"/> No If Yes go to Practicable steps, Stage 2 - Functional assessment of capacity and Stage 3 - Summary
Identify diagnosis (and source) and describe symptoms	Text		
Date and time assessment completed	Date		
If you have answered NO to (STAGE ONE), the person is considered NOT to lack mental capacity within the meaning of the Mental Capacity Act.			

Question	Question Type	Guidance	Answer
Practicable steps			
Having determined that the person has an impairment, please confirm how you have given consideration to the location and timing of the Capacity Assessment	Text	Describe here what you have considered; time and place as well as hearing and sight impairments. Consider the time of your visit, does the person respond better at a certain time of day.	

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<p>Please confirm how you have given consideration to the relevance of the information communicated; the communication method used e.g. sensory needs; and other people's involvement in the Capacity Assessment</p>	<p>Text</p>	<p>Describe what communication you explored with family/provider. Have you considered communication difficulties and any communication tools you have used? Are there communications assessments to consider? Can carers, family and friends provide advice on communication? Consider the volume and speed of your communication. Consider what records you may have accessed to inform your decision. It may be necessary to repeat information.</p>	
<p>Please confirm how you have given consideration to the cultural influences, or social context that may affect the person's ability to make an informed choice</p>	<p>Text</p>	<p>Please consider the persons ethnicity, culture and social impacts and how this may affect their decision-making process. Consider family ties and relevant living circumstances that may impact the persons decision. Consider what records you may have accessed to inform your decision. Consider who you have consulted.</p>	
<p>Please detail the salient information needed in order for the person to have capacity</p>	<p>Text</p>	<p>This would be the place to record the 'salient information' what does the person need to understand, retain and weigh up in order to have capacity. E.g. In order for Mrs X to have capacity to consent to her placement she would need to be able to know what her care and support needs are, what help she needs and the risks of not receiving that support.</p>	

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		<p>Take time to explain to the person anything that may help them make their decision. Do not give or expect more detail than needed e.g. Mr X may be aware he is in a care home but not the name of the home, or he may be able to say he is somewhere where people help him but not use the phrase a care home.</p> <p>Before 'understanding' can be tested it is necessary to identify what someone would need to understand in order to make the specific decision. It is good practice to identify some of the salient points in this section. For example you might say "In order to make this decision Mrs Smith would need to understand where she lives, what kind of establishment it is, what care she needs and receives and why she is there." (ADASS, 2016).</p> <p>You must consider decisional vs. executive capacity (Mrs BB is a good case example, an OWL is available). Decisional capacity considers the ability to understand and reason through the elements of the decision that needs to be made, through a conversation with the person. Decisional capacity does not consider the person's ability to realise when that decision needs to be made. An example would be a person who tells you how they manage their personal care and that they do this every day, however you are able to see that they have not changed their clothes or had a wash over many days.</p> <p>The burden of proof is on the professional to prove the lack of capacity not the person that they have capacity.</p>	
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Question	Question Type	Guidance	Answer
Stage 2 - Functional assessment of capacity			

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Please complete the following questions in order to form an opinion as to whether the impairment is sufficient to suggest that the person lacks the capacity to make the particular decision at this moment in time.

<p>Do you consider the person is able to understand the information relevant to the decision, and that this information has been provided in a way that the person is most likely able to understand?</p>	<p>Radio buttons</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Please provide evidence/comments and source</p>	<p>Text</p>	<p>This is the space you should use to 'set the scene' where you met the person and information you gave the person. It is also important to ask the specific question that you are assessing the person's capacity to make. The level of understanding must not be set too high. The test is looking at their understanding of the salient points which you will need to have identified first. If the person is unable to understand salient information please be sure to explain why you believe this is the case. Give some examples of how you provided the relevant information, and the individual's responses to this information that has led you to believe that the person was unable to make the decision. The rationale for your conclusions in this box are very important as they may also justify why there is less detail recorded in the other functional areas. For some people their impairment may be so complex and their understanding so limited that the evidence that you record here, also provides evidence as to why the other functional areas of "retaining" and "using or weighing" do not meet the functional test. (ADASS, 2016)</p>	

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<p>Do you consider the person is able to retain the information for long enough to be able to make the decision?</p>	<p>Radio buttons</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Please provide evidence/comments and source</p>	<p>Text</p>	<p>Be aware that there is a subtle distinction between 'retain' and 'remember'. To 'retain' something means that the person is able to hold onto it long enough to be able use it at the material time. Whereas to 'remember' is the ability to pull information back from their memory banks. A person may need aids to support their retention. This does not mean they will not meet this element of the functional test.</p> <p>If the person is unable to retain salient information be sure to explain why you believe this is the case. Give examples. Some workers will tell the person their name in order to test this element and later ask them to remember it. If the person fails to do so they will refer to this as evidence the person is unable to retain information. This is not advised as the information is not relevant to the decision. A good example would be to explain the persons care and support needs to them or other salient/relevant information.</p> <p>It is important to remember that the test is based on the person retaining information in order to make a decision at the material time. If a further visit is necessary the BIA may consider leaving material behind that can support the person's retention of the relevant information. (ADASS, 2016)</p>	
<p>Do you consider the person is able to use or weigh that</p>	<p>Radio buttons</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

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<p>information as part of the process of making the decision?</p>			
<p>Please provide evidence/comments and source</p>	<p>Text</p>	<p>Be clear about what the relevant information is and consider how the person can engage with the decision-making process. Consider their ability to see various sides of the issue and to understand the reasonably foreseeable consequences of making a decision or failing to do so.</p> <p>It is important here not to consider someone as unable to make a decision because they are making an unwise or irrational choice. Equally bear in mind that the person may have applied his or her own values or outlook to the relevant information in making the decision and chosen to attach no weight to that information. That does not mean that s/he is unable to use or weigh it.</p> <p>If the person is unable to use or weigh salient information be sure to explain why you believe this is the case. Please give examples. (ADASS, 2016)</p>	
<p>Do you consider the person is able to communicate their decision?</p>	<p>Radio buttons</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Please provide evidence/comments and source</p>	<p>Text</p>	<p>If a person is able to understand, retain, and use/weigh, it would be rare for them to lack capacity on the sole basis that they cannot communicate their decision. This category exists only to pick up those people where communication is completely lacking. There is no requirement to describe at length the person's communication abilities here unless they fail to meet this requirement due to them. (ADASS, 2016)</p>	

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		<p>The Code of Practice (2007) states:</p> <p>4.23 Sometimes there is no way for a person to communicate. This will apply to very few people, but it does include:</p> <ul style="list-style-type: none"> - people who are unconscious or in a coma, or - those with a very rare condition sometimes known as 'locked-in syndrome', who are conscious but cannot speak or move at all. 'Locked-in syndrome' does not automatically deem someone to have capacity, it is about using effective communication tools with the person. <p>If a person cannot communicate their decision in any way at all, the Act says they should be treated as if they are unable to make that decision.</p> <p>NB- You should further document communication methods you tried if this if the person is unable to communicate.</p>	
<p>If you have answered YES to all the questions above, then on the balance of probability, the person is likely to have capacity to make this particular decision at this time.</p> <p>Conversely, if you have answered NO to any of the questions then on the balance of probability the person is likely not to have capacity.</p>			

Question	Question Type	Guidance	Answer
Stage 3 - Summary			
Do you think that the person has the capacity to make this informed decision at this time?	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No If Yes <u>only</u> answer Do you believe this is an unwise decision?

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Do you believe this is an unwise decision?	Text	<p>The Act states that we cannot presume a person to lack capacity purely because of an unwise decision.</p> <p>You may wish to include support you plan to provide the person to maintain their safety considering their 'unwise decision'.</p>	
Explain why the person is unable to make the specific decision because of the impairment of, or disturbance in the functioning of, the mind or brain	Text	<p>The person can only be proven to lack capacity if their inability to do one or more of the functional elements is 'because of' the impairment/ disturbance (as opposed to something else). There must be a causal connection to prove incapacity. An inability 'related to' the impairment/ disturbance would not, for example, be adequate to prove incapacity. The question is not whether the person's ability to make the decision is merely affected by their mental impairment/disturbance: rather, it is whether they are rendered 'unable' to make the decision 'because of it'. (ADASS, 2016)</p> <p>NB: you only need to believe on the 'balance of probability' the person lacks capacity.</p>	
Does a Best Interests Decision need to be made?	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you going to complete a Best Interests Assessment?	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No

Question	Question Type	Guidance	Answer
Independent mental capacity advocate			
Independent Mental Capacity Advocate (IMCA)			
If the person lacks capacity, and has no family or friends, an Independent Mental Capacity Advocate may be needed. Please consider the statements below.			

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An IMCA may need to be instructed unless any of the following apply:
 The person has family/friends appropriate to consult with on the issue and is not subject to a safeguarding vulnerable adults referral.
 An Attorney has been appointed under a valid Lasting Power of Attorney which authorises the Attorney to make the relevant decision.
 A person has nominated another person to be consulted on their behalf prior to the implementation of the MCA and the provisions of the LPA, e.g. when drawing up a LPA a person expressed a desire that the attorney should also be consulted in welfare matters.
 A Deputy has been appointed by the Court of Protection with power to make the relevant decision.

If there is no one to consult, then please answer the following questions:

An IMCA must be instructed if you answer Yes to one or more of the following three questions

Does the person require serious medical treatment (i.e. any treatment that carries with it a serious risk)?	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the person require a hospital stay for longer than 28 days?	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the person require a move to a care home or a different care home for longer than 8 weeks?	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No

An IMCA can be instructed for these decisions

Is the person subject to a safeguarding procedure?	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there a care review with respect to accommodation where there may be a change in the	Radio buttons		<input type="checkbox"/> Yes <input type="checkbox"/> No

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<p>care provided? Also where the person has been accommodated for more than 3 months by the Local Authority or NHS?</p>			
<p>Do you need to refer to an IMCA?</p>	<p>Radio buttons</p>	<p>You need to refer to an IMCA if you answer 'yes' to any of the questions, if there is no one appropriate to consult. The person you consult should not be a paid professional in the person's life but a family member or friend.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Before you complete the Best Interests Decision, you must wait for a report from the IMCA and give consideration to the IMCA's findings, before making your final Best Interest Decision. In exceptional emergency situations it may be possible to act before the IMCA has completed their assessment.</p> <p>It is your responsibility as a decision maker to inform the IMCA of the final Best Interests decision as soon as it is made.</p>			