

Refer to the 5 principles of the MCA

- Assume a person has capacity unless proved otherwise.
- Do not treat people as incapable of making a decision unless all practicable steps have been tried to help them
- A person should not be treated as incapable of making a decision because their decision may seem unwise.
- Always do things or take decisions for people without capacity in their best interests
- Could it be achieved in a less restrictive way?

The two-stage capacity test

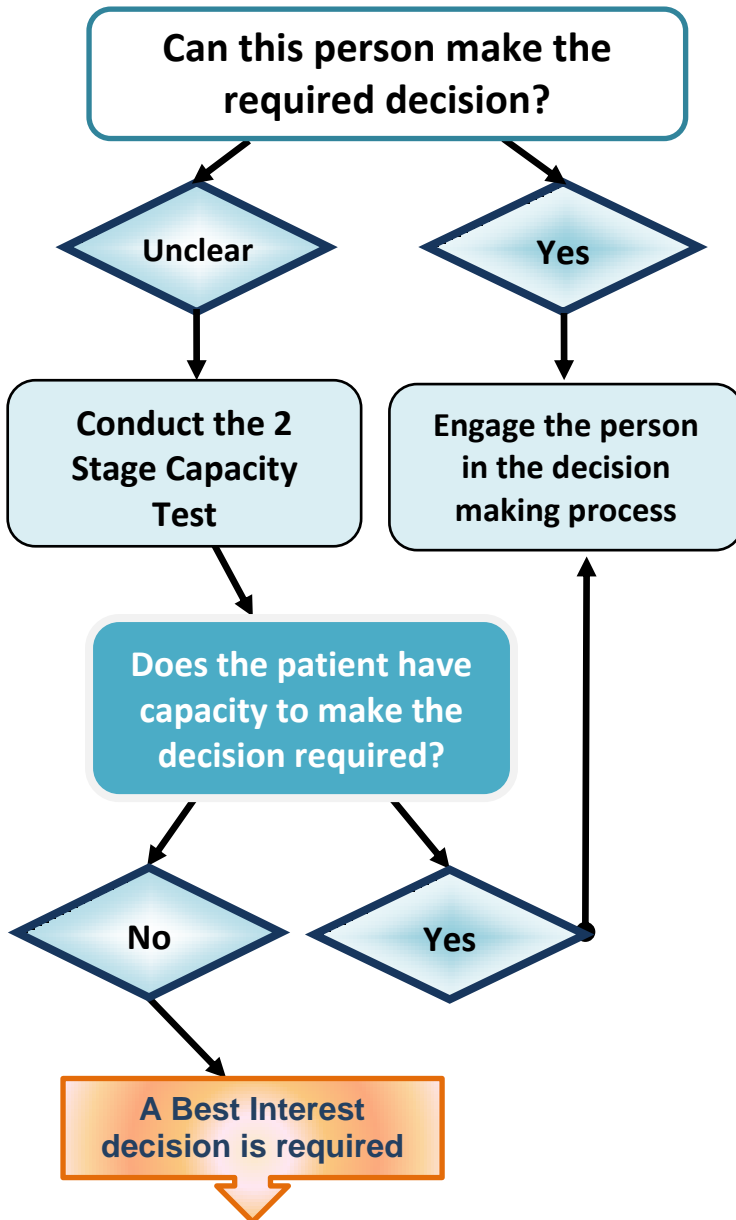
Stage 1. Is there an impairment of, or disturbance in the functioning of a person's mind or brain? Is this the reason that the person is thought not to be able to make the required decision? If so,

Stage 2. Is the impairment or disturbance sufficient that the person lacks the capacity to make the particular decision?

Can the patient:

- understand the information relevant to the decision,
- retain that information,
- weigh that information as a part of the process of making a decision and
- Communicate his/her decision (whether by talking, using sign language or any other means).

(Patient must demonstrate all 4 functions above to be deemed as having capacity for the required decision-making)



The Best Interest check list

When making a decision in someone's best interests you must be able to demonstrate that you have completed the following (or explain why you didn't):

- Involved the person as much as possible.
- Found out the person's wishes and feelings.
- Consulted people who know the person well.
- Considered all relevant information.
- Avoided making the decision if it is likely that the person might regain capacity.
- Thought about what would be the least restrictive option.

And you must not:

- Make assumptions based on the person's age, appearance, condition or behaviour
- Make a decision involving life-sustaining treatment that is motivated by a desire to end the person's life.