

**GLOUCESTERSHIRE MULTI AGENCY MENTAL CAPACITY  
ACT POLICY**

**APPENDIX 5**

<b>Best Interests Checklist</b>	
<b>Criterion</b>	<b>Guidance</b>
<b>Encourage Participation</b>	Make every effort to permit and encourage the customer to participate in the decision to be made. Staff may need to seek support from family members, friends or other professionals to facilitate participation.
<b>Identify all relevant circumstances</b>	Try to identify all the issues and circumstances relating to the decision in question which are most relevant to the customer.
<b>Find out the person's wishes, feelings, beliefs and values</b>	<p>Try to find out the person's past and present wishes and feelings – both current views and whether any relevant views have been expressed in the past, either verbally, in writing or through behaviour or habits.</p> <p>Any beliefs and values (e.g. religious, cultural, moral or political) that would be likely to influence the decision in question.</p> <p>Any other factors the person would be likely to consider if they could make the decision themselves. This could include the impact of the decision on other people, such as dependents.</p> <p>It is important that the decision-maker understands that they are not trying to take the choice that they think the person would have made. Instead, the decision-maker is taking the person's views into account as a factor in making the best interest's decision making process.</p>
<b>Avoid discrimination</b>	Working out best interests cannot be based simply upon age, appearance, condition or behaviour. Staff therefore needs to take care not to make assumptions about what is in a persons best interests. For example, assuming that people with learning disabilities are better off not living with their parents would be discriminatory if applied to all customers irrespective of their individual circumstances.
<b>Assess whether the person might regain capacity</b>	Consider whether the person is likely to regain capacity and if so, whether the decision can be delayed. For example, staff will need to address whether the person's condition will improve for treatment.
<b>If the decision concerns life-sustaining treatment</b>	Not be motivated in any way by a desire to bring about the person's death. They should not make assumptions about the person's quality of life (This only applies to medical decisions, and LBM staff will not be the best interests decision-maker when a decision needs to be made about life sustaining treatment).
<b>Consult others</b>	<p>For views about the customer's best interests and to see if they have any information about the person's wishes, feelings, beliefs or values. Staff must consult:</p> <ul style="list-style-type: none"> <li>• Anyone previously named by the person as someone to be consulted on the decision in question or matters of a similar</li> </ul>

	<p>kind;</p> <ul style="list-style-type: none"> <li>• Anyone engaged in caring for the person, or close relatives, friends or others who take an interest in a person’s welfare</li> <li>• Any attorney or Lasting Power of Attorney (LPA) made by the person (even if they are not the decision-maker for this specific decision).</li> <li>• Any deputy appointed by the Court of Protection to make decisions for the person (even if they are not the decision-maker for this specific decision).</li> <li>• An Independent Mental Capacity Advocate (IMCA) in prescribed circumstances</li> </ul> <p>Reasons where consultation may not be practicable or appropriate may include the following:</p> <ul style="list-style-type: none"> <li>• The person lives abroad and has no contact with the service user;</li> <li>• An estranged relative</li> <li>• A family member who refuses to be consulted.</li> </ul>
<p><b>Avoid restricting the person’s rights</b></p>	<p>The decision maker must assess whether there is a less restrictive option. The decision-maker should be open to all options, and for each identify the risks, and whether restricting the customer’s rights would be a proportionate response to the level of risk. For example when a person lacks capacity to make a decision about where they should live, the options might be: staying in their present accommodation with a higher level of care, moving to residential or nursing care, living with relatives or moving to extra-care housing.</p>
<p><b>Take all of this into account</b></p>	<p>The decision maker needs to weigh up all of these factors in order to work out what is in a person’s best interests. It is helpful to use a ‘balance sheet’. This involves drawing up a list of the emotional, medical, social and welfare benefits and disadvantages of the proposed alternatives (including the likelihood of each benefit or disadvantage occurring).</p>