**Record of a Mental Capacity Assessment**

*“Capacity assessment is not some kind of scientific process where capacity is ‘measured’, it’s a social interaction - often with hugely high stakes for the person being assessed”* - Lucy Series, 2012

Guidance: A capacity assessment should only be completed when the person’s mental capacity to make the specific decision at the time it needs to be made is in question. Mental capacity is time and decision specific. If the person’s mental capacity to make the decision fluctuates, complete the assessment at the time at which the person is most likely to be able to make the decision. You need to ask the person the specific question and you should present the person with the available options to choose from (including what might appear to you to be unwise options; the person not agreeing with another’s opinion is not evidence of mental incapacity.) You must explain to the person that you are there to assess their capacity, and why. The person does not need to fully understand every last detail, only the salient points, so you should prepare by considering in advance what these details are and how best you can enable the person to make the decision.

The person is assumed to have the mental capacity to make the decision unless proven otherwise. If it cannot be established, on a balance of probabilities, that the person lacks the mental capacity to make the decision, then they remain the decision maker. The person does not have to ‘prove’ anything. The person might, for all manner of reasons, not want to talk with the assessor; that does not necessarily mean they lack capacity.

Please note that the very act of assessing capacity could be considered an interference with the person’s right to respect for privacy and so should only be completed if necessary and proportionate to do so. Any questions, please contact the MCA team MCA-service@bradford.gov.uk

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| Name of the person | | Betty | | | | |
| Name of the assessor | | Social Worker | | | | |
| Please give the names of anyone who assisted with or were present during this assessment. Did the person want anyone else to be present? If so were they? If not, why not? | | Betty was asked if she wanted anyone else present for the mental capacity assessment and she said they were happy to speak to me alone. I did not feel that the presence of another person that Betty knows would have been beneficial to their engagement in the capacity assessment. [CONSIDERED ADDITIONAL INPUT AND THE BENEFIT OF THIS. BETTY WAS ASKED. LINKED TO PRINCIPLE 2] | | | | |
| Where did the assessment take place? | | Betty’s living room at their home address. | | | | |
| Date and time this assessment undertaken  (you might make several attempts in order to enable the person to make the decision – see section below) | | 1/5/2024 at 13:00  8/5/2024 at 14:30  [SPECIFIC DATES AND TIMES GIVEN] | | | | |
| Please use this space to explain why mental capacity was being assessed and provide any relevant background information, including what practicable steps have previously been taken without success to enable the person to make the decision. You can also evidence here that you explained to the person your role and why their mental capacity to make the decision was in question.  Betty is a 84-year-old woman who lives alone. She came to the attention of Bradford Council following a safeguarding concern being raised by Yorkshire Ambulance Service after they attended her property following a fall and raised concerns about her ability to manage her care needs. Subsequently, a Care Act 2014 assessment was carried out by myself and I have determined that Betty has eligible needs for care and support. I have identified that she requires a 3 x daily package of care to support her with medication, meals, personal care and maintaining a habitable home environment. **[HELPFULLY SETS OUT THE CONTEXT FOR THE DECISION THAT NEEDS TO BE MADE]**  The Mental Capacity Act 2005 Code of Practice, at paragraph 4.34, identifies *“that it is important to carry out an assessment when a person’s capacity is in doubt”.* In relation to Betty, I have reason to doubt her ability to consent to the proposed care for the following reasons:   * Betty was assessed as lacking capacity to consent to the Care Act assessment. * During discussions with Betty about what a package of care would look like, she seemed very confused and wasn’t able to comprehend what care and support would entail and why this was needed.   **[GIVES CLEAR REASONS TO JUSTIFY THE CAPACITY ASSESSMENT AND REFERS TO THE CODE OF PRACTICE, WHICH SHOWS THE SW HAS HAD REGARD TO THIS – THINK OF ARTICLE 8]**  As a result of the above and due to the nature of the proposed decision – requiring Betty’s consent to receive care and support - a mental capacity assessment is required. | | | | | | |
| **Mental Capacity Act 2005 - Principles 1 to 3 of 5.**   1. **A person must be assumed to have the mental capacity to make the decision unless it is established that he or she lacks capacity to make the decision** 2. **A person is not to be treated as unable to make a decision unless all practicable steps to help him or her to do so have been taken without success** 3. **A person is not to be treated as unable to make a decision merely because he or she makes an unwise decision.** | | | | | | |
| **What is the specific decision to be made?**  If there is more than one decision please complete separate assessments. Note you must ask the person the specific question.  **Can Betty make decisions about her care and support? [CLEARLY INDENTIFIES A SPECIFIC DECISION]**  When it comes to assessing Betty’s capacity in regards to her care and support the following information is considered relevant/salient. It is the information that will be used to for the purposes of this Mental Capacity Assessment.  The **relevant information** for this decision stems from case law in the LBX v K,L and M [2013] judgement and is as follows:   * With what areas the person under assessment needs support; * What sort of support they need and who will provide such support; * What would happen without support, or if support was refused. * That carers may not always treat the person being cared for properly, and the possibility and   mechanics of making a complaint if they are not happy.  **[SETS OUT THE RELEVANT INFORMATION AS INFORMED BY CASE LAW]**  All possible **practicable steps** were taken to support Betty to make the decision:   * I explained my role and informed her of the purpose of my visit. Betty already knows me and from my previous involvement and we have established a good working relationship. * Betty was seen in her living room in her own home, which is an environment she is known to feel comfortable and relaxed within. * Betty was seen at a time of day where she is known to be most alert and able to engage in conversation. * Betty was offered for someone else to be present to support her during the capacity assessment, but she refused this. * The relevant information was presented to her slowly and clearly and repeated where needed over two visits. Betty is hard of hearing so I ensured her hearing aids were in and that she could hear me. Use of images of care tasks were used to support Betty’s grasp of the relevant information. * Prior to the visit, I spoke to Betty’s GP and established that she was not experiencing any UTI’s or other acute medical episodes which may be affecting her brain or memory particularly.   **[PRINCIPLE 2 IS EVIDENCED]** | | | | | | |
| The ‘Functional’ Element  Before considering the impact a mental impairment might have on decision making, it needs to be determined whether the person can make the decision. | | | | | | |
| **Q1. Can the person understand the information they need to make a decision?** | | | | **YES** | | **NO** |
| Please explain what steps you took to enable the person to understand the information. It must be explained in a way appropriate to enabling the person to understand it.  *(E.g. providing the salient information. Consideration of any cultural requirements which might better enable the person to understand. Sensory needs, using family members or people who know how best to enable communication, providing information in written form, using non-verbal communication techniques, picture cards. Meeting the person when he or she is best able to make the decision or wants to talk with the assessor. Is an interpreter needed? Consider documenting conversations verbatim to evidence the person’s understanding of the decision to be made. Ask the person the actual question, ask them to explain in their own words their understanding of the decision to be made, etc.)*  The decision to be made is to determine if Betty can consent to options for care and support, which it is proposed she receives in her own home.  On both occasions I visited Betty, we spoke in her lounge. She was oriented to place and person and was engaged in the discussion throughout. I explained to her that I was assessing her ability to make decisions about her care and support.   * **With what areas the person under assessment needs support; [CROSS-REFERENCES THE CONTENT OF THE CAPACITY ASSESSMENT TO THE RELEVANT INFORMATION]**   Betty was able to grasp the purpose of the Care Act 2014 assessment I carried out with her - “you wanted to find out if I need any help with things and were writing things down about it”, however there were evidently issues with her understanding about the care and support needs I identified as a result of the conversations I had with her.  Assessor – “So, I identified that you need some help with your tablets, meals getting washed and dressed and keeping your home clear and tidy. What are your thoughts about that?” **[APPROPRIATE OPEN QUESTIONS USED – GLEAN MORE INFORMATION AS OPPOSED TO USING JUST CLOSED QUESTIONS]**  Betty – “Well, I don’t know what to tell you. I don’t take any tablets, I can get washed and dressed fine and the house is perfectly fine” **[VERBATIM QUOTES USED]**  At this point, I pointed to the tablets that were next to Betty and reminded her that these were tablets she was supposed to take. **[USED REAL WORLD EVIDENCE TO HELP BETTY UNDERSTAND]** Betty said she had no idea what they were. I explained to Betty that she needed these for her low blood pressure and her dementia **[PROVIDED INFORMATION TO BETTY, AS OPPOSED TO JUST ASKING HER QUESTIONS]** – Betty said she had no idea what I was talking about. I reminded Betty that we had spoken about her low blood pressure and her dementia on multiple occasions, but she said she couldn’t recall this. I showed Betty the dosset box and pointed out that it was Wednesday today, and she still had tablets left over from Monday and Tuesday. I suggested it would seem she has forgotten to take these – “I don’t take any tablets. What are those things you are showing me?”  When I re-iterated to Betty how her health conditions affected her, the impact of not eating and the importance of the medication and my concerns about her not taking these **[PROVIDED INFORMATION TO BETTY, AS OPPOSED TO JUST ASKING HER QUESTIONS]** she responded “I don’t know what these [pointing to the tablets] are and I don’t have any health conditions. My doctor gave me a clean bill of health”. I proceeded to show Betty a letter from her doctor **[USE OF ADDITIONAL RESOURCES**] confirming her diagnosis and she said “yes, a clean bill of health” despite me re-affirming the presence of her health conditions and the ways this had demonstrably affected her. Betty couldn’t grasp that she had health conditions which had an impact on her daily living. **[STATING THE OBVIOUS – HELPFUL TO SPELL OUT WHAT BETTY’S RESPONSES INDICATE]**  Very similar interactions occurred on the second visit with Betty, with no observable increase in her understanding.  During both visits, when I clearly outlined to Betty my perception of the other areas of support she needed and provided examples informing my opinion, she was unable to conceptualise this. She couldn’t grasp:   * that the condition of her house increased her falls risk * that she had no means to go shopping or to stand for periods to prepare food, * she was prescribed medication to help her health conditions; * had increased her falls risk, * the impact of being in soiled clothing for very extended periods.   Betty said to me, when I had told her about her care needs associated to these areas, “Look around you, the house is spotless and look at how clean I am”. I reminded Betty that there were lots of books, papers and other trip hazards on the floor, but she couldn’t perceive these as risks, saying “there’s nothing there”.  When I told Betty of her inability to go to the shops or prepare food, she told me she went out every day (which her neighbours confirm she cannot do). In terms of the risks of sitting for long periods in soiled clothing (risk of skin infection, discomfort, loss of dignity), Betty couldn’t understand the implication of this nor she could recognise the clothing she was in had various food stains and a damp patch on her legs. She told me “look how clean I look, love. In my Sunday best”.   * **What sort of support they need and who will provide such support; [CROSS-REFERENCES THE CONTENT OF THE CAPACITY ASSESSMENT TO THE RELEVANT INFORMATION]**   On both visits, I used a range of images of certain care tasks with Betty, explaining what these images represented and describing these to Betty (e.g. someone being washed, food being prepared, shopping, medication, mobilising, socialising, hoovering etc) and asked her to point to any images she felt she might need some assistance with. **[USE OF APPROPRIATE RESOURCES TO SUPPORT BETTY’S UNDERSTANDING, WHICH THE SW ALSO EXPLAINED TO BETTY]** Betty said she was independent with all areas.  I informed betty that from doing her Care Act 2014 assessment – from speaking to her neighbours - they had commented that they often needed to provide input to assist her with most of these tasks and I had observed her struggle to manage from my visits. **[CONCRETE COLLATERAL EVIDENCE PUT TO BETTY]** Betty responded “I don’t remember that love, why would they need to help me?”. I summarised why they felt the need to help her, outlining her health conditions, the areas she has been noted to need support with and the types of things people needed to do for her. Betty responded “Who are you talking about? Me? Dementia? What’s that? Me? No, sorry love. I don’t have that. Help? Don’t need that. I don’t have anything I need help with”.   * **What would happen without support, or if support was refused. [CROSS-REFERENCES THE CONTENT OF THE CAPACITY ASSESSMENT TO THE RELEVANT INFORMATION]**   During discussions with Betty, she could grasp the concept that if someone did need support that they would benefit from assistance in relation to specific areas of need (citing an understanding of what a carer is and does), but was unable to comprehend the specifics of her own situation and the resultant needs for support she would benefit from, or what would happen without this.  Assessor - “So you don’t think you need any support from carers at all?”  Betty – “Oh no, love”.  Assessor – “So I am clear, you feel that nothing negative could happen at all without the support of carers and you disagree that you have had a fall and have been receiving support from your neighbours?”  Betty – “Oh no, I am as fit as fiddle”  Assessor – “I am glad to hear you think so, but there are concerns that without some help you will fall again and, this could lead you to really hurt yourself and end up in hospital. You have also lost a lot of weight”  Betty – “I have never fallen. I won’t end up in hospital. I always eat. Got a full fridge”  At this point, I showed Betty a picture of her empty fridge and cupboards again, and she told me they were full. I decided not to continue trying to broach this with Betty as it was clear she was getting agitated.  Assessor – “If you don’t take your tablets, your blood pressure will remain low and you could fall. I am also concerned that your skin could get worse if you aren’t assisted with having a wash and being in clean clothes” **[SW CLEARLY LOOKING TO EXPLORE THE CONSEQUENCES OF BETTY’S DECISION MAKING WITH HER]**  Betty – “I don’t need to take any tablets. My doctor gave me a clean bill of health and look at how clean I am. You don’t need to worry about me. I am fine and always will be. Nothing will happen to me”.  Assessor – “How would you feel if I arranged for some carers to come into help you with a few things throughout the day – to remind you to take your tablets, help keep the house clear and to help with your washing and having nice clean clothes on?”  Betty – “Well, I don’t mind someone coming, but I have no idea what they will be doing.”  I explained to Betty again, using the same images to help her visualise the type of support she was identified as needing. Betty continued to say she had no support needs.  During my second visit with Betty, in particular, she maintained that she had “absolutely no need for any help” and she was unable to comprehend the events that led up to her fall and the level of concern there was for her welfare. I explained to Betty that it was fine if she didn’t agree with me or the views of others, but explored if she could grasp any reasons others might have to feel she needed to support. Betty said “I have no idea what the fuss is about. I simply don’t understand why I might need this support you mention, but someone can come and see me if they want”. **[FURTHER SUMMARISING AND DRAWING THE EVIDENCE TOGETHER, USING QUOTES TO HIGHLIGHT THIS]**   * **That carers may not always treat the person being cared for properly, and the possibility and mechanics of making a complaint if they are not happy. [CROSS-REFERENCES THE CONTENT OF THE CAPACITY ASSESSMENT TO THE RELEVANT INFORMATION]**   Despite Betty not recognising the factors that necessitated consideration of having support from carers, she was able to understand that “if someone wasn’t kind to me, I would need to tell someone. I’d tell you, or Elsie next door. If someone worked for a company, I would complain to the manager”.    **[OVERALL, THERE IS A CLEAR NARRATIVE TO THIS SECTION OF THE MENTAL CAPACITY ASSESSMENT – IT IS QUITE CLEAR HOW THE SW APPROACED THIS AND THEIR LOGIC BEHIND THIS, WHILST PROMOTING A BALANCED EXCHANGE WITH BETTY.]** | | | | | | |
| **Q2. Can the person retain the information?** | | | | **YES** | | **NO** |
| Please explain what you did to enable the person to retain the information.  *(E.g. try repeating information, putting the options in writing to help the person remember. Ask the person if they can recall the decision they are being asked to make. It is not a test, the person might need to be prompted more than once. The person only needs to retain the relevant information during the decision making process, so remembering the assessor’s name or information provided during previous meetings is unlikely to factor*).  I spent about 2 hours with Betty across 2 visits for the purpose of the mental capacity assessment. **[HELPFUL TO KNOW THIS, SHOWS THIS WAS THOROUG**H] This is on top of the prior discussions I had with her on previous visits when carrying out her Care Act 2014 assessment where much of the relevant information was also discussed with her.  There were evidently deficits in her ability to recall her fall and the circumstances that led up to this. This was alongside her inability to recognise and recall a range of concrete information relevant to the decision that had been provided to her over a period of several weeks, including the diagnosis of her health conditions, the implications of this, the support she has already been provided with and the deterioration in her welfare as a result.  Whilst Betty could retain some things based on her concrete experience, like living on her own, the name of her neighbour, and my role and the purpose of my involvement there was little beyond this she could recall even in the face of irrefutable evidence put to her. **[APPROPRIATE SUMMARY OF BETTY’S POOR RETENTION, WHICH REFERS BACK TO THE EVIDENCE AND CONVERSATIONS IN THE PREVIOUS SECTION]** | | | | | | |
| **Q3. Can the person use or weigh the information to make the decision?** | | | | **YES** | | **NO** |
| Please explain what you did to enable the person to use or weigh the information.  *(E.g. Presenting the available options, how you supported the person to understand and balance the risks of making or not making the decision? How did you present the options for the person? Use a balance sheet with the person if it will help them. Can the person see the consequences of making the decision one way or the other or of not making the decision at all? The person will, with support, be able to see the relevant information and options and relate the one to the other to make the decision.)*  In the PCT v P, AH & the Local Authority [2009] EW Misc 10 (COP) using and weigh up has been described as the persons *“capacity actually to engage in the decision-making process itself and to be able to see the various parts of the argument and to relate the one to another”.* **[REFERENCE TO CASE LAW – NOT ESSENTIAL, BUT SHOWS THE SW IS ACTIVELY THINKING ABOUT HOW THIS ASPECT OF THE CAPACITY ASSESSMENT APPLIES]**  Overall, I feel that it is more likely than not – from my efforts to engage with her and the surrounding evidence – that Betty is unable to understand or retain the relevant information to conceptualise this and link this to the broader decision; which, by extension, entails being able to use and weigh this up.  In my professional opinion, Betty’s ability to be able to identify the reasonably foreseeable consequences of decisions as linked to her care and support and what that would mean for her, inclusive of particular positives or negatives that would come with this, were compromised.  The options available to Betty, and the impact of her needs on her welfare, were very clearly broken down and explained to her at the start of the capacity assessment and throughout. As covered above, Betty could not recognise her needs for care and support, the type of support she needs and what would be the reasonably foreseeable consequences of not receiving some input. When trying to carry out the balance sheet with Betty of the pros and cons of having support vs not having support, she simply responded “I don’t need support love”.  **[ADEQUTE SUMMARY OF BETTY’S OVERALL INABILITY TO USE AND WEIGH UP – THE ‘UNDERSTAND’ SECTION OF THE CAPACITY ASSESSMENT DOES A LOT OF THE HEAVY LIFTING WHICH IS REFERRED TO AGAIN HERE]** | | | | | | |
| **Q4. Can the person communicate their decision?** | | | | **YES** | | **NO** |
| Please explain what you did to enable the person to communicate the information.  *(E.g. Preferred communication for the person could be verbal, non-verbal through facial expressions or hand movements, or in the written form etc. Consider the person’s preferred language and need for interpreter)*  Note; Even if you go on to conclude the person cannot make the decision because of a mental impairment, please record here what the person indicated they would want to happen and their views or wishes and feelings, if the person is able to communicate these. E.g. the person might be talking about returning to their childhood home; even though such an option may not be available, that view should still be documented.  Betty is able to communicate verbally, however because she can’t understand, retain and use and weigh the relevant information she is unable to make an informed decision. Her views were sought on her current situation and the prospect of receiving care and support. She identified she would be happy for someone to come and visit her throughout the day, despite not recognising the intended purpose of this. Betty was able to articulate that she was very fond of her house and wanted to live there as long as possible. **[HIGHLIGHTS SOME OF BETTY’S WISHES AND FEELINGS, WHICH CAN BE CONSIDERED AS PART OF BEST INTERESTS]** | | | | | | |
| If you have answered **YES** to all of questions 1 to 4, then the first Principle of the Mental Capacity Act is not rebutted and person has the mental capacity to make the specific decision at that time, regardless of any impairment of or disturbance in the functioning of the mind or brain.  If you have answered **NO** to any of the questions 1 to 4, then you must determine whether, on a balance of probabilities, the person was unable to make the decision ***because of*** the impairment of or disturbance in the functioning of the mind or brain (i.e. the causative nexus) and not some other reason (e.g. a hearing impairment, or the person did not want to discuss the matter or was nervous about the consequences of admitting or saying something and did not want to talk openly etc). | | | | | | |
| The ‘Diagnostic’ Element  The MCA 2005 provides at section 2(1)  “For the purposes of this Act, a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.”  If there is no evidence of an impairment of, or disturbance in the functioning of the person’s mind or brain, then the person cannot be considered to be lacking the mental capacity to make the decision for the purposes of the Mental Capacity Act 2005. | | | | | | |
| **Q5.** **Is there an impairment of, or disturbance in the functioning of the person’s mind or brain?** | | | | **YES** | | **NO** |
| If yes, please provide sources of information to support your decision e.g. the medical diagnosis and where you read it or who advised you of it.  A formal diagnosis is not essential however; does the person appear to have a mental impairment? If so, please describe here. For example, a person might have an as yet undiagnosed infection causing confusion.  Betty has dementia, which was diagnosed in 2022. **[THIS IS ADEQUATE]** | | | | | | |
| **Q6.** **If there is evidence of an impairment of, or disturbance in the functioning of the person’s mind or brain, is that – on a balance of probabilities – causing the person to be unable to make the decision?** | | | | **YES** | | **NO** |
| Please describe here your reasoning for why the impairment as described above caused the person to be unable to make the specific decision at the time it needed to be made.  On the balance of probability, I believe that Betty’s dementia means she is unable to make the decision. There was evidence of a significantly reduced ability to understand new and already known information, and for her to be able to retain this and use and weigh this up. This is consistent with some of the presenting symptoms of dementia, and the visits I conducted with Betty provided evidence of this (memory loss, struggling to process information, and confusion) even when simple, demonstrably factual evidence was presented to her. From consulting Betty’s neighbour and liaising with her GP, these are also things that they have observed of her too. **[DRAWS A CLEAR LINK BETWEEN BETTY’S COGNITIVE IMPAIRMENT AND HOW THE CAUSATIVE NEXUS IS MET]** | | | | | | |
| If it cannot be shown that the person lacks the mental capacity to make the decision, they may still need and want support or help.  Sign and date this form and note the outcome within the person’s records (with their consent if it can be given). | | | | | | |
| If you have concluded that, on a balance of probabilities, the person does not have the mental capacity to make the decision at the time it needed to be made, you are signing here to say you are satisfied that the person’s inability to make the decision at this time was caused by the impairment of, or disturbance in, the functioning of the person’s mind or brain. | | | | | | |
| **Signature and Print name, job title.** | **A social worker** | | **Date record completed.** | | **22/6/2024** | |

This form was created by the Mental Capacity Act Team at Bradford MDC, April 2019