Best Interests Decision Tree (following the mental capacity assessment)

Can the decision be delayed?

NO → **Is the decision urgent?**

YES → Delay the decision and re-assess capacity when the decision has to be made if there is any chance that the person may regain the capacity to make the decision

Is the decision urgent?

NO → **Is there an Advance Decision to Refuse Treatment (ADRT), Attorney or Court Deputy in place that would cover this specific decision?**

YES → Do your best to follow the 'non-urgent' route as much as possible in the time available

- Section 5 of the MCA (2005) provides "protection from liability so that [carers and professionals] can act in connection with the person's care or treatment….. as long as it is in the person's best interests" (Code of Practice, at paras 6.3 & 6.4)
- You must have "reasonable grounds for believing that the action is in the best interests of the person who lacks capacity" (Code of Practice, at para 6.28)

Is there an Advance Decision to Refuse Treatment (ADRT), Attorney or Court Deputy in place that would cover this specific decision?

NO →
- Identify the decision-maker
- Consider the need for an IMCA
- Follow the Best Interests Checklist (Code of Practice, para 5.13)
- Consider any written statements of wishes
- Hold a Best Interests Meeting if possible

YES → Follow the ADRT and/or consult with the appropriate person and offer a Best Interests Meeting or advice to help them make the decision

Record the decision and the reasons for it

Consider any restrictions imposed by the agreed decision

- No restraint or restriction is required: Section 5 (MCA)
- Some restriction is required: Record WHY it is necessary, proportionate and in the person's best interests (duration, e.g., 3 days) Section 6 (MCA)
- A deprivation of liberty is required: Follow authorisation process – DoLS / LPS

Implement the decision

Monitor and review the decision at an appropriate time point

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