

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 2A



Rights, Respect, Recovery

LACK OF DECISION MAKING CAPACITY - ADULTS

Mental Health Act 2013
Section 7

TCHI (Patient ID): _____
 Family Name: _____
 Given Names: _____
 Date of Birth: ___ / ___ / ___ Gender: M F TG / IT
 Address: _____
 Telephone: _____ Mobile: _____

AFFIX STICKER HERE

RECORD OF DETERMINATION - LACK OF DECISION MAKING CAPACITY - ADULTS

TREATING MEDICAL PRACTITIONER TO COMPLETE

For the purposes of the Mental Health Act 2013, an adult is taken to have the capacity to make a decision about his or her own assessment or treatment unless a person or body considering that capacity under the Act is satisfied that the person:

- (a) is unable to make the decision because of an impairment of, or disturbance in, the functioning of the mind or brain, and
- (b) is unable to understand information relevant to the decision, or retain information relevant to the decision, or use or weigh information relevant to the decision, or communicate the decision (whether by speech, gesture or other means).

An adult may be taken to understand information relevant to a decision if it reasonably appears that he or she is able to understand an explanation of the nature and consequences of the decision given in a way that is appropriate to his or her circumstances (whether by words, signs or other means).

An adult may be taken to be able to retain information relevant to a decision even if he or she may only be able to retain the information briefly.

Information relevant to a decision includes information on the consequences of making the decision one way or the other, deferring the making of the decision, and failing to make the decision.

Questions to be asked when assessing a person's decision making capacity:

Is the person's decision at odds with the person's usual preferences, with the person's best interests or with what most people would ordinarily do?

Why does the person think that they are in hospital?

Why does the person think that assessment and/or treatment is being recommended?

What is the person's understanding of the assessment and / or treatment that is proposed?

Are the person's responses to information that has been given consistent?

Can the person repeat back the information that they have been given?

How has the person reached the decision and does the way that they have reached the decision make sense?

What does the person's understanding of the assessment and/or treatment that is proposed?

What does the person think will happen if they are assessed and / or treated?

What does the person think will happen if they are not assessed and / or treated?

Would the patient stay in hospital or agree to be assessed and / or treated if they had the choice?

Patient or prospective patient's name:

Treating medical practitioner's name:

I am satisfied that the patient named above **DOES NOT HAVE** the capacity to make a decision, under the *Mental Health Act 2013*, about his or her own:

- Assessment **OR** Treatment **OR** Assessment and Treatment

Specifically, I confirm that the patient named above (tick any/all that apply):

- Is unable to make the decision because of an impairment, or disturbance in, the functioning of the mind or brain **AND**
- Is unable to understand information relevant to the decision **OR**
- Is unable to retain information relevant to the decision **OR**
- Is unable to use or weigh information relevant to the decision **OR**
- Is unable to communicate the decision (whether by gesture, speech or other means).

Rationale (see considerations in notes panel):

The following steps have been taken to assist the patient named above to make a decision about his or her own assessment or treatment:

Date and time of determination:

Date: ___ / ___ / ____ **Time:** ___ : ___ (24 HR)

Treating medical practitioner's signature: _____

COPY TO: LOC

