

## MENTAL CAPACITY ASSESSMENT (MCA) CHECKLIST

*by Alison Harrison*

By completing this checklist and answering 'Yes' to all questions (where applicable) you are complying with the Mental Capacity Act 2005.

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|  | <b>PART A: CHECKLIST BEFORE CARRYNG OUT FUNCTIONAL MENTAL CAPACITY TEST</b><br><b>DIAGNOSTIC TEST</b>  |                  |
|  | Was it ensured that a presumption of capacity* was not made on age, appearance, condition, diagnosis or behaviour?   | YES/NO           |
|  | Was there evidence that there might be some sort of impairment of, or disturbance in functioning of, the person's mind or brain? (If No, you do not need to carry out a Mental Capacity Assessment). If yes, then tick below, which one applies:-<br><b>(REMEMBER YOU SHOULD NOT BE CARRYNG OUT A MCA ONLY ON THE BASIS SOMEONE IS MAKING AN UNWISE DECISION)</b>  | YES/NO           |
|  | Dementia<br>Delirium<br>Confusion<br>Behaviour unusual to patient<br>(Was this behaviour observed by you)<br>(Was this behaviour observed by others)<br>Mental health issues<br>Neurological condition<br>Changes caused by prescriptive drugs<br>Changes caused by influence of illegal drugs<br>Changes caused by influence of alcohol<br>Changes caused by dehydration<br>Changes caused by malnutrition<br>Changes caused by metabolic disorder<br>Patient is unconscious<br>Changes caused by a brain injury<br>Learning disability<br>Autism<br>Personality Disorder<br>Other? (Please give details) |                  |
|  | Is the impairment permanent? (If temporary, you may wish to defer the MCA test until the patient has recovered OR if you feel that the person may regain capacity)<br>If fluctuating, is this the most suitable time to carry out the assessment?  | YES/NO<br>YES/NO |
|  | Do you have reasonable belief, that the impairment is severe enough, therefore may hinder the person from making a decision? (If No then the MCA does not apply).  | YES/NO           |
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|  | <b>PART B: CHECKLIST FOR YOU AS THE ASSESSOR ( Setting the scene for the MCA Functional Test)</b>  |                  |
|  | Have you identified clearly and specifically the decision needed to be made?   | YES/NO           |
|  | Have you been identified as the decision maker, either alone, or in partnership with Social Services, or as part of a Multi-disciplinary team?   | YES/NO           |
|  | Have you allowed enough time to carry out the assessment depending on the complexity of the decision needed to be made?  | YES/NO           |

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|  | Did you give a comprehensive explanation as to why a Mental Capacity Assessment was needed to the person being assessed and try to gain consent?   | YES/NO |
|  | Are you satisfied that as the assessor, you have had adequate training and have sufficient knowledge of the Mental Capacity Act, to carry out the assessment?  | YES/NO |
|  | Are you satisfied that as the assessor, you fully understand the process and implications; if you conclude the person does/does not have capacity?   | YES/NO |
|  | Do you have the necessary detailed information to hand to ensure that the patient is sufficiently supported with their decision making and you are able to adequately explain options and consequences of decisions? For example, have you ensured that the person has all the relevant information to make the decision ie: re: medical condition/prognosis; effects of medication; activities of daily living assessments,; details of care home; risks in returning home; care options etc? | YES/NO |
|  | As the assessor have you consulted with the necessary health care and other professionals, also involved with the decision, and that they are in agreement of a Mental Capacity assessment?  | YES/NO |
|  | Have you considered whether or not the decision could be deferred to a later date/time?  | YES/NO |
|  | Have you prepared a list of core questions to be asked, relating to the decision to be made, in order to secure evidence?  | YES/NO |
|  | Are you able to explain the information in a way suitable for the person to process it sufficiently enough, depending on the threshold of understanding needed to make the decision?   | YES/NO |
|  | Are you aware of any communication issues that the person may have, that might make it difficult for them to communicate during making the decision? If so, have you taken the necessary steps to assist them with their communication needs? (For example, a speech therapist may need to be involved or interpreter; are visual aids present; pen and paper needed)  | YES/NO |
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|  | <b>PART C: CHECKLIST FOR THE PERSON BEING ASSESSED</b>   |        |
|  | Is the test of capacity being carried out at the best possible time for the individual, ie: taking into account effects of medication, whether person is more lucid at certain times of the day etc?   | YES/NO |
|  | Is the environment suitable for supporting/enabling the person to be involved in the decision making process without undue distractions?   | YES/NO |
|  | Have any sensory deficits been minimised, for example, if the patient wears a hearing aid, are they wearing one and if they wear glasses, are they to hand?  | YES/NO |
|  | Did you check if there were any cultural, ethnic or religious factors, which should be taken into account in the decision making?  | YES/NO |
|  | If appropriate and you felt that somebody was needed/requested to be present, in order to help the person make the decision (who could tell you how to best communicate with the person; ie: relative/friend/neighbour/advocate), were they invited to attend the assessment?  | YES/NO |
|  | Have steps been taken to ensure that the person being assessed has not unduly been influenced or coerced into making their decision?   | YES/NO |
|  | Have you checked to see if there exists a statement or advanced decision of the person's choices, related to the decision needed?  | YES/NO |
|  | Have you sought to find out about the person's wishes, views, beliefs, prior   |        |

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|  | to capacity, with regards to the decision to be made?  |        |
|  | Is there is a Lasting Power of Attorney or Deputy?   | YES/NO |
|  | Have you contacted them with regards to the decision?  | YES/NO |
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|  | <b>PART D: FUNCTIONAL TEST OF CAPACITY</b>   |        |
|  | Were you able to engage the person and put them at their ease to make the decision?  | YES/NO |
|  | Did you explain the information in a way that was easy for the person to understand? For example, allowing them time to assimilate the information; information given in bite size pieces if needed?           | YES/NO |
|  | <b>Were you satisfied that the person understood the nature of the decision and why the decision needed to be taken at that point in time?</b>   | YES/NO |
|  | <b>Were you satisfied that the person could retain the information, about the decision long enough to use it to make the decision, (even if this was only for a short time and they forget if afterwards)?</b> | YES/NO |
|  | <b>Were you satisfied that the person could use or weigh up the information (eg: pros and cons) as part of the decision making process?</b>  | YES/NO |
|  | <b>Could the person communicate their decision in any way (ie: verbally, non-verbally or in their behaviour or actions)?</b>   | YES/NO |
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|  | <b>PART E: CHECKLIST AFTER MENTAL CAPACITY TEST</b>  |        |
|  | Did you reach a conclusion, whether the person had capacity or not, to make that particular decision, based on the 'balance of probability'**, having examined the evidence given in their statements?         | YES/NO |
|  | Did you communicate the decision to the necessary persons/parties involved?  | YES/NO |
|  | Is the reason for testing capacity clearly documented?   | YES/NO |
|  | Did you record your conclusion as the assessor, in a comprehensive, legible and logical way? (using the recognised MCA form on Rio for BHFT)   | YES/NO |
|  | Do you understand that as the 'decision-maker', even if somebody else records the decision, you retain the responsibility for the decision made?   | YES/NO |
|  | Was the right to make an unwise or eccentric decision taken into consideration, especially in context of motive to make such a decision?   | YES/NO |
|  | Have you considered the least restrictive options available with the person that the decision will affect?   | YES/NO |
|  | Have all the relevant parties been involved in the decision making and their views identified and considered, including those involved in the person's welfare?  | YES/NO |
|  | If you are unsure of the conclusion, relating to the decision which needs to be made, and there is a need to refer on to a psychologist; or psychiatrist/consultant, has this been done?                       | YES/NO |
|  | As far as you aware, have all possible steps been taken to comply with the Mental Capacity Act and there has been no breach of the act in the decision making process?   | YES/NO |
|  | Are you satisfied that your Mental Capacity Assessment would stand up to legal scrutiny in The Court of Protection, were a dispute needed to be settled?   | YES/NO |
|  | <b>PART F: CHECKLIST IF CONCLUSION IS THE PERSON LACKS CAPACITY</b>  |        |
|  | Have you considered calling a 'Best Interests' meeting and inviting all the relevant parties?  | YES/NO |
|  | Have you considered the person's wishes and feelings?  | YES/NO |

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|  | Have you considered the least restrictive option?   | YES/NO |
|  | Have you considered referring to an IMCA if the person has no close relatives, friends or next of kin?      | YES/NO |
|  | If appropriate, have you considered applying for an authorisation for a DOLs within a reasonable time span? | YES/NO |
|  | Have all parties concerned agreed a plan forward?   | YES/NO |
|  | Has a plan forward, next step, been documented?   | YES/NO |
|  | Are there recommendations to empower and protect the person, through the next stages of the process?        | YES/NO |

\* Until the assessment is complete, you should always assume that the person has capacity to make the decision.

\*\* **'Balance of Probability'** - if a fact is to be proved, for example, whether a person does or does not have capacity, then on examination of the **'evidence presented'** a conclusion should be reached and weighted accordingly, one way or the other, whether the person is more likely to have capacity than not have capacity to make that particular decision.