

**Record Of Assessment Of Capacity and Best Interests Decision**

Person's name:

Male / female

Person's date of birth:

Identification number:

Date of Assessment

Responsible Professional

Job Title

**Decision requiring an assessment of mental capacity (provide details)**

Please specify the decision in question

## Assessment of Capacity

	Answer	Tick	
1. Does the person have an impairment of the mind or brain, or is there some sort of disturbance affecting the way their mind or brain works? (It doesn't matter whether the impairment or disturbance is temporary or permanent)	No		The principles of the Mental Capacity Act do not apply
	Yes		Continue and consider question 2
2. Having taken all practical and appropriate steps to enable them to make the decision themselves, does the person have a general understanding of what decision they need to make and why they need to make it?	No		The person may lack capacity to make this decision
	Yes		The person may have capacity, continue and consider question3
3. Having taken all practical and appropriate steps to enable them to make the decision themselves does the person have a general understanding of the likely consequences of making, or not making, this decision?	No		The person may lack capacity to make this decision
	Yes		The person may have capacity, continue and consider question4
4. Having taken all practical and appropriate steps to enable them to make the decision themselves is the person able to understand, retain, use and weigh up the information relevant to this decision	No		The person may lack capacity to make this decision
	Yes		The person may have capacity, continue and consider question5
5. Having taken all practical and appropriate steps to enable them to make that decision themselves, can the person communicate their decision by talking, using sign language or any other means? (Consider using the services of a professional such as a speech and language therapist if necessary)	No		The person may lack capacity to make this decision
	Yes		Continue to question6
<b>6. Having answered yes to questions 2-5 the person appears to have capacity to make the decision.</b>			

**Second opinion (if needed):**

From the above assessment does the person have mental capacity? **Yes**  **No**

**Name:**

**Role:**

**Date of assessment:**

**Signed:**

## Identification of the decision-maker

Has the patient made a valid and applicable **Advance Decision**, covering the decision required?  
YES/NO  
*Please circle*

### **IF YES**

**Terms of the Advance Decision will prevail, irrespective of whether they conform to objective assessment of what may be in patient's 'best interests' at this time**

Has the patient made a valid and applicable **personal welfare Lasting Power of Attorney**?  
YES/NO  
*Please circle*

### **IF YES**

**Determination of what is in the patient's best interests will now fall to the PERSONAL WELFARE ATTORNEY.**

**NB** unless the Personal Welfare LPA expressly authorises refusal of life-sustaining treatment,  
Attorney cannot determine that it is in the patient's best interests to refuse life-sustaining treatment

Is there any **Deputy** appointed by the Court **of Protection**?

YES/NO  
*Please circle*

### **IF YES**

**Determination of what is in the patient's best interests will now fall to the Deputy,**

**NB:** Deputy cannot refuse life-sustaining treatment without referral to the Court of Protection

**If there is no valid and applicable Advance Decision; nor any Personal Welfare Attorney, or appointed Deputy, the PROFESSIONAL caring for the patient should make the decision which s/he believes to be in the patient's best interests.**

## **Best Interests - Factors In Decision Making**

### **Patient's views (if known):**

*Questions to consider*

1. *What are the issues that are most relevant to the person who lacks capacity?*
2. *What are their past and present views, wishes, feelings and concerns relevant to the decision*
3. *What are the person's values and beliefs (e.g. religious cultural, moral) in relation to this decision?*
4. *Are there any other factors s/he would be likely to consider, if s/he were able to do so?*
5. *What are the risks and benefits of what is proposed, and are there any alternatives?*

### **Multi disciplinary team's views:**

*What do you consider to be in the person's best interest on the matter in question?*

### **Person, named by patient, as someone to be consulted, and their view (if requested):**

**Name:**

**Relationship to patient:**

**Contact details:**

**Next of kin/significant other's views:**

**Name:**

**Relationship to patient:**

**Contact details:**

**IMCA's view (if needed):**

**Advance decision/advance directive (if there is one):**

**Enduring or Lasting Power of Attorney's view (if there is one):**

**Deputy appointed by the Court of Protection's view (if there is one):**

**Best interests decision:**

**Decision made by:**

**Role:**

**Signed:**

**Dated:**

**Form completed by:**

**Role:**

**Signed:**

**Dated:**

**Please complete and return to:**

**Emma Sidlow,  
Mental Health Team,  
Frederick House,  
Hyde,  
SK14 4QD**