

Best Interests Decision Making Process

Step One: The Decision to be Made	Step Two: The Decision Maker	Step Three: Preparing to make the Best Interests Decision	Step Four: Making the Best Interests Decision	Step Five: Recording and Communicating the Decision
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Working out what is in someone's best interests is only relevant when the person has been assessed as lacking the capacity to make the decision for themselves. Therefore a mental capacity assessment must have been completed which shows that the person lacks capacity to make the decision, prior to a Best Interests Decision.

The MCA has five key principles which emphasise its fundamental concepts and core values. These must be borne in mind when working with, or providing care or treatment for, people who lack capacity (see [Five Principles of the Mental Capacity Act](#)).

The Best Interests process must include the following steps:

1. consult with others;
2. assess whether the person might regain capacity;
3. encourage participation;
4. find out the person's views;
5. identify all relevant circumstances;
6. avoid restricting the person's rights;
7. take all of the above into account;
8. avoid discrimination.

Examples:

See also [Best Interests Case Study](#)

1. The Decision to be Made

Best Interests Decision Making applies to a specific decision at a specific time, so the first step is to describe clearly the decision that needs to be taken.

Example:

Best Interests Decisions cover all aspects of financial, personal welfare and healthcare. The decision may be long term with a major impact on the person's life such as a move into residential care, or may be shorter term with less impact on the person's life such as short term support care package. The process can include a formal meeting or a less formal process depending on the needs of the person concerned.

2. The Decision Maker

The decision maker is the person who is proposing to undertake an action or make a decision about an action.

Example:

The person who has to make the decision is known as the 'decision-maker' that person may 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.

See also:

[Best Interests Decision Makers, Decision Making and Safeguards](#)

3. Preparing to make the Best Interests Decision

Preparing for making a Best Interests Decision is very important. There must be consultation with all of the people who need to be involved in order to make the decision.

This means particularly - anyone previously named by the person as someone to be consulted, anyone engaged in caring for the person, any attorney appointed under LPA or EPA, any Deputy appointed by the Court of Protection.

For decisions about major medical treatment or where the person should live and where there is no one independent of services, such as a family member, friend, LPA or Deputy who is able to represent them, an IMCA must be consulted (see [Independent Mental Capacity Advocate](#) chapter in the Coventry APPP).

Consideration will be given to whether the person might regain capacity for instance after receiving medical treatment, and if so, can the decision wait until then.

If the decision concerns life sustaining treatment it must not be motivated by a desire to bring about the person's death or make assumptions about the person's quality of life.

See also:

[Independent Advocacy](#), [How do the chances of Someone Regaining and Developing Capacity affect working out what is in their Best Interests?](#) and [How should someone's best interests be worked out when making decisions about life-sustaining treatment?](#)

3.1 Type of Assessment

Different types of decision may need different types of assessment processes - appropriate to the decision to be taken.

Example:

The key points to be considered will differ depending on the decision to be made for instance issues to be considered will be different for finance decisions or matters related to personal relationships.

Decisions about Day to day things such as personal care may not need formal meetings, whereas major or life changing decisions are likely to require a greater degree of formality.

See also:

[Assessing Mental Capacity](#)

3.2 Planning the Meeting

Participation – everything possible should be done to permit and encourage the person to take part or to improve their ability to take part in making the decision including considering the support that the person may need.

The person should be at the centre of the assessment which could (if appropriate) be completed at their own home.

The person should be supported to participate as much as they are able to or want to. Sometimes attending a formal meeting will not be in their best interests; when the person is not in attendance it becomes very important that someone who can represent their views is present. When the person does not attend, the reasons for this must be recorded.

This decision about the process should be based on professional judgement to ensure that it meets the needs of the person concerned.

If a meeting is not planned and/or if the person does not attend the meeting, it is still crucial that their wishes, feelings are represented.

Example:

The bigger the impact of the decision the more likely it is that a formal meeting would be needed, e.g. a move to residential care. An informal process may be appropriate for decisions with less impact like short term care packages.

See also:

[How should the Person who Lacks Capacity be involved in working out their Best Interests?](#), [What role do a person's past and present wishes and feelings play?](#) and [The Role of the Chair](#)

4. Making the Best Interests Decision

Best Interests Meetings

A best interests meeting will be held when the decision maker needs formal support from others to make the decision or when there are unresolved differences of opinion.

A best interests meeting may be needed, for example, where an adult (16+) lacks mental capacity to make significant decisions for themselves and needs others to make those decisions on their behalf. It is particularly important where there are a number of agencies working with the person, or where there are unresolved issues regarding either the person's capacity or what is in their best interests and a consensus has not been reached. Issues around a person's capacity should however ordinarily be resolved before a best interests meeting is convened.

Meetings will be chaired by a senior practitioner, senior social worker, or team leader/manager in very complex cases.

The meeting will identify all the relevant circumstances – try to identify all the things that the person who lacks capacity would take into account if they were making the decision or acting for themselves.

Minutes will be taken to ensure that there is a complete record and for distribution to those attending the meeting.

The point of the meeting is not necessarily to reach consensus but to reach a decision that is in the person's best interests.

Less Formal Decision Making Process: The process can take place without a formal meeting where this is not seen to be practicable or in the person's best interests.

Whether a formal meeting or less formal process takes place: Where agreement of all parties is not possible the decision maker makes the final decision based on all available evidence and taking into account conflicting views.

The least restrictive option is found in order to protect the person's rights.

The decision made must weigh up all of the principles above in order to work out what is in the person's best interests.

Avoid discrimination by ensuring that assumptions are not made about the person on the basis of age, appearance, behaviour or diagnosis.

The Balance Sheet Framework can be useful to ensure that all the relevant factors are covered.

Example:

[Best Interests Case Study](#)

See also:

[Consultation, Flexibility and Dealing with Conflict](#), [Balance Sheet Principle](#), [Agenda Template](#), [Best Interests Meetings](#)

5. Reporting

5.1 Recording and Communicating the Decision

A record should be kept of the process of working out the best interests for the person setting out:

- how the decision was reached;
- the reasons for reaching the decision;
- who was consulted; and
- what particular factors were taken into account.