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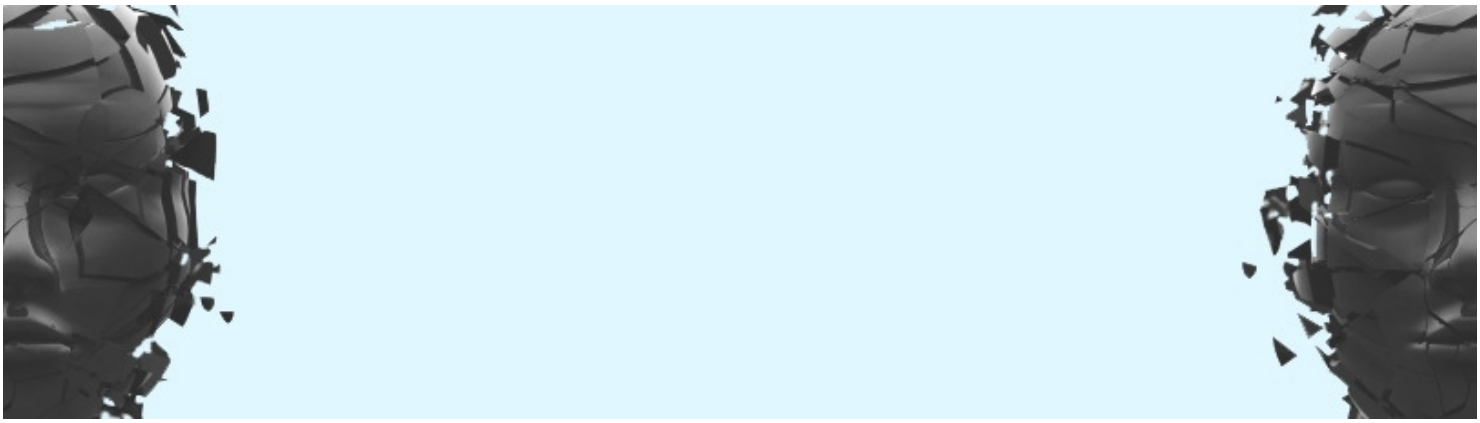

Mental Capacity Assessment Check List 2010

A person's capacity may be dependent on many factors. It can fluctuate and may vary depending on the subject matter involved. Incapacity arises if a person is unable to make a decision because of an impairment of, or a disturbance in the functioning of the mind or brain. The legal test for this is as follows:

1. Capacity test

Is the patient able to understand the information relevant to the decision?

Is the patient able to retain that information?

Is the patient able to use or weigh that information as part of the process of making a decision?

Is the patient able to communicate his/her decision?

If the answer to any of these questions is No then the patient lacks capacity.

Therefore based on the above test does the patient have Capacity?

2. What is the positive evidence upon which the decision regarding the patient's lack of capacity is based?

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3. Who has made the decision about the patient's capacity?

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Who did that person discuss the matter with e.g. other members of the MDT?

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Was an additional opinion sought? If so from whom?

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Name.....
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Signed.....
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Dated.....
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