

Capacity Statement under Part 5 of the Assisted Decision-Making (Capacity) Act 2015

Please note this document is a guide to the functional assessment of capacity required for a Capacity Application under Part 5 of the Assisted Decision Making (Capacity) Act 2015.

This is not a legal document and has been developed for guidance purposes only.

Please note that the information in italics is for guidance purposes only.

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Part A: Details of the relevant person

Name of person:

Date of Birth:

Address:

Part B: Details of the decision(s)

If there is more than one decision to be made each decision must be considered and recorded separately.

What is/are the particular decision(s) that need(s) to be made at this time?

Summarise the information relevant to the decision(s) which was provided to the person

The information about different options that the relevant person is required to understand, retain and use and weigh in reaching his or her decision(s) should be recorded. This includes information about the reasonably foreseeable consequences of each of the available choices or failing to make the decision. Information should be given in a format that the relevant person can understand.

Please list actions taken and supports given to enhance the decision-making capacity of the relevant person to make his or her own decision(s)

Why is there a concern about the capacity of the person to make the decision(s) at this time?

There should always be an adequate reason for assessing decision-making capacity. The fact that someone is or is likely to make an unwise choice is not of itself an adequate reason to challenge someone's capacity to make the decision(s).

Part C: Details of the Assessor

Name, title, specialty and organisation of the assessor:

The role of the assessor has had in care and treatment of the person:

Expertise of the assessor in relation to the assessment of capacity in the situation in question

Part D: Details of the assessment

Date of the assessment and duration:

(If conducted over a period of time, note this with details)

Place of assessment:

Name, details and role of others present to support the relevant person (including other healthcare professionals, interpreter, advocate or supporters):

N.B. For each of the following questions, the assessor must provide details of the lines of enquiry and responses including verbatim quotes, if appropriate, to show how he or she came to their conclusions.

Is the relevant person able to understand the information relevant to the decision(s)?

Yes/No – provide details

A broad, general understanding of the most essential points in a person's individual circumstances is all that is required.

Is the relevant person able to retain the information relevant to the decision(s) long enough to make a voluntary choice?

Yes/No – provide details

The fact that a person is able to retain the information relevant to a decision(s) for a short period only does not prevent him or her from being regarded as not having the capacity to make the decision(s).

Is the relevant person able to use and weigh that information as part of the process of making the decision(s)?

Yes/No – provide details

In assessing this criterion please note that people use and weigh information in accordance with their own beliefs and values. Different people may give weight to different factors. This may explain apparently unwise decisions. Making a decision that the assessor or others consider unwise is not of itself evidence that the relevant person is unable to use and weigh the information relevant to the decision.

Is the relevant person able to communicate his or her decision(s)?

Yes/no – provide details

For example is the person able to communicate his or her decision(s) whether by talking, writing, using sign language, assistive technology, or any other means) or, if the implementation of the decision(s) requires the act of a third party, to communicate by any means with that third party?

Part E: Conclusions from assessment

Based on this assessment, does the relevant person the capacity to make the particular decision(s) at this time? Provide details and reasons for the conclusion

Yes

No

Outcome is unclear

If there is more than one decision to be made each decision must be considered and recorded separately.

For any decision(s) for which the person lacks capacity please answer the following questions:

Would the person have capacity if the assistance of a suitable person as co-decision maker were made available to him or her in relation to one or more of the decision(s) to be made?

Please explain the reasons and state if are you aware if there is a suitable person to act as a co-decision maker?

Would the person lack capacity even if the assistance of a suitable person as co-decision maker were made available to him or her in relation to one or more of the decision(s) to be made?

Please explain the reasons.

What is the likelihood of recovery of the person's capacity in respect of the decision(s) concerned?

Please explain your reasons and, if relevant, provide an approximate timeframe within which recovery could occur.

Part F: Additional information if the person lacks capacity for the decision(s)

What are the past and present will and preferences of the relevant person with regard to the decision(s) (if reasonably ascertainable)?

Provide details of your efforts to ascertain the person's past and present will and preference and the person's responses.

What are the beliefs and values of the person relevant to the decision(s)?

Provide details of your efforts to ascertain the beliefs and values of the person and the person's responses (in particular those expressed in writing).

Please record the outcome of consultations with any of the following:

Please note that anyone named by the person to be consulted and any formal decision supporter must be consulted. An assessor may not always be in a position to provide this information.

- 1. *Anyone named by the person as a person to be consulted on the matter concerned or any similar matters?***

- 2. *Any Decision-Making Assistant, Co-Decision Maker, Decision-Making Representative, Designated Healthcare Representative or Attorney for the person.***

- 3. *Anyone else consulted including those closest to the person, family or friends***