

Capacity | Brad (18 years+)

Capacity is the ability to make one's own decisions. Capacity is assumed in adults unless proven otherwise.

Capacity is a pre-requisite for informed consent. Capacity assessment is crucial to establishing a person's ability to make their own treatment decisions.

Capacity is specific to the decision being made.

Example:

Brad may have capacity to make financial decisions but may lack capacity in decisions related to his mental health care and treatment.

Under the MHA (2016) it is assumed that a person has capacity to make decisions about their health care and treatment, until it is demonstrated that they are lacking capacity as a result of their mental illness.

The involuntary treatment provisions of the Mental Health Act 2016 may only be used when a person is lacking capacity, as a result of their mental illness.

A person has capacity to consent to mental health treatment is capable of understanding in general terms:

- the illness, or the symptoms of the illness which is affect their mental health and wellbeing
- the nature and purpose of the treatment
- the benefits and risks of the treatment and alternatives to treatment and the consequences of not receiving the treatment
- is capable of making a decision about the treatment and communicating the decision in some way.

A person may be assisted by another person to demonstrate they have capacity. This is called supported decision-making.

Mental Health Act 2016 - Treatment Authority criteria:

- The person has a mental illness
- The person does not have capacity to give or withhold consent to be treated for the illness
- Because of the person's illness, the absence of involuntary treatment, or the absence of continued involuntary treatment is likely to result in:
 - imminent serious harm to the person or others
 - the person suffering serious mental or physical deterioration.

Remember: Capacity is NOT an assessment of the wisdom of the choices being made but relates to harm.