**The Mental Capacity Act – 2005**  
**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).

---

**Best Interests Checklist**

The decision maker must ensure that the proposed care or treatment is in the best interests of the person. Comprehensive guidance regarding best interests 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.

**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 appearance, condition or any aspect of their behavior.
- 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 at least restrictive options are always explored and where these are possible that they are implemented.

**Is a formal meeting always required?**

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

**Record keeping:**
- It is important that decision makers accurately record and evidence all best interests 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).

---

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

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

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

- **Yes**
  - Consider whether the person is likely to regain capacity. Can the decision or act wait until that time?
  - **Yes**
    - Delay the decision until that time.
    - Identify when you anticipate the person may have the capacity?
    - Document and discuss with relevant others
  - **No**
  - You will need to evidence your decision making

- **No**
  - Does the decision involve a serious medical treatment / DNAR, a hospital stay or a move to a care home?
  - **Yes**
    - Arrange to make the best interest decision. Depending on the seriousness of the decision this may require a formal best interests meeting.
    - Is there a relative / friend of the person, with whom it is appropriate to consult?
    - **Yes**
      - Instruct an IMCA
    - **No**
    - Decision maker must follow the Best Interests Checklist.
  - **No**

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

- **No**
  - Where appropriate Instruct an IMCA
  - Try to resolve this dispute locally
  - **No**
    - Seek authorisation from the Court of protection via Suffolk Legal
  - **Yes**

- **Yes**
  - 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 CF6.
  - Proposed care / treatment to be implemented with evidence recorded that the action is in the person’s best interests.
  - 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 the DOLS or Court of Protection. Guidance can be found at [www.suffolk.gov.uk/mca](http://www.suffolk.gov.uk/mca).