

Statement of “best interests” decision

Patient Details

Aim:	To provide a standard procedure for the documentation of treatment decisions in patient’s “best interests” in line with currently available legal and ethical guidelines
Scope:	All patients without the capacity to formally consent to intensive care admission or procedures

Background

1. Section 4 of the Mental Capacity Act (MCA) gives health professionals in England and Wales the legal right to take certain steps relevant to care and treatment of patients.
2. In order to use these these rights, health professionals must (1) assess whether the patient has the capacity to consent for themselves and, if the patient lacks capacity, (2) follow a “**best interests**” checklist unless the patient has made an advanced directive or enduring power of attorney.
3. The ‘best interests principle’ is set out in section 1(5) of the Mental Capacity Act: ‘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. The power/authority to treat or care in such circumstances is subject to the “**best interest**” assessment which provides the power to: give care, stop existing care or withhold care to a patient that lacks capacity
4. In determining ‘best interests’, the onus is on the clinician to consult others as practicable and appropriate to do so e.g. relatives, carers, attorneys, deputies etc in order to assess:
 - a) Past and present wishes and feelings of the patient
 - b) Personal, religious or cultural beliefs or values of the patient
 - c) The risks/benefits of the medical treatment being considered
5. The background and process behind a best interest decision (and not just its outcome) must be recorded in detail. This guideline provides intensive care clinicians with a standard MCA-compliant procedure for documenting the best interests process and outcome relating to admitting or declining ICU admission.
6. It is designed to allow information to be rapidly collected in cases where there might be difficulty in determining whether treatment limitation is in the best interests of the patient. Where necessary, supplemental sheets should be appended.

Capacity assessment

1. Does the patient have an impairment of, or disturbance in, the functioning of his/her mind or brain? Despite all practical & appropriate support having been given to him/her to make his/her decision Yes

AND

2. Is the patient able to understand, retain, weigh-up and communicate the decision you are making? No

“Best interests” checklist

Discussion with - name(s):

Relationship to patient:

	<u>IN FAVOUR</u> of treatment limitations in best interests	<u>NOT IN FAVOUR</u> of treatment limitations in best interests
What are the past and present wishes/views of patient?		
What are the religious/ethical/cultural beliefs or values of the patient?		
What are the <u>benefits</u> to the patient of the intensive care admission?		
What are the <u>risks</u> or disadvantages to patient of intensive care admission?		
Are there less restrictive options available?		
Summary of decision		

Signed by lead healthcare provider:

Date:

Name (print):

Job Title:

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