

# MENTAL STATE IN RELATION TO MENTAL CAPACITY

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## What is Mental Capacity

Mental capacity is the ability of a person to make a specific decision at a particular time.

Assessments must be:

Time Specific  
Decision Specific

## Key Principle: Autonomy

A person must be assumed to have capacity unless it is established that he lacks capacity

*Section 4(1) of the Mental Capacity Act*

## TWO STAGE PROCESS FOR ASSESSING MENTAL CAPACITY

STEP 1: Is the person suffering from an impairment of, or disturbance in the functioning of the mind or brain?

STEP 2: If yes, does the impairment or disturbance cause the person to be unable to make the decision for himself/herself when he/she needs to?

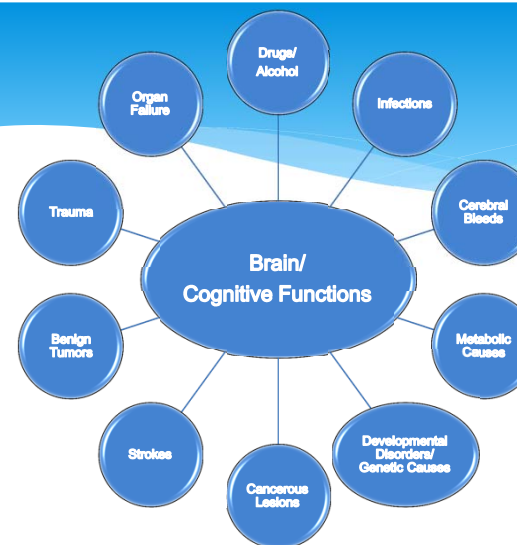
## What signifies the ability to make a decision?

- Understand information relevant to the decision
- Retain that information
- Use or weigh that information as part of the process of making the decision
- Communicate his/her decision by any means

## Mental State in relation to Mental Capacity

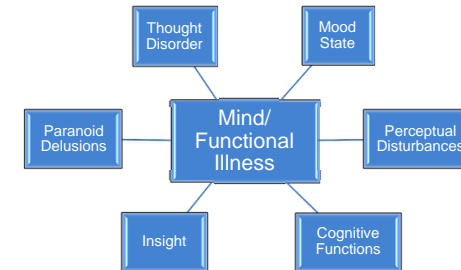
### Step 1

Brain and its Cognitive Functions: Memory  
Intelligence  
Learning  
Orientation



Mind and its Functional Illnesses: Psychosis  
Depression  
Dementia

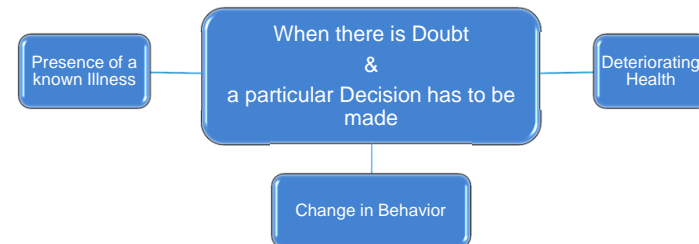
## SYMPTOMS



## Types of Mental Incapacity

- Permanent Incapacity
- Temporary Incapacity
- Fluctuating Incapacity

## When should Capacity be assessed?



## THREE APPROACHES IN ASSESSING CAPACITY

1. Outcome
2. Status
3. Functional

### 1. Outcome Approach


- Using the result of the decision-making process to ascertain capacity
- Advantage: “protects” people from the consequences of bad decisions
- However what if: Decision is unconventional  
Individuals values, beliefs, preferences, differ from the assessor  
What about individuality, eccentricity, self determination
- Unwise decision does not equate with mental incapacity

### 2. Status Approach

An attribute of the decision-maker (eg. a diagnosis) is used to evaluate the quality of the decision.

### 3. Functional Approach

- Components of the decision-making process are analysed
- A “decision-specific” and “time-specific: test
- No one can be labelled ‘incapable’ simply as a result of a particular medical condition or diagnosis
- Reject unjustified assumptions about capacity based on
  - Age
  - Appearance
  - Behavior
  - Disability
  - Inability to make complicated decisions
  - Unable to make similar decisions in the past



Support the person to make  
the decision for themselves



Formal Assessment:

- HISTORY – Medical/Surgical/Psychiatric  
– includes Cognitive abilities  
– adaptive and communication skills  
– mental health

OBSERVATIONS

- EXAMINATION – Physical  
– Mental State Assessment

- INVESTIGATIONS – Laboratory Tests  
– EEG  
– X Rays: CT Scans, MRI  
– Neurocognitive Assessments