



Mental Capacity Act 2005

Checklist for assessing “Best Interests” for patients aged 18 or above.

Patient’s name and date of birth

Hospital number

In determining a patient’s best interests, the person making the determination must not make it merely on the basis of the patient’s age, appearance, his/her condition or an aspect of his/her behaviour, which may lead others to make unjustified assumptions about what may be in the patient’s best interests. When considering whether life-sustaining treatment is in the best interests of the patient, one must not be motivated by a desire to bring about death.

Please document clearly in the patient’s records and/or overleaf your reason for answering “yes” or “no” for any of the questions below. This form must be placed in the patient’s records.

1. Does the patient have “capacity” to make a decision about their treatment; or a Lasting Power of Attorney; or an Advance Decision?

YES / NO

If “yes” then the patient’s wishes must be accepted or the Lasting Power of Attorney or Advance Decision considered.

If “no” proceed to question 2

2. Is it likely that the patient will at some time have capacity in relation to the matter in question?

YES / NO

If “yes” go to question 3.

If “no” proceed to questions 4 and 5.

3. If so will waiting make it likely that any irreversible mental or physical harm may arise?

YES / NO

If “yes” then proceed to questions 4 and 5.

If “no” and it is reasonable to wait for this without jeopardising the patient’s position then you must do so.

4. Has the patient been encouraged to participate or helped (so far as reasonably practicable) to improve his/her ability to participate as fully as possible in any decision affecting him/her?

YES / NO

If “yes” then proceed to question 5.

If “no” this step must be taken

5. Have each of the following criteria been considered in deciding what is in the best interests of the patient? So far as is reasonably ascertainable:

- The patient's past and present wishes and feelings, in particular any relevant statement made when he/she had capacity.
- The patient's beliefs and values which are likely to influence their decision-making if he/she had capacity.
- Other factors the patient is likely to have considered if able to do so. If practicable and appropriate to consult them the views of:
 - Any person named as someone to be consulted on the matter in question or matters of that kind.
 - Anyone engaged in caring for the patient or otherwise interested in their welfare.
 - Any donee of a Lasting Power of Attorney granted by the patient.
 - Any deputy appointed for the patient by the Court.

YES / NO

I confirm I have understood and reviewed this checklist in respect of the above-named patient.

Signature of health professional

Date

Name and position of health professional

This checklist is only intended to provide guidance and a framework when considering an advance decision. Where there are any doubts concerning the validity or applicability of an advance decision further medical and/or legal advice should be sought.

Notes:

Always obtain professional advice before applying this information to particular circumstances. Capsticks accepts no liability for errors of fact or opinion contained within this document which is based on the law as at 24 March 2020.

Capsticks has no objection to healthcare professionals copying this form for clinical and educational purposes. We would welcome any comments or suggestions for improvement of this document. Please e-mail info@capsticks.com.

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