

# Assessing Mental Capacity

*Time Specific and Decision Specific*

## Supporting Notes

This does not have to be a clinical diagnosis

Evidence your doubt: e.g. Mental illness, illness, learning difficulties, drugs, alcohol, medication, heightened emotions etc

Be clear about the decision to be made  
Communication: how do we present information?  
Not just words: signs, video, pictures, interpreters etc

For the time needed to make the decision

Can they understand the consequences / risks / benefits

By whatever means suits them

## STAGE ONE – The Diagnostic Test

Is there any reason to doubt a person's capacity to make the required decision?

Is there an impairment of, or disturbance in the functioning of the person's mind or brain?

## STAGE TWO – Functional Assessment

Concentrates on the specifics of the decision to be made

1. Can the person understand the information relevant to the decision?

2. Can the person retain the information?

3. Can the person use or weigh the information as part of the decision making process?

4. Can the person communicate the decision?

A "no" to any of the 4 questions will indicate lack of capacity

### Who assess capacity?

The person who wishes to take some action in connection with the person's care or treatment, or who is contemplating making a decision on the person's behalf – **this may mean that it is you**

Health and Social Care staff or relevant experts must be involved when an assessment and/or decision has particularly significant consequences, such as:

- It will impact on the person's quality of life
- Within complex cases or where there is a dispute
- Where there may be legal consequences

For further information on Mental Capacity please visit [www.torbay.gov.uk/mentalcapacity](http://www.torbay.gov.uk/mentalcapacity)