Surrey and Sussex Healthcare NHS Trust

BEST INTERESTS MEETING PROFORMA

If, after a comprehensive assessment an individual is shown on the balance of probabilities to lack capacity, then those acting on their behalf must do so in the persons Best Interests. Those working within Best Interests will be protected under the Mental Capacity Act from liability. This is set out in Section 1(5) of the Act. There are two exceptions, this is when an Advance Decision has been made or if the patient is involved in research.

POINTS TO REMEMBER

- **A person must be assumed to have capacity unless it has been proven otherwise**
- **A person can not be treated as unable to make a decision unless all steps to assist understanding a decision to be made have been taken without success**
- **A person can not be treated as unable to make a decision merely because they make an unwise decision**
- **An act done, or decision made, under the Mental Capacity Act for or on behalf of a person who lacks capacity must be done in the their Best Interests**
- **Before an act or a decision is made, considerations must be made regarding any least restrictive option available**

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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/her best interests			
Patient Name		**Consultant**	
Date of Birth		**Hospital Number**	
Gender		**Ward / Department**	

MEETING DETAILS			
Face to Face Meeting		**Telephone Meeting**	
Venue		**Date**	
Chair		**Decision Maker**	
Time		**Minute Taker**	

Name of Participants	**Role / Designation**	**Invited**	**Present**	**Apologies**

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CONFIRMATION OF CAPACITY ASSESSMENT	
Mental Capacity Assessment Tool is completed and attached to this Proforma (The form must detail the reasons why the person lacks capacity and the name of the person(s) involved in the assessment. If this form is not available then it must be completed before proceeding further with the meeting)	**Assessment Attached** Yes ☐ No ☐ **If not, please state why in the Any Further Comments section provided below**
Those present / invited agree that the person 'lacks capacity' to make the decision (In the event of anybody challenging the assessment result, and the disagreement cannot be resolved, then a second opinion or a ruling from the Court of Protection may be required. This will depend on the urgency of the decision to be made)	**All in Agreement** Yes ☐ No ☐ **Second Opinion Needed** Yes ☐ No ☐
ANY FURTHER COMMENTS	

PRE DECISION MAKING CHECKLIST	
Are there any specifically named person(s) by the person lacking capacity as someone to be consulted?	Yes ☐ No ☐ If yes, please state persons name and relationship:
Are there any named person(s) engaged in caring for the person lacking capacity interested in their welfare?	Yes ☐ No ☐ If yes, please state persons name and relationship:
Has there been an attorney appointed under the EPA or LPA? Please specify what type(s) of authority they have. Always see documentary evidence of this as proof of authority.	Yes ☐ No ☐ Type: Proof of authority:
If there is any dispute about whether something is being decided in a person's best interests, an application can be made to the Court of Protection for a ruling. (Please refer to the Mental Capacity Act 2005 Briefing 3: Structures and Safeguards under the Mental Capacity Act 2005 as it explains the functions and procedures of the Court of Protection in further detail.)	Dispute: Yes ☐ No ☐ Court of Protection needed: Yes ☐ No ☐

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BEST INTERESTS PROCESS
Where the court is not involved, carers, relatives and others can only be expected to have reasonable grounds for believing that what they are doing or deciding is in the best interests of the person concerned. They must be able to point out objective reasons to demonstrate why they believe they are acting in the person's best interests. They must consider all relevant circumstances.
Details of the nature of proposed care / treatment or decision to be made
Regaining of Capacity (Is it likely that the person may regain capacity, can the decision wait until that time, if not why not?)
Is this the least restrictive option? (If not, why not?)
What is the justification for proposed care / treatment
What are the risks relating to proposed care / treatment
What are the risks related to not carrying out the proposed care / treatment

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What are the persons past and present wishes and feeling (These may have been expressed verbally, in writing or through behaviour or habits)
Are there any beliefs and or values that would be likely to influence the decision, if he/she had the capacity? (e.g. religious, cultural, moral or political)
What are the views of the other relevant people in the person's life?
What are the views of the Independent Mental Capacity Advocate (IMCA)? (If involved)
Is there a dispute about best interests?
Best Interests Outcome of discussions and / or reasonable belief

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BEST INTERESTS OUTCOME
What is the outcome of the Best Interest Meeting? Please state further details below including any actions arising from the meeting and the person responsible for the action/s.

ATTENDEES SIGNATURES OF AGREEMENT OF BEST INTERESTS OUTCOME		
The undersigned believe this to be a fair representation of the discussions that took place. There are reasonable grounds for believing that what they are doing or deciding is in the best interests of the person concerned at this point in time.		
NAME	**DESIGNATION**	**SIGNATURE**