Staff are reminded that : anything done for, or on behalf of a person who lacks capacity must be done in the persons best interests



**The Mental Capacity Act – 2005**

Where the Assessment of Capacity has concluded that the person lacks capacity to make the decision, consideration is to be given whether a decision is required at this time.

**Pathway for Best Interest Decision Making**

This guidance has been produced to support staff with making decisions

within the framework of the Mental Capacity Act – 2005. Staff should read

this guidance in conjunction with the MCA Code of Practice to which a copy

can be accessed on the Suffolk MCA Website [www.suffolk.gov.uk/mca](http://www.suffolk.gov.uk/mca)

Is it likely that the person may have capacity in the future?

Best Interests CHecklist

**The decision maker must ensure that the care or treatment is in the best interests of the person.**

**Comprehensive guidance regarding best interes decisions can be found in Chapter 6 of the Code of Practice.**

**The decision maker needs to check if there is an applicable Lasting Power of Attorney (LPA) or Deputy, Advance Decision to Refuse Treatment or if there is a friend / carer of the person with** **whom it is appropriate to consult.**

Does the decision involve a serious medical treatment / DNAR, a hospital stay or a move to a care home

Consider whether the person is likely to regain capacity. Can the decision or act what until that time?

Yes

No

**The decision maker must:**

**Consult with all relevant others. This should include the person and where applicable; health professionals, social care staff, Advocate / IMCA, LPA, Deputy or people who know the person really well.**

**Identify the views of the relevant people known to the person in an attempt to identify what they believe would be the decision the person would make if they were able to do so.**

**Not make assumptions about a person’s best interests based upon the person’s age, or any aspect of their behaviour.**

**Consider the relevant circumstances relating to the decision in question.**

**Ensure that where a decision concerns life-sustaining treatment the decision must not be motivated by a desire to bring about the person’s death.**

**Be able to justify and evidence their decision making.**

**Ensure that least restrictive options are always explored and where these are possible that they are implemented.**

Yes

No

No

Yes

Is there a relative / friend of the person, with whom it is appropriate to consult?

You will need to evidence your decision making

Is there agreement that the decision reached is in the persons best interests

Arrange to make the best interest decision. Depending on the seriousness of the decision this may require a formal best interests meeting

Delay the decision until that time.

Identity when you anticipate the person may have the capacity.

Document and discuss with relevant others

No

Yes

Instruct an IMCA

**Decision maker must follow the Best Interests Checklist**

**Note: Where the outcome of the best interests decision is that the person would be deprived of their liberty, appropriate authorisation must be sought through DOLS or the Court of Protection can be found at;** [**www.suffolk.gov.uk/mca**](http://www.suffolk.gov.uk/mca)

Where appropriate instruct an IMCA

Is there a dispute regarding this particular decision?

Yes

No

Try to resolve this dispute locally

Evidence decision making using the Balance Sheet Method. Guidance about this can be found on [www.suffolk.gov.uk/mca](http://www.suffolk.gov.uk/mca). Record decision on LAS.

Is a formal meeting always required?

**This is not always required, as long as the decision maker follows the best interest guidance. Where the risks are greater or the situation is serious, a formal meeting is recommended.**

**Record Keeping;**

**It is important that decision makers accurately record and evidence all best interest decisions.**

**Guidance on the framework for a best interests meeting can be found at** [**www.suffolk.gov.uk/mca**](http://www.suffolk.gov.uk/mca)

Agreement reached

Seek authorisation from the **Court of Protection** via Suffolk Legal

Proposed care / treatment to be implemented with evidence recorded that the action is in the person’s best interests.

No

Yes

Is it likely that the person may have capacity in the future?

Is there agreement that the decision reached is in the persons best interests

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