

## Knowledge of, and ability to assess, capacity

### Knowledge of how capacity is defined

An ability to draw on knowledge that relevant legislation on capacity applies to adults over the age of 16 who (by reason of mental health problems or because of an inability to communicate because of physical disability) may be deemed to lack capacity if they meet one or more of the following criteria, and are incapable of:
acting, or
making decisions, or
communicating decisions, or
understanding decisions, or
retaining the memory of decisions
An ability to draw on knowledge that where an individual is judged not to have capacity, any actions taken should:
be of benefit to them
be the least restrictive intervention
take account of their wishes and feelings
take account of the views of relevant others
encourage independence
An ability to draw on knowledge that capacity should be assessed in relation to major decisions that affect peoples' lives (e.g. finance (e.g. managing day-to-day finances), safety/risk taking, appraisal of their health needs)
an ability to draw on knowledge that capacity is not 'all or nothing' and may vary across specific areas of functioning, (e.g. a person with dementia may be able to give informed consent about management of a health condition but be unable to manage their finances)
An ability to draw on knowledge that incapacity can be temporary, indefinite, permanent or fluctuating, and that it is important to consider the likely duration and nature of the incapacity
An ability to draw on knowledge that diagnosis alone cannot be used to make assumptions about capacity

### Assessment of capacity

An ability to ensure that judgments regarding capacity take into account any factors that make it hard for the client to understand or receive communication, or for them to make themselves understood
an ability (where possible) to identify ways to overcome barriers to communication
An ability to maximise the likelihood that the person understands the nature and consequences of any decisions they are being asked to make, for example, by:
speaking at the level and pace of the person's understanding, and 'processing' speed
avoiding jargon
repeating and clarifying information, and asking the person to repeat information in their own words
using 'open' questions (rather than 'closed' questions to which the answer could be yes or no)
using visual aids
An ability to determine capacity where the person has significant cognitive impairments and/or memory problems e.g.:
where a person is able to make a decision but is unable to recall it after an interval, asking for the decision to be made again, using the consistency of their response as a guide to capacity
deciding when further formal assessment is required in order to determine the person's capacity