

**Checklist for the Assessment of Capacity to Consent to Care or Treatment Arrangements
as part of a Deprivation of Liberty Safeguards (DoLS) authorisation application**

(Developed by Dr Janice Mackenzie, Consultant Clinical Neuropsychologist)

Name of person requiring assessment: _____ **Date:** _____

This checklist is intended to support assessments of capacity where the decision relates to consenting to care or treatment arrangements. Research has shown that professionals undertaking remote assessments as part of a DoLS application found it useful and it was also recommended for face-to-face assessments. The research showed that it can be used flexibly to suit your requirements. For example, it can be used:

- As a structured guide for conversations
- To supplement your existing assessment process by incorporating a topic idea or prompt from this checklist
- As an aide memoire to remind you of areas to cover

DoLS assessors have found the structure of this list helpful when undertaking assessments over the phone or internet. Assessors have also found it useful to observe care staff asking people questions from the checklist (for example, when the client finds it difficult to use technology). Care home or hospital staff might also find it useful to use the checklist when they do their own assessments of capacity to consent to care arrangements.

For some clients, the process of having their capacity assessed can cause distress. Accordingly, some questions or topic areas might need to be worded differently to suit the client's needs.

A semi-structured interview for decisions of this nature is also available from the author, which provides examples of questions relating to each topic covered. Please refer to this if you require additional guidance and support. (Available at www.assessingcapacity.com)

Assessment checklist

How did you enhance the person's capacity before and during the capacity assessment?

Before completing the checklist, **write down the main problems** that you/people involved in the person's life think the person has that could put them at risk if they left the hospital or care home.

(Examples of issues to think about: Not having access to care and treatment, getting in and out of bed, washing and dressing, going to the toilet, eating and drinking, buying and preparing food,

taking medication, doing housework, community mobility and transport – e.g., getting to shops and appointments, road safety awareness, substance misuse, vulnerability, risk to self and others – e.g., anger management problems or challenging behaviour).

Main problems

1.....

2.....

3.....

4.....

Any others?.....

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	Questions to explore with the person	Yes¹	No	Notes (e.g. what the person said or observations of behaviour) – continue on another page if required
1	Does the person know where they are and what type of place they are in? <i>(Give options if necessary, e.g., is it a care home, a hospital, or a hotel? Provide the answer if the person is incorrect)</i>			
2	Does the person know why they are there? <i>(If necessary, provide the answer for them.)</i>			

¹ Requirements for answering yes or no might, in some cases, reflect that a “good enough” or sufficient threshold has been met in your professional opinion.

	Questions to explore with the person	Yes	No	Notes
3	<p>Has the person noticed any physical difficulties they might be having?</p> <p><i>(Prompt as needed: e.g. any problems with legs/walking, arms, vision, washing and dressing, going to the toilet, eating and drinking?)</i></p>			
4	<p>Have they noticed any changes to their memory, their attention or their problem-solving skills?</p>			
5	<p>Have they noticed any changes to their mood/anxiety levels, personality or their relationships with other people?</p>			
6	<p>Go through the problems you've listed at the top of this checklist with the person, explaining that these are things the staff / their family have noticed.</p> <p>Does the person think they are having difficulties with these things?</p>			
7	<p>If the person agrees that they are having some problems:</p> <p>Does the person think these difficulties would affect them if they left hospital or the care home now? How?</p>			

	Questions to explore with the person	Yes	No	Notes
8	<p>Describe the treatment and care plan to the person.</p> <p><i>(e.g. help with washing and dressing / going to the toilet, physiotherapy to help them walk, OT to help them relearn kitchen tasks etc)</i></p> <p>Do they think they need this help?</p>			
9	<p>Describe to the person the restrictions that will be used to provide treatment and/or care or to keep them safe.</p> <p><i>(e.g. locked door, supervision from staff, being escorted when leaving the ward/home, no access to their medication)</i></p> <p>Do they think they need these restrictions? If not, why not?</p>			
10	<p>Does the person think that they would need help/care/support if they left the care home/hospital now?</p> <p>(What would they need help with, how often, for how long and who would provide this help?)</p>			
11	<p>Does the person think that they would have any difficulties if they were to leave and live without support at this moment?</p>			

Share the options below with the person. We have included space for three options, however there might be as few as two. Equally, if there are more than three you can add them to the bottom of the table. Ask the person about the reasons to say yes / good things about each option and the reasons to say no / problems / risks of each option.

Please bear in mind that one option should always reflect **no restrictions** in place for the person. For example, this might be returning home without support. The person themselves might also have options that they would like to be included as part of the decision.

	Reasons to say yes to this option (from the person’s perspective)	Reasons to say no to this option (from the person’s perspective)
<p>Option 1:</p> <p>(For example, stay in hospital/care home subject to personalised care plan and associated restrictions – e.g. being accompanied by someone outside the ward or having their medication managed by staff)</p>		
Option 2:		
Option 3:		

	Reasons to say yes to this option (from the person's perspective)	Reasons to say no to this option (from the person's perspective)
More?		

	Questions to explore with the person	Yes	No	Notes (e.g. what the person said or observations of behaviour) – continue on another page if required
12	Which of the options discussed with the person would be their choice? Why?	-	-	
13	Does the person think that their choice would affect anyone else? If so, whom? How would it affect them? (e.g. those expected to provide the care)			
14	When you tell the person that the staff / their family think they would be at risk leaving hospital / the care home now due to (the problems you listed), do they believe you? If not, why not?			

Additional notes:

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Decision regarding the person’s capacity

Can the person:

- 1. Understand the relevant information in relation to his/her own circumstances? YES / NO
- 2. Retain the relevant information? YES / NO
- 3. Use and weigh up the relevant information to arrive at an informed choice? YES / NO
- 4. Communicate that choice? YES / NO

Does the person have the capacity to make a decision about his/her care and treatment arrangements at this point in time?

YES / NO

Signed:

Print name:

Designation: