

# MCA Assessment Form (incl. Best Interests form)

Version 2 (July 2016)

## Mental Capacity Assessment

This form has been developed to support your compliance with the Mental Capacity Act 2005. There is a statutory requirement for anyone undertaking an assessment to have regard to the Code of Practice for the Mental Capacity Act. References given below refer to the relevant paragraphs of the Mental Capacity Act Code of Practice.

### 1.1 Service user details

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Case/Ref/NHS number: \_\_\_\_\_  
Present Address/Location: \_\_\_\_\_  
Home Address (if Different): \_\_\_\_\_

**1.2 What is the specific decision relevant to this capacity assessment?** The MCA Code paragraph 4.4 states 'An assessment of a person's capacity must be based on their ability to make a specific decision at the time it needs to be made, and not their ability to make decisions in general.'

Details:

**1.3 Person undertaking/or who has undertaken this assessment of capacity?** Where the service user is subject to multi-disciplinary care, the professional with greatest responsibility for the specific decision is known as the 'decision-maker' and should assess capacity. Where this is in doubt, agreement should be sought within the multidisciplinary team. If it is evidenced that a specialist capacity assessment (such as by a psychologist) is needed and which is being relied on for this decision, the decision-maker must be satisfied that this assessment is fit for purpose. See 4.38 to 4.43 of the Code.

Name: \_\_\_\_\_ Role: \_\_\_\_\_  
Organisation: \_\_\_\_\_ Address: \_\_\_\_\_  
Tel: \_\_\_\_\_ Email: \_\_\_\_\_

**1.4 Have you been supported to carry out the capacity assessment by another person or professional?**

Yes (please give details of the person(s) below)  No

Name	Role	Relationship to person	Contact details

**1.5 Who is the Decision Maker?** The decision maker will be the person or professional who is responsible for making the decision you have identified, or undertaking the action on behalf of the person, if it is established that they lack capacity, unless there is a valid and applicable Enduring Power of Attorney, Lasting Power of Attorney or Court Appointed Deputy. In this case, the Attorney or Deputy will be the decision-maker for the decision if it is within the scope of their authority. See 5.8 of the Code.

Is there an Enduring Power of Attorney (EPA) under previous legislation? Yes  No

EPAs only cover property and finance and not personal welfare decisions or Continuing Health Care decisions. EPAs have been replaced by Lasting Powers of Attorney. They can still be used if they were made and signed before October 2007. The EPA must be registered with the Office of the Public Guardian if the donor is losing, or has lost the capacity to make decisions.

# MCA Assessment Form (incl. Best Interests form)

Version 2 (July 2016)

**Is there a registered Property & Affairs Lasting Power of Attorney?** Yes  No

This covers property and finance and not personal welfare or Continuing Health Care decisions. An LPA cannot be used until it has been registered by the Office of the Public Guardian. Once registered it can be used both before and after the donor loses capacity.

**Is there a registered Personal Welfare Lasting Power of Attorney?** Yes  No

This covers personal welfare decisions, which includes Continuing Health Care decisions. An LPA cannot be used until it has been registered by the Office of the Public Guardian. Unlike an LPA for finances, a welfare LPA can only be used once the donor has lost capacity.

**Is there a Court Appointed Deputy for Property and Affairs?** Yes  No

This covers property and finance and not personal welfare or Continuing Health Care decisions.

**Is there a Court Appointed Deputy for Health and Welfare?** Yes  No

This covers personal welfare decisions, which includes Continuing Health Care decisions.

**Does the Attorney/Deputy have the authority to make this decision?** Yes  No

You must check the paperwork to verify that the authority of the Attorney or Deputy has not been restricted by the person or the Court of Protection; that it covers this decision and is valid and applicable. Also consider if the person has an advance decision to refuse treatment. In the absence of verification, you can contact the Office of the Public Guardian who will confirm if there is an existing EPA / LPA / Deputy.

**Give details and verify that you have seen the original:**

**Contact details of named Attorney/Deputy:**

**Record here any unsuccessful attempts to contact Attorney/Deputy, or if you have been unable to verify existence of these powers at the time of assessment:**

For more information on Lasting Powers of Attorney and Court Appointed Deputies see chapters 7 and 8 of the Code.

**Clearly identify who is the named decision maker for this decision if the person is assessed as lacking capacity.**

<b>Name:</b>	<b>Role:</b>
<b>Organisation:</b>	<b>Address:</b>
<b>Tel:</b>	<b>Email:</b>

**1.6 What concerns/triggers have given rise to this assessment of capacity?** People have the right to make decisions that others might think are unwise. A person who makes a decision that others think is unwise should not automatically be labelled as lacking the capacity to make a decision. See MCA Code 4.35.

**Describe your concern:**

# MCA Assessment Form (incl. Best Interests form)

Version 2 (July 2016)

**1.7 Record your evidence here of the actions you have taken to support the person.** Consider what kind of help and support you can give the person to help them understand, retain, weigh up information and communicate their decision.

**Have you discussed with the person and/or appropriate others the most suitable venue for the assessment?** For example: Does the person feel more comfortable in their own room? Does it need to be quiet? See MCA Code 3.13.

**Have you discussed with the person and/or appropriate others to establish timing of assessment?** For example: Is there a time of day that is better for the person? Would it help to have a particular person present? See MCA Code 3.14.

**Does the person have any language/communication issues?** For example: Is the person hard of hearing? Do they have speech difficulties? Do you need an interpreter? Do they communicate using special equipment e.g. a light talker communication device? See MCA Code 3.11.

**Have you provided all the information the person needs to make an informed decision?** See MCA Code 3.7. The assessor must ensure that the person has:

- a) Sufficiently detailed alternative plans explained to them to allow them to weigh up the alternatives and make an informed choice where possible.

Discussion facilitated by the assessor to explore the reasonably foreseeable consequences of deciding one way or another, or failing to make the decision.

**Describe:**

**If the decision is not urgent can it be delayed because the person is likely to regain or develop the capacity to make it for themselves?**

- The decision can be delayed
- Not appropriate to delay the decision
- Person not likely to gain or develop capacity

# MCA Assessment Form (incl. Best Interests form)

Version 2 (July 2016)

**1.8 Two Stage Capacity Assessment.** Answer the question with facts. The questions cannot be answered with a simple "yes" or "no" and you are asked to describe the assessment process. See MCA Code Ch. 4.

**Stage 1. Is there an impairment or disturbance in the functioning of the person's mind or brain?** The individual may not have a diagnosis but you should record here your reasons for believing this to be the case. See 4.11 4.12 of the Code. This could be because of, for example, a head injury, a suspected infection or stroke, a diagnosed dementia, mental illness, or learning disability.

Yes

No

Describe:

*If the individual does not meet Stage 1, the assessment should immediately stop.*

**Stage 2. Record here how the identified impairment or disturbance in Stage 1 is affecting the service user's ability to make the decision.** See 4.13 to 4.30 of the Code.

**Can the person understand the information relevant to the decision?** See 4.16 to 4.19 of the Code.

Yes

No

Describe how you assessed this:

**Can they retain that information long enough to make the decision?** See 4.20 to 4.22 of the Code.

Yes

No

Describe how you assessed this:

**Can they use or weigh up that information as part of the process of making the decision?** See 4.21 to 4.22 of the Code.

Yes

No

Describe how you assessed this:

**Can they communicate their decision, by any means available to them?** See 4.23 to 4.25 of the Code.

Yes

No

Describe the reasons for your conclusion:

**If the answer to any of these 4 questions is NO, the person lacks the capacity to make the decision.**

# MCA Assessment Form (incl. Best Interests form)

Version 2 (July 2016)

**1.9 Impaired decisions based on duress and undue influence.** A person who has mental capacity to make decisions may have their ability to give free and true consent impaired if they are under constraint, coercion or undue influence. Duress and undue influence may be affected by eroded confidence due to fear of reprisal or abandonment, sense of obligation, cultural factors, power relationships or coercive control within domestic abuse. This is not causing the lack of mental capacity within the meaning of the diagnostic test.

Describe any concerns and any action you intend to take:

## 1.10 Determination of Capacity

I have assessed this person's capacity to make the specific decision and determined that they have the capacity to make this decision at this time.

Name:

Signature:

Date:

I have assessed this person's capacity to make the specific decision and determined that they do not have the capacity to make this decision at this time.

Name:

Signature:

Date:

**1.11 If you have been supported to carry out the capacity assessment by another person or professional, do they agree with the decision you have reached about the person's capacity?**

Name	Role	Indicate Yes/No	Signature

Describe reasons for any difference of opinion and intended action:

**1.12 Please record here any further information or content of your interview with the individual**

What to do now - If on completing Form 1 - Mental Capacity Assessment, it is concluded that the person does not have capacity and the decision cannot be delayed, the decision maker will proceed to make a best interests decision. This should be recorded on Form 2 - Best Interests Decision Making Checklist.

# MCA Assessment Form (incl. Best Interests form)

Version 2 (July 2016)

## Best interests Form – Form 2

There is a statutory requirement for anyone undertaking an assessment to have regard to the Code of Practice for the Mental Capacity Act. Where an individual lacks capacity to validly consent, a decision MUST be made in their best interests. References given below refer to the relevant paragraphs of the MCA Code.

**What is the Best Interests Principle and who does it apply to?** The Best Interests Principle is set out in the MCA (2005). The MCA Code of Practice (s.5) states '*Any act done or decision made for or on behalf of a person who lacks capacity must be done or made in their best interests*'. Best Interests includes medical, social, personal and financial best interests. Certain decisions such as consenting to sexual relations, divorce, marriage or adoption are excluded. Please consult the Statutory Care & Support Guidance and the MCA Code of Practice.

### 2. Service user details

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Case/Ref/NHS number: \_\_\_\_\_

Present Address/Location: \_\_\_\_\_

Home Address (if Different): \_\_\_\_\_

**3. Views of relevant/interested parties.** Prior to making a decision in an individual's best interests, the decision maker must take into account the views of others. The views of each party MUST be recorded. It is appropriate to hold a best practice meeting where the decisions facing the service user are complex and cannot be easily made by the decision-maker or where there are differing opinions about what outcome is in an individual's best interests.

Present and Past wishes of the Individual – as far as they are able to express them, including any relevant advance decision or advance directive

Views of partner/spouse

Views of family (Note there may be differing views held by family members and conflicts of interest. All should be taken into account)

Views of any advocate or IMCA

Views of any donee of Lasting Power of Attorney or Court of Protection Deputy – note the type of LPA/CoPD will be relevant

Views of any other relevant party (Please state whose views are being recorded)

**4. Outcome of Best Interests Decision** This decision is made by the decision maker, having taken into account the views of all relevant parties and considered what is the least restrictive option.

# MCA Assessment Form (incl. Best Interests form)

Version 2 (July 2016)

**Details:**

**5. Reason for the Best Interests Decision.** The Court will expect the Decision-Maker to have used a balance-sheet approach in reaching a conclusion about what is in the individual's best interests. It is vitally important that the minutes of any best practice meeting are attached to this record and are fit for purpose and scrutiny.

**Details:**

## 6. Details of the Best Interests Decision Maker

Name	Role	Date	Signature