

Appendix C: Record of a Mental Capacity Assessment in respect of being given medication

Guidance:

This is not a statutory form and nothing in it should be considered legal advice which should be sought if in any doubt as to how to proceed.

You are completing this form because you are uncertain if the person identified below has the mental capacity to make the decision as to whether they take their medication with or without support from domiciliary care staff. The assessor is not likely to be medically trained; this assessment is about taking the medication not prescribing it. If in any doubt as to the consequences of the decision, the opinion of the prescriber should be sought beforehand.

This record could be completed when establishing or reviewing the person's support plan. The decision - whether one made by the capacitous person or a best interests decision made if the person lacked capacity at the time of the assessment - should be reviewed regularly. The assessment should be completed at the time the decision needs to be made.

The person must be provided with the relevant information in a way they will find easiest to understand and you should do all that is practicable to help the person to understand this information, retain it for sufficient time to make the decision and use or weigh that information as part of the decision making process. The person does not need to know every last detail, but rather have a general understanding of the kind expected of the general population at large making such a decision.

If the person is considered (on a balance of probabilities) by the assessor to lack the mental capacity to make the decision, it will still be necessary for care staff supporting the person thereafter to check each time with the person, as people can regain mental capacity to decide. Equally if the person has capacity and has asked for staff support, they could change their mind later on. The MCA Code of Practice in Chapter 4 gives guidance stating that care workers "*...do not have to be experts at assessing capacity*" but that they must have a reasonable belief at the time that the person lacks capacity. In this they must take 'reasonable' steps to determine the person's consent to take medication or have it given to them.

Please refer to the MCA Code of Practice for guidance on assessing mental capacity. It will be noted that efforts must be taken to enable the person to make the decision. For example, a person might not know that they take a certain type of medicine. This may not mean the person lacks capacity simply that they have forgotten over time or had not been advised of changes to their prescription. Only if the person cannot understand the salient information, retain or use or weigh that information or communicate the decision because of a mental impairment, is the person considered to lack capacity to decide.

If the person's mental capacity to make the decision may fluctuate, consider completing the assessment at the time at which the person is most likely to be able to make the decision, for example if the disturbance impairment of the mind or brain is temporary, can the assessment wait? Consider also the person who should be completing the assessment (MCA Code of Practice 4.38) and ask the person if they want anyone present (e.g. family members) to support them. The guidance in the comments sections are just suggestions, these will be different for each person of course.

A valid decision is one which is capacitous and made voluntarily without coercion or duress.

Name of the person	
Name and occupation of assessing officer:	
Date(s) and time(s) assessment undertaken.	
Where did the assessment take place.	

Please use this space to give reason why mental capacity was being assessed e.g. was there a concern about the person's ability to make the decision to decide on taking their medication and if so, who raised the concern? Or was there something in the person's presentation that led you to question the person's capacity to decide this?

Please also provide the name, status and contact details of anyone who assisted with or was present during this assessment. Did the individual ask for anyone else to be present? If so were they present?

Name	Status and contact details

The specific decision the person is being asked to make is;

Can the person decide whether or not to be supported to take their medication?

This is not a question as to what should happen as a result of this assessment, but simply can the person make the decision or not?

Mental Capacity Act 2005 - Principles 1 to 3 of 5.

- 1) A Person must be assumed to have the mental capacity to make the decision unless it is established that they lack capacity to make the decision
- 2) A person is not to be treated as unable to make a decision unless all practicable steps to help the person to do so have been taken without success
- 3) A person is not to be treated as unable to make a decision merely because they make an unwise decision.

The diagnostic assessment	Response		Please Describe Below.
	Yes	No	
<p>Q1. Is there an impairment of, or disturbance in the functioning of the person's mind or brain? (For example symptoms of alcohol or drug use, delirium, concussion following head injury, conditions associated with some forms of mental illness, dementia, significant learning disability, long term effects of brain damage, confusion etc. There does not need to be a formal diagnosis)</p>			<p><i>(Include sources of information, e.g. the medical diagnosis if there is one, and where you read it or who advised you, or the person's presentation which led you to believe there was an impairment of or disturbance in the mind or brain)</i></p>

If you have answered **YES** to Question 1 please proceed with Questions 2 to 5.

If you have answered **NO** to Question 1, the diagnostic requirement is not met, thus the person cannot lack capacity as defined by the Act. The person may still want and need support.

Sign/date this form, record the outcome within the person's records (with their consent) and proceed no further with the assessment.

Is the impairment as described above such that it is affecting the person's ability to make the decision at the time it needs to be made?

The functional assessment	Response		Please describe.
	Yes	No	
<p>Q2) Can the person <u>understand</u> the information they require to make the decision?</p> <p>The relevant information should include that the person has medication prescribed and takes it regularly, does the person know that and know why? Assessors should advise the person of their medication list and what it is for. The relevant information should include what might happen as a result of not taking the prescribed medication but the person does not need to be able to understand everything, only the salient details This might mean the person understands that not taking their medication as prescribed could result in illness, hospital admission etc. A broad explanation will usually be enough so long as the important detail is provided. The impact of making the decision one way or the other should be provided. If in doubt, consult with the prescribing clinician as to the information the person needs to know.</p>			<p>What you have done to enable the person to <u>understand</u> the information? <i>(E.g. considering their cultural / language needs, sensory needs, support from family members or people who know how best to enable communication, providing information in written form, using non-verbal communication techniques, picture cards, meeting the person when he or she is most able to make the decision. Is an interpreter needed? Consider documenting conversations verbatim to convey the person's wishes and understanding of the decision to be made. Ask the person the actual question, ask them to explain in their own words their understanding of the decision to be made)</i></p>
<p>Q3) Can the person <u>retain</u> the information long enough to make the decision? <i>It does not matter if a person forgets later on, the person needs only to retain the relevant information long enough to understand it and use or weigh it to make the decision.</i></p>			<p>What have you done to enable the person to <u>retain</u> the information long enough to make the decision? <i>(e.g. Repeating information, putting things in writing, considering choice of language, using open and closed questions, returning at a different time if possible. Can the person paraphrase what has been put to them? During this process, the assessor could ask the person to say what the decision is they are being asked to make?)</i></p>

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	Yes	No	Comments
<p>Q4). Can the person <u>use or weigh</u> the information?</p>			<p>What have you done to enable the person to <u>use or weigh</u> the information necessary to make their own decision? <i>(e.g. How have you supported the person to understand and balance the risks / advantages of taking their meds themselves or having others provide medication to them? How did you present the options for the person? Explain how the person assessed the risks of the options including not making the decision at all, use a balance sheet with the person if it will help the person to see the consequences. The person will be able to balance the consequences of taking medication without support, for example, if they take their own medication is there a possibility they might forget to do so? If they forget, what are the likely consequences of that? What are the consequences of being given medication by care staff, e.g. loss of autonomy / reliance on others to give medication)</i></p>
<p>Q5. Can the person <u>communicate</u> their decision?</p>			<p>What have you done to enable the person to <u>communicate</u> their own decision? <i>(e.g. Preferred Communication for the person could be verbal, non verbal through facial expressions or hand movements, or in the written form etc. Consider the person's preferred language and need for interpreter)</i></p>

If you have answered **YES** to **all of questions** Q2 to Q5, then, on a balance of probabilities, the person has the mental capacity to make the specific decision at that time.

If you have answered **NO** to **any of the questions** Q2 to Q5, then, on a balance of probabilities, the person did not have the mental capacity to make the particular decision at the time the decision needed to be made.

- If you have concluded that on a balance of probabilities the person does not have the mental capacity to make the decision, you are signing here to say you are satisfied that the person's inability to make the decision was caused by the impairment of or disturbance in the functioning of the person's mind or brain.
- Please sign and date this form and record the outcome within the person's records.

Signature and Print name, job title,		Date assessment completed	
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