

Advanced Assessing Capacity & Best Interests

one day course

The Mental Capacity Act 2005 provides a legal framework for health and social care staff to assess whether people have capacity to consent to care or treatment. If a person lacks capacity to make a decision, the Act provides the powers to make a decision in that person's best interests. Since the introduction of the Act, a substantial amount of case law has developed on the concept of best interests decisions and the correct approach to assessing mental capacity. In court, there have been many examples of poor judgment or insufficient knowledge of the legal principles leading to litigation. This course will briefly revisit the statute and then focus on the courts' interpretation of the most robust methods of assessing mental capacity and best interests. It provides the essential knowledge that health and social care staff need to make reliable capacity and best interests assessments. The challenges that staff face in practice are also considered, including methods of dispute resolution and record keeping.

Session 1

- Assessing Capacity
- When to assess?
- Assessing Capacity- Case Law
- Best Interests- Overview
- Best Interests 'Checklist'

Session 2

- Exercise- Best Interests, Vulnerable Adults & Contact
- Best Interests- Wishes
- Best Interests- Consulting
- Best Interests- Less Restrictive Options

Session 3

- Best Interests Meetings- Practical Guidance
- Best Interests Meetings- Record Keeping
- Best Interests- The Decision Maker
- Challenges- Conflicting Views
- Challenges- Resolving disputes
- Exercise 2*
- Best Interests Case Law

Session 4

- Exercise 3*
- Best Interests Case Law
- Costs- consequences of not following best interests
- Inherent Jurisdiction- Best Interests outside the Act
- Exercise 4- Quiz*