

#### ASSESSMENT OF CAPACITY

Name of person	
Date	
Assessor details	
Name	
Sign below to confirm that you have read and understood the five key principles of the Mental Capacity Act (Written below) and will adhere to them whilst carrying out this assessment.	
Signature	
Designation	
Relationship to person	

#### This MCA assessment must adhere to the act's five key principles

1. Every adult has the right to make his or her own decisions and must be assumed to have capacity to make these decisions unless it is proved otherwise
2. A person must be supported in any practical manner to understand the decision to be made before anyone treats them as being unable to make their own decisions
3. Just because an individual makes what might seem to be an unwise decision, they should not be treated as lacking capacity to make that decision.
4. Anything done or any decision made on behalf of a person who lacks capacity to make that decision at that time must be done in the best interests of the person (Not the least risky or what the person assessing thinks is good for the person)
5. Anything done for or on behalf of a person who lacks capacity to make that decision at that time should be the least restrictive option to maintain the persons rights and freedoms. You should demonstrate what was ruled out and why.

What is the exact decision to be made or action to be taken? Be specific and do not lump together a number of decisions.

To determine whether P has the ability to make an informed decision about her place of residence and the level of care and support (Including restrictions and restraints in place) provided to her at this point in time.

What information has been presented to the person and how? (Refer to the communication profile)

I spoke with P on the 1st March at approximately 2pm about her care and support. I was talking to P using the communication methods identified in her communication profile (See profile). I spent 30 minutes supporting P to understand the decision to be made. I met with P in her room away from other residents where she is more relaxed. P gets up late in the day and so 2pm is a better time to talk with her. P responds better when her daughter is present, she is more relaxed and so her daughter was asked if she could act as P's representative.

## Mental Capacity Act Policy Appendix 1: Assessment of capacity

You are completing this form because you are offering something to a person and you require them to provide consent, sign something, make a choice about something, or agree to something. You need to assess the persons capacity because:

- You are not sure whether the person fully understands the options and choices available to them
- You feel that the decision may be challenged by someone else and wish to provide justification of the persons capacity to make the decision

You need to determine whether the person is able to understand the choice, treatment, service, care and support on offer at this point in time. Please note that unless family members have a Lasting Power of Attorney, or Court Appointed Deputyship (Different from Appointee ship) they are not the decision maker, but where appropriate can provide family support and information to inform decision making. If there is not a suitable family member to support the person to make a decision then an advocate should be provided. Information should be sought from all parties who have been, or are involved with the person (Where relevant), about how best to determine whether the person is able to make this decision.

A Best Interest Decision can not be made without first completing the capacity assessment and identifying the persons inability to make the decision for themselves. If a person is deemed capacitated to make a particular decision, they are entitled to take risks associated with the decision made. No one can take this away from the person and make a best interest decision on their behalf if they are capacitated enough to make the decision themselves, no matter what risks are present. The person will have been able to recognise the risks and the consequences of taking those risks in order that we were reassured that they had the capacity to make that decision at that time of the assessment. If the situation changes, we must assess capacity again.

### 1. Diagnostic test

#### Does the person have an impairment of the brain function or mind?

This could be temporary such as an infection, delirium, or drug / alcohol consumption affecting the persons decision making, or long term such as Learning Disability, Autism, Dementia or other. The impairment could also be caused by serious trauma, extreme shock or similar.

Please record the diagnosis or reason to believe that the person has an impairment of the brain function or mind below.

P has an autistic spectrum disorder and was subsequently diagnosed with vascular dementia in 2015 by Dr Christianson. Prior to this diagnosis P lived in her in accommodation with family support and a small care package. P has poor short- and long-term memory. During assessment she was unable to recall the reasons why she lived in residential care. P showed limited insight into her memory difficulties and associated risks. She denied that she had any issues with her memory. P expressed that she wishes to go home, but was unable to say where home is. P can make simple choices but cannot make complex decisions such decisions relating to her care and treatment.

Due to his cognitive impairment and autism spectrum disorder detailed above, P was unable to understand and or retain the information and use the information to weigh up the risks and or benefits of staying or not staying and receiving care at Y Care Home. P could not understand where she was residing currently, was unable to understand the need for staff input to ensure her well-being and safety. P was not able to understand the information about the doors being locked to ensure safety and well-being. Hence, P was unable to weigh the information as part of the decision-making process.

#### Guidance

The purpose of this form is to demonstrate to someone else why we thought that we had the right to remove a person's Human Right to make autonomous decisions. The law requires us to provide justification for doing this. Another person should be able to read our justification and understand why we thought that the person was unable to make the decision. Under each of the four questions, in the boxes provided, please write what the person did or said that made you think that they did, did/not have the ability to understand, retain, weigh up or communicate their decision. You should state, 'When I asked X about Y they said.....When I showed X the procedure they responded by.....When I tried later the same day they.....'

A 'yes' answer, signature, or tick in a box is not consent if the ability of the person to make the decision is in question. You must complete the capacity assessment to get consent. If the persons ability to make a decision is in question and we go ahead with an action anyway, this can become a safeguarding matter e.g. If I put someone in the bath without consent then I am negligent. If I use someone's finances without consent this is financial abuse. If I

give someone an injection without consent this is assault. If there is any doubt about a person's ability to make any decision or choice about something that you are offering, then a capacity assessment must be conducted to justify removing the persons right to make autonomous, informed decisions. Please complete the information below.

## 2. Functional Test

Do they understand the relevant information given to them? Yes No

*In this box identify the options available to the person, what was demonstrated to the person, the questions you asked of the person and how they responded.*

I asked P about her stay in the care home and how long she had been living here. P said, 'I don't live here, I live in Brighton'. This was where P had lived as a child. I asked P if she liked the care home and she said that it looked nice, but it wasn't for her. I told P that she had been staying there for nearly five years and P looked shocked. P said, 'That cannot be true, my dad would not allow me to stay away from home.' P's father died sixteen years ago from a stroke

I asked P what help staff give her, 'P said that everyone had been really kind to her but she didn't like the custard'. I asked P where she was. P said, 'Well it looks a bit like someone's work.' I explained P was living in a care home and her response was 'Take me out of here'.

I asked P about using the ceiling hoist to help her to wash, dress and get into bed. P said that she liked to play on the swing. P's daughter said that she used to have a tree in the garden as a little girl and a swing was made on the tree. P calls the track hoisting the swing.

I asked P about the support that she gets from staff out and about. P said that she liked to go out with her daddy as he is kind.

With support and the use of visual aids P is able to understand basic pieces of information. However, she does not seem to be able to understand the complex information relating to the decision of residency, or the manner in which his care needs should be met.

Can they retain the information long enough to make a decision? Yes No

*In this box identify whether the person was able to keep up with you while you were explaining or discussing the options, choices, or decision to be made. Did the person respond at appropriate intervals and indicate that they were on topic? If the person went off topic, were they able to return to the original discussion? Was the person distracted and if so, what were they doing? If the person was unable to communicate or communicated off subject please describe.*

P appeared distracted when I was talking to her about where she lived and her care and support needs. At one point I was talking to P about the support that she needs to wash and shower. P began by talking about the local swimming baths and her trips there as a child. This led on to P talking about horse riding. P loves horses and this is a specific topic of conversation that she often returns to when upset or confused. P's daughter talked to her for a little while until she appeared comfortable to talk with me again. We tried to talk with P about the support that care staff provide but P refused to give eye contact and eventually shut her eyes signalling that she no longer wanted to talk. P could not keep up with me while I was discussing her care and support and when she did get distracted, even with support and prompts she was unable to return to the original topic of conversation.

Can they weigh up and discuss the pros and cons of the decision or action? Yes No

*In this box please identify all the potential risks and benefits explained and discussed. Describe how the person spoke about or responded to the benefits or consequences of each action, inaction, refusal, acceptance, or their own chosen course of action. This is a very important aspect of the capacity assessment. If a person is deemed able to understand the pro's, con's and consequences of their actions then they are as responsible for the outcomes as you or I. A person can make unwise but risky decisions if they are capacitated to do so, but they must understand and communicate the consequences of their choice to be capacitated and to be held accountable for the outcomes. The law would not accept us saying e.g. 'They did not know they had a learning disability', if the capacity assessment proved that they did know and fully understood what would happen if they went ahead with their chosen course of action in relation to a particular choice option service, care, support or treatment. Please*

*record how the decision was communicated, the questions asked and the persons verbal or nonverbal responses to these questions below.*

During our conversation I asked P about what she liked and disliked about the care home. P was unable to engage in the conversation enough to provide answers, other than that she disliked the custard. P's inability to retain the information meant that she was unable to use the information to weigh up the pro's and con's and come to a decision. P still believes that she lives at home in Brighton and that her father takes care of her.

**Can they communicate a decision (by any means)? Yes No**

Make reference to communications identified in the persons communication plan being used and identify whether the person was able to indicate their understanding and how.

P is able to communicate basic needs by using a combination of pictures and basic language, but struggles with communicating more complex matters and weighing up information.

Although P's speech is hard to understand it was possible to do so given time. P was able to understand what I was saying as demonstrated by her answers and responses. P's daughter confirmed that this was how P usually communicated and that she had engaged as well as she could with the assessment process.

P gave limited verbal responses to most but not all of my questions.

P lacks capacity to make a decision regarding her care and support including the restrictions and restraints in place to maintain safety.