

Mental capacity and best interest meetings

Information for patients, carers, family and friends

Other formats

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- 01392 402093 (for Mid Devon, East Devon and Exeter services)
- 01271 314090 (for North Devon services)
- rduh.pals@nhs.net

What is the Mental Capacity Act?

The Mental Capacity Act (2005) is a law about helping people with making decisions. It explains what to do when people cannot make decisions for themselves. There may be times when people cannot make specific decisions for themselves. This is called 'lacking capacity' for that decision. This might be due to injury, drug or alcohol use, a learning disability or a mental health problem.

To have capacity to make a decision, someone must be able to:

- understand the information about the decision
- remember that information long enough to be able to make a decision
- weigh up the information available and understand the consequences of the decision
- communicate the decision – this could be by any possible means, such as talking, using sign language or even simple muscle movements like blinking an eye or squeezing a hand.

If there is doubt about a person's ability to make a particular decision, Trust staff will assess whether they are able to make the decision. If the person is unable to do any of the above, they would be deemed to lack capacity about that specific decision.

If someone is unable to make a specific decision for themselves, staff will need to make a decision that is in their best interest.

Making decisions in someone's best interests

If someone lacks capacity, other people have a duty to make the decision for them in the person's best interests. This ensures that their rights and wishes are respected and considered, and the decision is the best one for them. It should never be made in the best interests of the person making the decision or to make things easier for the carers or professionals involved.

A best interest decision should involve the person as much as possible. Family, friends, or others who know the person well should also be consulted to find out about the person's wishes and views and to decide what is in their best interest.

If the person has no one who can do this for them for larger decisions such as serious medical treatment or long-term accommodation changes, the staff will ask an Independent Mental Capacity Advocate (IMCA) to support and represent the person.

When might a best interest meeting be required?

A Best Interest Meeting might be required for complex decisions, for example medical treatment or discharge planning where there isn't agreement between all relevant parties.

Who will attend?

Attendees at a best interest meeting might include; relevant healthcare professionals (Doctor/Nurse/Occupational Therapist/Physiotherapist), other professionals involved with the patient (for example care provider, social worker) family, friends, the person (if they can engage in the process), the decision maker, minute taker and a Chair.

Who is the decision maker?

The decision maker depends on the decision that is being made. For example, if the decision is relating to medical treatment the decision maker would be the Doctor, if the decision is relating to discharge it would be the discharge team. However, if the person has a Lasting Power of Attorney for Health and Welfare, the attorney is the decision maker.

What to expect in a best interest meeting?

There is a set agenda for all Best Interest Meetings.

- **Introduction and apologies**

Confirm if there is a court appointed decision (LPA, deputy)

Confirm who is decision maker in this instance

- **Purpose of the Best Interest Meeting**

Clarification of specific decision that is required at the meeting. Confirmation that capacity has been assessed in relation to the decision.

PALS

The Patient Advice and Liaison Service (PALS) ensures that the NHS listens to patients, relatives, carers and friends, answers questions and resolves concerns as quickly as possible. If you have a query or concern, please contact PALS:

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- rduh.pals@nhs.net

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