

**5**

Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

**4**

An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.

**3**

A person is not to be treated as unable to make a decision merely because he makes an unwise decision.

**2**

A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been undertaken without success.

**1**

A person must be assumed to have capacity unless it is established that they lack capacity.

# Hampshire Mental Capacity Toolkit

## Part B – Best Interests Decision Making

September 2018

Person's name \_\_\_\_\_

Address \_\_\_\_\_

Client Ref - AIS/NHS number \_\_\_\_\_

## Decision being consulted upon

**Details of the assessment of capacity in relation to the above decision** (Date carried out/ assessor/where a copy of the assessment can be found)

## Specify the different options that are being considered

1.

2.

3.

## Best Interests Consultation - Service User

<b>Consultation with the person lacking capacity</b>	<b>Supporting evidence (record here or note here where the information is recorded on their case file/AIS etc)</b>
<b>What are the issues that are most relevant to the person who lacks capacity?</b>	
<b>Specify their past and present wishes, feelings and concerns in relation to this decision.</b>	
<b>What are the person’s values and beliefs (eg. religious, cultural, moral) in relation to this decision?</b>	
<b>Does the person have any previously held instructions (eg. advance decisions) relevant to this decision? Give details</b>	
<b>Are there any other “ relevant circumstances” that should be taken into account in this case?</b>	

## Best Interests Consultation - Relevant parties

Checklist of persons	Details
<b>Anyone named by the person lacking capacity as someone to be consulted</b> (state name and relationship)	
<b>Anyone engaged in caring for the person or interested in their welfare</b> (state name and relationship)	
<b>Any attorney appointed under an enduring or lasting power of attorney</b> (state name and what kind of power has been donated i.e. EPA; LPA Property and Affairs; LPA Health and Welfare)	
<b>Any deputy appointed by the Court of Protection</b> (state name and the nature of the Court Order)	
<b>Independent Mental Capacity Advocate (IMCA)</b> Where the person lacking capacity has nobody in the above 4 categories other than paid carers, and faces a decision about serious medical treatment or a change of residence, you will need to refer the person to the IMCA service in the area where they are currently residing (state name and which IMCA service)	

## Best Interests Consultation - Relevant parties (1)

<b>Name:</b>	<b>Date:</b>
<b>Views:</b>	

## Best Interests Consultation - Relevant parties (2)

<b>Name:</b>	<b>Date:</b>
<b>Views:</b>	

## Best Interests Consultation - Relevant parties (3)

<b>Name:</b>	<b>Date:</b>
<b>Views:</b>	

## Best Interests Consultation - Other relevant parties

<b>Name(s)/Date(s)/Views (please list and explain if you have excluded any family or other relevant parties):</b>
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## Best Interests Decision

<p><b>Specify the option that is considered to be in the individual's best interests.</b></p>	
<p><b>Specify why this is the preferred option, including key benefits to the individual.</b></p>	
<p><b>Please give details of why other options listed were not considered to be in the individual's best interests. Please include details of any option that was not chosen because it was unlikely it could be successfully implemented.</b></p>	

If your decision is at odds with anybody who was consulted please give details. Please include details of any interim decision(s) and what action will be taken to try and resolve the dispute. The decision maker to consider if an application to the Court of Protection is appropriate and proportionate in this circumstance.

<b>Decision maker:</b>	<b>Date:</b>
<b>Manager:</b> (if appropriate)	<b>Date:</b>