

How to assess capacity using the two-stage capacity test

A person is unable to make a decision if they cannot do **one or more** of the following:

1. **Understand** information about the decision to be made
2. **Retain** that information in their mind
3. **Use or Weigh** that information as part of a decision-making process, or
4. **Communicate** their decision (by any means)

Does the person have an impairment or disturbance of the functioning of their mind or brain?

For example:

Mental Disorder, Dementia, Learning Disability, Brain damage, Confusion, Delirium, Drug or alcohol intoxication.

YES



Does the impairment or disturbance of their mind or brain mean that the person is unable to make a particular decision?

YES



Patient lacks capacity

Record in the notes the specific decision for which capacity was assessed, how capacity was assessed, why you think the patient lacks capacity. This should also include the nature of the impairment, what steps were taken to promote ability to make the decision. An assessment of capacity is often worded "I believe looking at the balance of probabilities that *this person has / lacks* capacity to make this decision because..." Record what the outcome of the decision is (e.g. the patient may need continuous observation)