

## Checklist for Practitioners applying The Mental Capacity Act

**5 Principles:** Apply them in practice

1. Assume the person has capacity unless proven otherwise.
2. Enable capacity by assisting the person when making a decision (use visual aids/ written words/ interpreters etc. as appropriate).
3. If a person with capacity makes an unwise or eccentric decision this must be respected.
4. If a person lacks capacity treatment decisions must be made in the person's best interests (follow the statutory checklist)
5. The treatment given should be the least restrictive option to the person's rights and freedoms.

Ref Code of Practice Chapter 2

**Enabling Capacity:** Have you,

- Been clear about what decision needs to be made, define it clearly and concisely (this helps in other aspects of the Act)
- Made every effort to enable the person to make the decision themselves, by being flexible and person-centred.
- Provided information about the decision in a format that is likely to be understood including information relating to any alternative options.
- Used a method of communication/language that the person is most likely to understand.
- Made the person feel at ease and given consideration to what is likely to be the most conducive time and location for them to make the decision.
- Considered if others can help the person understand information or make a choice.

Ref Code of Practice Chapter 3

**Assessing capacity:**

Does the person have an impairment or disturbance in the functioning of the mind or brain? (temporary or permanent)

If yes practitioners must complete the 4 part functional test. Can the person....

1. understand the information relevant to the decision?
2. retain the information long enough to make a decision?
3. weigh up the consequences of making the decision?
4. communicate their decision by any means?

If the person fails to demonstrate ability in any of the four areas they would be deemed as lacking capacity to consent to or refuse that specific decision.

Ref Code of Practice Chapter 4

## Checklist for Practitioners applying The Mental Capacity Act (cont....)

**Decision Maker:** Have you,

- Identified the decision maker
- Identified if the person has a registered Lasting Power of Attorney (LPA) or a court appointed deputy (CAD) for personal welfare who can consent or refuse treatment.
- Considered if decision can be delayed till the person regains capacity

Ref Code of Practice Chapter 5; 7 & 8

**IMCA:**

Does the person require an Independent Mental Capacity Advocate

Ref Code of Practice Chapter 10

**Deciding Best Interests:** have you

- Encouraged participation
- Not discriminated or been driven by a desire to bring about death
- Considered person's views and wishes
- Promoted the person's rights
- Identified if the person has an Advance Decision to Refuse Treatment (ADRT) that is valid and applicable.
- Identified and spoken with family friends or others to be consulted
- Considered all relevant factors
- Reviewed the risks and benefits of the proposed procedure and its alternatives including not providing treatment. (options appraisal)
- Reviewed and weighted all of the evidence considering medical social welfare emotional and ethical aspects.
- Arrived at a decision
- Communicated your decision and rationale
- Put in place steps to implement the decision that is least restrictive

Ref Code of Practice Chapter 5

**Restraint:**

Restraint is use force – or threaten to use force – to make someone do something that they are resisting, or restrict a person's freedom of movement, whether they are resisting or not.

Does what you are proposing fall within the definition of restraint?

Is the restraint necessary to prevent harm?

Is the level of restraint proportionate to the likelihood and severity of harm

You cannot deprive of liberty without lawful authorisation

Ref Code of Practice Chapter 6

**Protection From Liability:**

Follow the Act; document it and you will receive protection from liability

Ref Code of Practice Chapter 6