MENTAL CAPACITY ACT AND DEPRIVATION OF LIBERTY SAFEGUARDS POLICY

Policy approved & adopted by	Head of College
Date	Sept 2023
Review cycle	Annual
Next Review	Sept 2024

Contents

Policy Statement

This Mental Capacity Act (MCA) policy is based on the principles of the MCA (2005). The MCA provides a statutory framework for people who lack capacity to make decisions, or who have capacity and want to make preparations for a time when they may lack capacity in the future. The policy will support the college in treating all of its learners on the basis that they are able to make their own decisions. Consistent with the legislation the college must make a decision for a person in their best interests, if there is evidence that they cannot make the decision (at the time it needs to be made) because of mental incapacity and it is appropriate within the decision-making responsibilities of the MCA.

Background

The MCA was introduced into England and Wales in April 2007. It sets out who can make decisions, in which situations, and how they should go about it. It applies to all those involved in providing health and social care and is supported by a Code of Practice 2007 which gives guidance on its implementation and has statutory force. This includes doctors, nurses, allied health professionals and care staff.

The starting point of the Act is it should be assumed that an adult (aged 16 or over) has full legal capacity to make decisions for themselves (the right to autonomy) unless it can be shown that they lack capacity to make a decision for themselves at the time the decision needs to be made. This is known as the presumption of capacity. The Act also states that people must be given all appropriate help and support to enable them to make their own decisions or to maximise their participation in any decision-making process.

The Act sets out how capacity should be assessed and procedures for making decisions on behalf of people who lack mental capacity. 'The underlying philosophy of the MCA is that any decision made, or action taken, on behalf of someone who lacks the capacity to make the decision or act for themselves must be made in their best interests'

The Act outlines:

- Who can make decisions for people who lack capacity
- In which situations this can be done
- How they should go about this

Scope

The aim of this policy is to ensure that throughout the work of Valley College we will promote the welfare of learners in ensuring the principles of the MCA are embedded into practice. We aim to do this by ensuring that we comply with the MCA Code of Practice and upholding the rights of adults with care and support needs ensuring it is integral to all we do.

Valley College is committed to implementing this policy and the practices it sets out. and will offer learning opportunities and make provision for appropriate MCA training to all staff and

will also ensure the MCA Code of Practice is available to all staff in the ehandbook.. This policy will be made widely accessible to staff and reviewed at least 2-yearly.

This policy addresses the responsibilities of staff and it is the responsibility of the Head of College to ensure staff are briefed on their responsibilities under the policy.

Breaches of policy

Failure to adhere to the MCA Policy could lead to dismissal or constitute gross misconduct. For others (volunteers, supporters, donors, and partner organisations) their individual relationship with Valley College may be terminated. For commissioned and/ or registered providers, failure to ensure adherence to the MCA Policy could lead to breach of contract.

Principles

Valley College recognise the responsibility to ensure adherence to the MCA and to support learners who are not able to make their own decisions and to support them to plan ahead. The Act is intended to assist and support people who may lack capacity and to discourage anyone who is working with someone who lacks capacity from being overly restrictive or controlling. The Act also aims to balance an individual's right to make decisions for themselves with their right to be protected from harm if they lack capacity to make decisions to protect themselves.

Joint working and effective collaboration is essential to promote the rights and freedom of individuals. This is supported by:

- The commitment of all staff and clear lines of accountability, to comply with the principles of the MCA and the Code of Practice, which protects them from liability
- Practice developments that take account of the need for staff training and continuing professional development so that staff have an understanding of their roles and responsibilities and those of other professionals and organisations in relation to MCA
- Building confidence among staff regarding how and when to assess an individual's mental capacity, and how to make a best interest's decision when necessary

The five statutory principles of the MCA

1. A person must be assumed to have capacity unless it is established that they lack capacity

2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success

3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision

4. An act done, or decision made, under the Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests

5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action

What is mental capacity?

Having mental capacity means that a person is able to make their own decisions by weighing up relevant information. All staff should always start from the assumption that the person has the capacity to make the decision in question (**principle 1**).

Staff must also be able to show that they have made every effort to encourage and support the person to make the decision themselves (**principle 2**).

Staff must also remember that if a person makes a decision which is considered eccentric or unwise, this does not necessarily mean that the person lacks the capacity to make the decision (**principle 3**).

Under the MCA, staff are required to make an assessment of capacity before carrying out any care or treatment if they have reasonable belief someone lacks capacity – the more serious the decision, the more formal the assessment of capacity needs to be.

When should capacity be assessed?

Capacity is **decision and time specific**, assessing capacity refers to assessing a person's ability to make a particular decision at a particular moment in time, rather than being an overarching judgement about an individual's ability to make decisions in general. Staff cannot decide that someone lacks capacity based upon age, appearance, condition or behavior alone.

The MCA 2005 defines lack of capacity as:

A person lacks capacity in relation to a matter if, at the material time, he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.

The Act assumes that a person has capacity until it is proven otherwise.
Capacity should be assessed when a person's mental capacity to consent to any Intervention, treatment, or care is in doubt. Capacity may be called into question for a number of reasons including:

- An individual's behavior or circumstances
- Where concern about capacity has been raised by someone
- Where a person has been previously diagnosed with an impairment or disturbance that affects the way their mind or brain works
- A previous mental capacity assessment has shown lack of capacity to make a decision

Further information can be found in Appendix A in the checklist for practitioners applying the MCA.

Consent and Capacity

You must have reasonable belief that the individual lacks mental capacity to have legal protection under the MCA 2005 for making decisions on a person's behalf. To have reasonable belief, you must take certain steps to establish that the person lacks mental capacity to make a decision or consent to an act at the time the decision or consent is needed.

You must establish and be able to show that the decision or act is in the person's best interests. A mental capacity assessment must be completed using the two and four stage tests outlined in the introduction and demonstrated in Appendix B.

A mental capacity assessment helps demonstrate that on a balance of probabilities it is more likely than not that the person lacks capacity. You should be able to show in your records why you have come to your conclusion that capacity is either present or lacking for the particular decision.

Not all decisions will need a formal mental capacity assessment and the outcome can be recorded within the college user records and care plan. Consent for the person's care plan will cover many day to day decisions, but there will be times when a formal mental capacity assessment should be undertaken. Formal mental capacity assessments to assess the mental

capacity for an individual to make a particular decision at a particular time should be kept in the patient care records.

Examples of when to undertake a formal capacity assessment include, but are not exclusive to:

- Use of restraint
- Administration of medication
- Any procedures where the learner is handled for the provision of care and treatment.

If the decision to be made is complex or may have serious consequences or, if there is disagreement about a person's capacity, or a safeguarding issue, then there may be times when you need to involve other professionals and colleagues in carrying out a mental capacity assessment and/or best interest's decision.

Occasionally an individual may object to having a mental capacity assessment. Where this happens it is good practice to explain what the mental capacity assessment is and how it will help to protect their rights. There should be no undue pressure for the person to have the assessment, as a person has the right to refuse.

If it is clear that the person lacks the mental capacity to consent to the assessment and there are concerns or risks about the person's care and treatment, then the assessment can usually go ahead as long the assessment is in the person's best interests.

The two-stage functional test to assess capacity

In order to decide whether an individual has the capacity to make a particular decision staff must answer two questions:

Stage 1. Is there an impairment of, or disturbance in the functioning of a person's mind or brain? This could be due to long-term conditions such as mental illness, dementia, or learning disability, or more temporary states such as confusion, unconsciousness, or the effects of drugs or alcohol.

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

The MCA states that a person is unable to make their own decision if they cannot do one or more of the following four things:

- Understand information given to them
- Retain that information long enough to be able to make the decision
- Weigh up the information available to make the decision
- Communicate their decision – this could be by talking, using sign language or even simple muscle movements such as blinking an eye or squeezing a hand

Every effort should be made to find ways of communicating with someone before deciding that they lack capacity to make a decision based solely on their inability to communicate. Also, you will need to involve family, friends, carers or other professionals and identify when the person is at their best before undertaking the capacity assessment.

Variations in capacity

The MCA covers all types of decisions, big and small. This may be from the day-to-day, such as what to wear or eat, through to more serious or complex decisions, about, for example, where to live, whether to have surgery or how to manage finances or property.

The MCA applies to situations where someone is unable to make a particular decision at a particular time because of the way their mind or brain is affected. When suffering from depression, infection or suffering from delirium, an individual may be unable to make a decision, but when recovered they can.

People should receive support to help them make their own decisions, before it is concluded that they may lack capacity to consent to a particular decision. It is important to take all possible steps to help them reach a decision themselves.

Best interest's principle

It is important for the application of the MCA to have a fundamental understanding of the best interest's principle.

If a person has been assessed as lacking capacity, then any action taken, or any decision made for, or on behalf of that person, must be made in his or her best interests (**principle 4)**. The person who has to make the decision is known as the 'decision-maker' and normally will be the carer responsible for the day-to-day care, or a professional such as a doctor, nurse or social worker where decisions about treatment, care arrangements or accommodation need to be made or likewise an educator within the college environment. It is imperative that the staff member identifies and alerts the correct decision maker at the start of the process.

What is 'best interests'?

The MCA provides a non-exhaustive checklist of factors that decision-makers must work through in deciding what is in a person's best interests and achieve least restrictive practice (**principle 5**).

Some of the factors to take into consideration are:

- Do not discriminate or make assumptions about someone's best interests merely on the basis of the person's age or appearance, condition or any aspect their behavior
- Take into account all relevant circumstances
- If faced with a particularly difficult or contentious decision, it is recommended that practitioners adopt a 'balance sheet' approach, see Appendix D
- Will the person regain capacity? If so, can the decision wait
- Involve the individual as fully as possible
- Take into account the individual's past and present wishes and feelings, and any beliefs and values likely to have a bearing on the decision
- Consult as far and as widely as possible

It is vital that staff record the best interest's decision. Not only is this good professional practice but given the evidence-based approach required by the MCA, you will have an objective record should the decision or decision-making processes later be challenged. A template can be found in Appendix C

Dealing with disputes and disagreements

There may be occasions when someone may challenge the results of an assessment of capacity. In this situation it is important to raise the matter with the person who carried out the capacity assessment. If the challenge comes from the person who is said to lack capacity, they should be referred to an advocate if they are unbefriended or may need support from family or friends.

If you believe the capacity test findings are not accurate, provide reasons why you believe the assessment not to be accurate along with objective evidence to support that belief.

If the dispute cannot be resolved a second opinion may be required from an independent professional or another expert in assessing capacity. If the disagreement can still not be resolved, the person who is challenging the assessment may be able to apply to the Court of Protection. Seek advice in this instance from the Local Authority.

Important Aspects of the MCA

Lasting Power of Attorney (LPA)

There are 2 types of LPA:

- Health and personal welfare
- Property and financial affairs

A person can choose to make one type or both types. The MCA allows a person aged 18 and over (the donor), who has capacity to make this decision, to appoint attorneys to act on their behalf should they lose mental capacity in the future. The Property and Affairs LPA replaces the previous Enduring Power of Attorney (EPA).

Lasting power of attorney (LPA) is a legal document that lets the 'donor' appoint one or more people (known as 'attorneys') to help them make decisions or to make decisions on their behalf. This gives them more control over what happens to them if they have an accident or an illness and can't make their own decisions if they 'lack' mental capacity.

A health and personal welfare LPA allows the attorney to make specific decisions when the person is no longer able to consent to treatment or care. The attorney is able to make decisions about day to day care, consenting or refusing medical treatments, moving accommodation, refusing life sustaining treatment, assessments for provision of community colleges, social activities and more.

A property and affairs LPA allows the attorney to make specified financial decisions when the person lacks capacity, but unlike a health and personal welfare LPA, a property and affairs LPA can be used even if the person has capacity (with permission).

All lasting power of attorneys should be checked either with the Office of the Public Guardian, or the attorney can be asked to provide a copy. This is to ensure that it has been registered and valid and to clarify what decisions the attorney is allowed to make under the terms of the LPA. For example, they may have been given authority to make choices about accommodation but not to refuse treatments.

A lasting power of attorney must be registered with the Office of the Public Guardian before it is valid and can only be used once the person who made it no longer has capacity. Records must reflect whether an LPA has been registered and what decisions are given to the attorney.

Court Appointed Deputies

The MCA (2005) provides for a system of court appointed deputies who are able to make decisions on welfare, healthcare, and financial matters as authorised by the Court of Protection. They are not able to refuse or consent to life sustaining treatment. A deputy will only be appointed if the person lacks capacity to make an LPA and it is thought necessary or beneficial to appoint an individual to make ongoing decisions on their behalf. A deputy may be appointed for personal welfare matters, or property and affairs, or both.

Court of Protection

The Court of Protection is a superior court of record, it is able to establish precedent, set examples for future cases and build up expertise in all issues related to lack of mental capacity.

It has the same powers, rights, privileges and authority as the High Court. When reaching any decision, the court must apply all the statutory principles set out in section 1 of the Act. It must make a decision in the best interests of the person who lacks capacity to make the specific decision. There will usually be a fee for applications to the court.

Independent Mental Capacity Advocate (IMCA)

The aim of the IMCA is to provide independent safeguards for people who lack capacity to make certain important decisions and, at the time such decisions need to be made, have no-one else (other than paid staff) to support or represent them or be consulted.

The Act states that an IMCA may be instructed to support someone who lacks capacity to make decisions concerning care reviews, where no-one else is available to be consulted and adult protection cases, whether or not family, friends or others are involved. The policy in Lancashire is that an IMCA should be instructed under these circumstances.

Mental capacity and young people

Many aspects of the Mental Capacity Act apply to people aged 16 and over who may lack capacity to make a specific decision. However, the legislative framework for those cared for under The Children's Act 1989 will continue to apply until they are discharged from such care proceedings.

There are two elements of the Act than can be applied to young people under the age of 16: Decisions about property or finance made by the Court of Protection, and offences of ill treatment and wilful neglect.

For young people aged 16 and 17, the capacity assessment or Gillick competency test must be used to determine whether the health or social care decision should be subject to the processes and provisions outlined within the Act. Depending upon the decision staff may then use the Children Act 1989 or the Mental Capacity Act to proceed with making or proposing a decision for the young person lacking capacity. An adult with parental responsibility may consent to a proposed decision on behalf of a young person who lacks capacity or Gillick competency. However, due to the interface between the MCA, the Children Act, and the concept of Gillick competence for complex cases it may be necessary to seek guidance from the local identified Safeguarding MCA lead, and/ or legal advice.

Where staff can demonstrate that they have acted in accordance with the Mental Capacity Act their actions will be protected from liability whether or not a person with parental responsibility consents. A young person's views on whether their parents should be consulted during the best interest's process should be considered.

Where staff choose to proceed with consent from someone with parental responsibility, they must inform the parent that they are required to act in the young person's best interests as outlined within the Act.

For those colleges working with young people who have a permanent impairment or disturbance in the functioning of the mind or brain, supporting families in becoming familiar with the powers and provisions within the Act is an essential part of transition work. Families may choose to approach the Court to become Court Appointed Deputy for welfare decisions or property and finance decisions. Information should be provided to assist with such applications.

Restraint

The Act defines use of restraint as *the use of force-or threaten to use force-to make someone do something they are resisting, or restrict a person's freedom of movement, whether they are resisting or not*.

The Act only provides protection from liability in using restraint under certain conditions:

- The person taking action must reasonably believe that restraint is necessary to prevent harm to the person who lacks capacity
- The amount or type of restraint used and the amount of time it lasts must be a proportionate response to the likelihood of serious harm
- Less restrictive options should always be considered before restraint
- The Act describes a proportionate response as one that means using the least intrusive type and minimum amount of restraint to achieve a specific outcome

The Act only gives limited liability for use of restraint. Actions may not be lawful where there is an inappropriate use of restraint or where a person who lacks mental capacity is deprived of their liberty without appropriate authorisation.

Deprivation of Liberty Safeguards (DoLS) 2009

DoLS were created to help protect vulnerable people who lack capacity to consent to care and treatment that might deprive them of their liberty, where this is in their best interests to protect them from harm. DoLS are an extra protection for vulnerable people to ensure that deprivation is only used when necessary and that any deprivations are lawful and in the person's best interest.

DoLS only relate to people aged 18 or over, who are not detained under the Mental Health Act 1983, and who are accommodated in a registered hospital or care home.

For advice and support please use the contact numbers below

Useful Contact Numbers	
Lancashire County Council DoLS team between 9am – 5pm	**01772 535444**
Out of hours	**0300 123 6720**
Chorley South Ribble, Greater Preston and West Lancashire CCG's MCA Lead	**01772 214376**

Appendix A

Checklist for Staffs applying the Mental Capacity Act
5 Principles: Apply them in practice: 1. Assume the person has capacity unless proven otherwise. 2. Enable capacity by assisting the person when making a decision (use visual aids/ written words/ interpreters etc. as appropriate) 3. If a person with capacity makes an unwise or eccentric decision this must be respected. 4. If a person lacks capacity treatment decisions must be made in the person's best interests (follow the statutory checklist) 5. The care/treatment given should be the least restrictive option to the person's rights and freedoms. Ref Code of Practice Chapter 2
Enabling Capacity: Have you: • Been clear about what decision needs to be made, define it clearly and concisely (this helps in other aspects of the Act) • Made every effort to enable the person to make the decision themselves, by being flexible and person-centred. • Provided information about the decision in a format that is likely to be understood including information relating to any alternative options. • Used a method of communication/language that the person is most likely to understand. • Made the person feel at ease and given consideration to what is likely to be the most conducive time and location for them to make the decision. • Considered if others can help the person understand information or make a choice. Ref Code of Practice Chapter 3
Assessing capacity: Does the person have an impairment or disturbance in the functioning of the mind or brain? (temporary or permanent) If yes practitioners must complete the 4-part functional test. Can the person…. 1. understand the information relevant to the decision? 2. retain the information long enough to make a decision? 3. weigh up the consequences of making the decision? 4. communicate their decision by any means? If the person fails to demonstrate ability in any of the four areas they would be deemed as lacking capacity to consent to or refuse that specific decision. Ref Code of Practice Chapter 4
Decision Maker: Have you: • Identified the decision-maker. • Identified if the person has a registered Lasting Power of Attorney (LPA) or a court appointed deputy (CAD) for personal welfare who can consent or refuse treatment.

• Considered if decision can be delayed till the person regains capacity. Ref Code of Practice Chapter 5; 7 & 8
IMCA: Does the person require an Independent Mental Capacity Advocate Ref Code of Practice Chapter 10
Deciding Best Interests: have you: • Encouraged participation. • Not discriminated or been driven by a desire to bring about death. • Considered person's views and wishes. • Promoted the person's rights. • Identified if the person has an Advance Decision to Refuse Treatment (ADRT) that is valid and applicable. • Identified and spoken with family friends or others to be consulted. • Considered all relevant factors. • Reviewed the risks and benefits of the proposed procedure and its alternatives including not providing treatment. (options appraisal) • Reviewed and weighted all of the evidence considering medical social welfare emotional and ethical aspects. • Arrived at a decision. • Communicated your decision and rationale. • Put in place steps to implement the decision that is least restrictive. Ref Code of Practice Chapter 5
Restraint: Restraint is use force – or threaten to use force – to make someone do something that they are resisting, or restrict a person's freedom of movement, whether they are resisting or not. Does what you are proposing fall within the definition of restraint? Is the restraint necessary to prevent harm? Is the level of restraint proportionate to the likelihood and severity of harm. You cannot deprive of liberty without lawful authorisation. Ref Code of Practice Chapter 6
Protection From Liability: Follow the Act; document it and you will receive protection from liability. Ref Code of Practice Chapter 6

Appendix B

MENTAL CAPACITY ASSESSMENT

Name of person being assessed:	
Date of Birth:	
Address:	
Does Person have someone appointed as a Lasting Power of Attorney / Court Appointed Deputy (If yes do not continue with this process – refer to LPA / Deputy re decision making).	
No ☐ **Yes** ☐ **Name** (if yes)	
What prompted this capacity assessment?	
Date assessment commenced:	
Decision to be made:	
Stage One:	
What is the impairment of, or disturbance in the functioning of the mind or brain?	
Summary of previous decision making by the person:	
What types of decisions has the person been involved in making. This may include basic day to day, future planning, or complex decisions.	
When making these decisions what worked well i.e. discussion at a particular time of day, location, particular style of questions or presentation of information, positive relationship with a person supporting them?	
How does the person usually make their needs and wishes known? Provide details of the person's communication aid or plan.	
Specifically in relation to this decision what steps have been taken to enable and support the person to participate in the decision making process. Please describe these steps (i.e. time of assessment, location, any aids used, how you have maximised the persons opportunity to engage in this process):	

Stage Two:
A. The person is able to understand the information relevant to the decision:
(Record how you have tested whether the person can understand the information. Include what information was given to them and how this was communicated, by whom on how many occasions. How communication was supported i.e. photographs, objects of reference etc. Ensure that you record in detail how you have attempted to encourage understanding, and the various methods used. What aspects of the information given has the person understood and not understood? How do you know this? Did the person engage in the discussion/process?) ***NB - if the person is assessed as not able to understand the information move onto section E**
B. The person is able to retain the information relevant to the decision: (Consider a realistic timescale for the information to be retained depending on the decision. Record how you supported the person to retain the information and how you checked that they were able to retain the key points. What aspects of the information given has the person retained/not retained) ***NB - if the person is assessed as not able to retain the information move onto section E**
C. The person is able to use or weigh that information as part of the process of making the decision. (Detail how you supported the person to use/weigh the information and how you checked that they were able to do this. What aspects of the information given did the person weigh / not weigh? Was the person able to identify potential consequences/benefits of proceeding/not proceeding? Which elements did the person find the most / least important?) ***NB - if the person is assessed as not able to use or weigh the information move onto section E**
D. The person is able to communicate their decision (whether by talking, using sign language or any other means): (Record your findings about whether the person can communicate their decision. How did they communicate it?) ***NB - if the person is assessed as not able to communicate their decision move onto section E**
E. Outcome of Assessment (check the box and complete the relevant statement below)
☐

Based on this assessment in my professional opinion the person **does have capacity** to make their own decision regarding ……..
☐ Based on this assessment in my professional opinion the person **does not have capacity** to make their own decision regarding ……..
F. **Any further action or input** (Does the decision need to be reviewed or amended following completion of the capacity assessment? Is there another decision that needs to be made first?)
Where the person does have capacity detail any support the person needs to implement the decision.
Where the person does not have capacity detail steps for the best interest process.

Assessor	
Name:	
Role:	
Signature:	
Date assessment completed:	

Others Involved in the Assessment:	
Name:	
Role:	
Signature:	

Name:	
Role:	
Signature:	

Appendix C

Capacity checklist

- **What is the decision to be made?** Think carefully of how the decision should be worded.
- **Do you have concerns that the person may not be able to make the decision for themselves?** Be clear that the concerns relate to the decision to be made, and not based on previous concerns related to other decisions.
- **If so, can the decision wait until the person can make the decision**? Is the person's condition likely to improve in time to make the decision such as recovery from physical illness.
- **What help may the person need to make the decision?** Do they need to have any experience of the decision to aid understanding or some practical input to give further information such as education or training?
- **How can this be provided and by whom?**
- **If the decision cannot be delayed who should assess capacity?** Anyone can assess capacity. More complex or life changing decisions may need professional input.
- **What practicable steps need to be taken before the capacity assessment commences?** Location of the assessment; timing; communication; health issues of the person; aids that may help the person.
- **What other considerations need to be taken into account?** The person's anxiety; do they want anyone else to be present; concerns about confidentiality; have they been told clearly what is happening.
- **What are the salient points of the decision that the person needs to know?** Do not expect the person to think about information that is not necessary to the decision. Relevant points only should be identified and these should be as straightforward as possible.
- **How will be information be presented to the person?** Think about how the person takes in information. Do you need to use pictures, photographs, video or audio recordings or any other methods that will make it easier for the person to take part in the decision making process.
- **What is the impairment in the functioning of the mind or brain, permanent or temporary?** This can be due to mental illness; dementia; significant learning disability; acquired brain injury; physical or medical conditions; delirium; concussion; symptoms of alcohol or drug use.

Once this is determined, follow the rest of the 2 stage test.

Appendix D

BEST INTERESTS DECISION

Following a capacity assessment, this process should be used to support decision making where a person **does not** have capacity to make a **specific** decision themselves.

Name of Person:	
Date of Birth:	
Address:	
Decision to be made and circumstances surrounding the decision (include what is being proposed, by whom and why):	
Date and outcome of capacity assessment:	
Identify the decision maker and state why this person is the most appropriate:	
Name and designation of the person co-ordinating the best interests process:	
Describe the process for making the decision i.e. meeting, separate discussions, or combination of both (include dates):	
Contributors to the best interests process (person, family, ADS staff, health professionals, IMCA, advocate etc):	
Is information required from anyone else? (How will this be obtained and by whom?):	

Detail all possible options available for the person (start with the least restrictive option and include the option of not taking any action): *If more than three options please add to the list*		
1. 2. 3.		
Current expressed preferences of the person regarding the options and evidence to support:		
Past expressed preferences of the person in relation to the options and evidence to support:		
Benefits to the person of implementing each option: *repeat process for each option available. Indicate if there is a low, medium or high likelihood of these benefits occurring. Indicate the seriousness / importance of each benefit for the person*		
Benefits	**Likelihood** (high/medium/low)	**Seriousness / Importance** (high/medium/low)
Option 1: 1. 2. 3. **Option 2:** 1. 2. 3. **Option 3:** 1. 2.		

3.		
Disadvantages or risks to the person of implementing each option: *repeat the process for each option available. Indicate if there is a low, medium or high likelihood of these disadvantages / risks occurring. Indicate the seriousness / importance of each disadvantage / risk for the person*		
Disadvantages / Risks	**Likelihood** (high/medium/low)	**Seriousness / Importance** (high/medium/low)
Option 1: 1. 2. 3. **Option 2:** 1. 2. 3. **Option 3:** 1. 2. 3.		
Outcome(s) of the Best Interests decision making process: Detail how the decision was reached and why the option was chosen, and why/how it will benefit the person.		
Explain how this decision is a proportionate response to the risk of harm to the person:		
Will enacting the decision result in restriction or deprivation of liberty? If yes, provide details and explain how this option will be implemented on a least restrictive basis:		
Summarise the views of contributors (agree / disagree with the decision):		

Detail how the person will be informed of the decision:
Date of review:
Signature of decision maker:

	Date:

Appendix E

Balance Chart

Decision Maker:

Attendees/ Consulted parties:

Options available are:

1.

2.

Benefits of	Burdens of

Benefits of	Burdens of

Options agreed to be in best interests of NAME are**:**

……
……
……
……
……