

Referring to the Department of Psychiatry for an Assessment of Capacity

The judgement as to whether or not a patient retains mental capacity to make decisions regarding medical treatment or welfare is the responsibility of the team providing care to the patient not primarily a psychiatric matter.

In the majority of situations where the issue of capacity is clear cut, it is most appropriate for a doctor from the team providing care to make a decision regarding capacity. This prevents unnecessary delays in waiting for psychiatric assessment particularly when this delays treatment or discharge planning etc. The Department of Psychiatry is happy to assist in this process by formally assessing a patient's mental capacity in complex cases where capacity is borderline or the decision to be made is complex or high risk.

Should a person lack capacity due to a mental disorder and a Guardianship order is being considered, the Social Work department should be contacted in the first instance. The social work team will make an assessment, consider options such as Section 13za and refer to the Adults with Incapacity team if appropriate where the Guardianship application will proceed. A Psychiatrist's opinion will be required to complete the Guardianship application, but this will be at a considerably later stage and will be requested directly by the AWI team or by solicitor involved.

In a situation where a person lacks capacity to make decisions about the need for long term care or the provision of care but is not actively resisting the idea, section 13za , an amendment of Adult Support and Protection Bill, February 2007 can be used. Provided that it benefits the patient and that the multidisciplinary team and family are unanimously in agreement, Section 13za enables:

- the local authority to move the patient without a Guardianship
- the implementation of a package of support in the community in the situation where the patient is unable to give consent but offers no clear resistance.

Below is a pathway used in the Edinburgh Royal Infirmary that we also recommend a team follows before referring a patient to the Department of Psychiatry for mental capacity assessment.

This guidance has been discussed and agreed upon by members of Psychiatry, Social Work and the Adults with Incapacity team.

Useful telephone numbers:

St John's Social Work Team over 65 years extension 54088

Has a PSYCHIATRIC condition been identified which calls the patient's capacity into question?

No

Yes

Info Point:
A patient is deemed to lack mental capacity if they are suffering from an impairment of brain or mind which limits their ability to make specific decisions

Has a specific decision been identified which requires the patient's attention?

No

Yes

Info Point:
Mental capacity is decision specific. A condition may impair a person's ability to make one decision but it may not impair their ability to make others depending on their complexity and implications

Has the referring team made an attempt to assess the patient's mental capacity?

Yes

No

Has the team been able to determine whether or not a patient retains mental capacity?

Info Point:
Attempt to assess the patient's mental capacity to make the decision by considering the following questions:

- Is the patient able to understand relevant information?
- Is the patient able to retain that information?
- Is the patient able to weigh up the information as part of the decision making process?
- Is the patient able to communicate the decision?

If patient satisfies all four points they can be deemed to retain capacity to make the specific decision

Patient is not able to fulfil all four points – then they can be deemed to lack capacity to make the decision in question

No

Yes

Yes

Referral to psychiatry for capacity assessment would be appropriate

Further independent opinion required

Decision reached

Yes

