**Mental Capacity Assessment Forms**

Before considering which form you should use, please read the following guidance:

**Are you using the right form?**

Below is a table which provides examples of social and health care decisions. Though not exhaustive, it will help to determine in general the mental capacity assessment form you use. The decision as to which form is used must be made on an individual case basis taking into account the specific circumstances of the case. You must undertake a mental capacity assessment before any Best Interests Decision is made.

**PLEASE NOTE : No one can give consent on behalf of a person who lacks capacity to make the decision for himself/herself, unless there is a Lasting Power of Attorney authority is in place and the decision is within their sphere of decision making. Depending on the decision, this can be for Health and Welfare or Property and Finances.**

**Next of Kin do not have legal authority in making decisions, however, should be part of the consultation in best interests decision making. Information regarding Next of Kin can be found via the following link :**

[**https://www.kent.gov.uk/\_\_data/assets/pdf\_file/0004/83218/Next-of-kin-decision-making-authorities.pdf**](https://www.kent.gov.uk/__data/assets/pdf_file/0004/83218/Next-of-kin-decision-making-authorities.pdf)

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| **Mental Capacity Assessment for Day to Day Decisions (Less Complex Decisions )** | **Mental Capacity Assessment for Complex Decisions**  |
| Personal Hygiene, Washing and Dressing  | Change of Accommodation |
| Help with eating and drinking | Serious Medical Treatment  |
| Help with mobility  | Diagnostic Tests (e.g. blood taking) |
| Help to take part in education, leisure and social activities | Dental Treatment  |
|  | Use of Covert Medication |
|  | Use of Restraint (e.g. physical, chemical, use of sedation, use of bed rails, lap belts and wheelchairs) |
|  | Care Reviews (particularly where a placement is to be made permanent) |
|  | Finances |

The Mental Capacity Act 2005 states that **anyone** can assess another person’s mental capacity especially in relation to day to day decisions and simple decisions.

Practitioners must abide by the following **five statutory principles** which are as follows:

1. A person must be **assumed** to have capacity unless it is established that he/she lacks capacity (by undertaking capacity assessment).
2. A person is not to be treated as unable to make a decision unless all practicable steps to **help** him/her to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he/she makes 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 his/her **best interests**.
5. Before the act is done, or 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.

**Mental Capacity Assessment for Day to Day Decisions (Less Complex Decisions)**

This form has been developed to aide practitioners to assess and document a person’s mental capacity giving due regard to the Mental Capacity Act 2005. Day to day interventions and decisions can be recorded in the person’s care plan/notes e.g. personal hygiene care, feeding a patient etc, and assessments of capacity in respect of such decisions should be reviewed.

If a practitioner proposes health or social care treatment, they must assess the person’s capacity to consent. This can involve the multi-disciplinary team, but ultimately it is up to the practitioner responsible for the person’s treatment to make sure that the person’s mental capacity has been assessed.

**Using a different form: Mental Capacity Assessment for Complex Decisions**

When the decision to be made is more complex or could have serious consequences for the person, careful consideration about the level of assessment, and who should be involved, will be required. More formal assessments might be required in complex cases or cases where mental capacity or the decision to be made is disputed. However, the final decision about a person’s mental capacity must be made by the person intending to make the decision or carry out the action on behalf of the person who lacks mental capacity.

In an **urgent or emergency situation**, a decision may be made in the person’s best interests to give urgent treatment or care without delay, **except when**:

* the healthcare professional giving treatment is satisfied that an Advance Decision to refuse that treatment exists;
* or an Attorney or Deputy with relevant authority exists.

If it has been established that the person lacks mental capacity for the required decision, the Decision Maker should now consider what would be in the person’s best interests.

The MCA Code of Practice can be found via the following link:

[www.kent.gov.uk/mentalcapacityact](http://www.kent.gov.uk/mentalcapacityact)

**Mental Capacity Assessment – for day to day decisions (less complex decisions)**

**If a person does not have an impairment or disturbance of the mind or brain, they will not lack capacity under the Mental Capacity Act 2005.**

**Please read guidance to determine whether you are using the correct form before proceeding:**

NB The Mental Capacity Act’s first principle is that a person must be assumed to have capacity to make a decision or act for themselves unless it is established that they lack capacity in relation to those matters.

The assessment must be about a particular decision that has to be made at the time the decision needs to be made.

1. **Individual’s Details**

Name:

Address:

Date of Birth:

Location at Time of Assessment:

Date of Assessment:

1. **Decision Requiring Assessment of Mental Capacity** (provide details)

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**NB: Before deciding that someone lacks capacity to make a particular decision, it is important to take all practical and appropriate steps to enable them to make that decision themselves.**

1. **Two-Stage Test of Mental Capacity** (See Code of Practice Chapter Four)
	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.) **YES/NO**

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| Provide evidence :  |

* 1. Does that impairment or disturbance mean that the person is unable to make the decision in question at the time it needs to be made?

Can the person: (answer Yes/No to each of the questions below )

1. understand the information relevant to the decision?
2. retain that information?
3. use or weigh that information as part of the process of making the decision?
4. communicate his/her decision (whether by talking or any other means)?

Provide evidence in respect of the person’s ability in relation to each of these four elements of the test:

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**NB: If a person cannot do one or more of these four things, they are unable to make the decision.**

1. **Outcome of Mental Capacity Assessment**

On the balance of probabilities, there is a reasonable belief that:

The person **has** capacity to make this particular decision at this time.

Or

The person **does not have** capacity to make this particular decision at this time.

**In carrying out this assessment I have met or consulted with the following people and informed them that the information gathered, and their views will be recorded in my report.**

|  |  |
| --- | --- |
| **Name**  | **Relationship to the Relevant Person** |
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**Decision Made in the Person’s Best Interests:**

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**Please record how this is the least restrictive available option:**

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**Details of Assessor:**

**Assessor:**

**Signature:**

**Designation:**

**Date:** **Time:**

**Privacy Notice :**

The information provided will be held and used in accordance with United Kingdom and European data protection law, and may be shared with authorised partners

As we have a statutory basis for collecting your personal data, we do not need to ask for your permission to collect and share it, however we will only ever share your data on a basis of need, in line with legislation and will work transparently with you at all times.

If you do not provide your data, it will limit the effectiveness of the services and support that we are able to offer you or the Relevant Person, full details of the Adult Social Care and Health Privacy Notice can be found at:

Kent County Council Privacy notice can be found through the following link:

<https://www.kent.gov.uk/about-the-council/contact-us/access-to-information/gdpr-privacy-notices/adult-social-care-and-health/general-notice-to-cover-adult-social-care-and-health>