

Worksheet to support completion of Capacity Assessment forms

## CPG Addendum Capacity Assessment Outline

### 1. Terminology:

- **Competence/Incompetence** – legal judgment about an individual’s ability to perform certain tasks for themselves
- **Capacity/Incapacity** – clinical assessment of a specific ability
- **Will** – legal document setting out a person’s wishes about how their estate will be distributed upon their death
- **Personal Directive** – legal documents setting out a person’s wishes about health, social and accommodation decisions and who (agent) will make those decisions if an individual loses capacity and is unable to do so
- **Guardianship** – person appointed by the court (guardian) to make health, social and accommodation decisions for another person due to personal incapacity
- **Power of Attorney** – legal documents setting out a person’s wishes about how their financial affairs will be handled and who (trustee) will make the financial decisions if an individual loses capacity and is unable to do so
- **Trusteeship** – person appointed by the court (a trustee) to make financial decisions for another person due to personal incapacity

### 2. Guiding Principles:

- **Autonomy** – people have a right to make decisions in relation to their own lives. This right needs to be preserved and protected whenever possible
- **Safety** – restrictions to an individual’s independent living and autonomous decision making should be based on evidence of risk or potential harm. The harm may be to the individual or to another
- **Minimal interventions** – Only the most minimal restrictions should be imposed to preserve maximal autonomy and independence. Mitigate risks and support independence if possible

### 3. Common Clinical Situations Needing Capacity Assessment:

- **Proactive** = Prove capacity to prevent a challenge later or prove incapacity to prevent risk when a suspicion of incapacity presents.
- **Retroactive** = Determine the individual’s capacity at a point in the past.
- **Cognitive predominant** = Wills, personal finances, health decisions etc.
- **Physical predominant** = Driving, preparing meals, activities of daily living.

### 4. Rationale:

- **When** – potential for impaired function
- **Why** – to preserve independence/autonomy with acceptable risk
- **How** – Standards used to measure capacity include: the outcome standard, the category standard and the process standard

The above recommendations are systematically developed statements to assist practitioner and patient decisions about appropriate health care for specific clinical circumstances. They should be used as an adjunct to sound clinical decision making.



# Cognitive Impairment

## 5. Clinical Process for Capacity Assessment

### Getting started:

- Task – the individual needs to perform a specific task (consent to a procedure, create a Will, financial task etc.)
- Trigger – a question of impaired performance, judgment, insight or decision-making ability creates the potential for increased risk.
- Can the risk be mitigated? If not, capacity assessment may be needed.
- Search for reversibility – medications, delirium, hearing, vision, language, education about the task, etc.
- Define the clinical setting – Medications, history and physical examination, medical problems, MMSE and psychosocial assessment. Select a Standard for the assessment:
- Outcome Standard: It is rare for the outcome that an individual produces to allow a determination of capacity in clinical settings.
- Category Standard: The individual is deemed to lack capacity based upon being placed in a predetermined category. This is a pass or fail standard. It is often applied to a physical capacity such as driving where a threshold for safe performance has been predetermined. (e.g. vision below the limit means unfit to drive.)
- Process Standard: Commonly used clinically to determine capacity. Tests the individual's ability to perform the task in question. Application of the Process Standard:
- Understand and Appreciate - The individual needs understanding and appreciation. (e.g. They understand the consequences of leaving their entire estate to the church and they appreciate what that will mean to the church and to their children and their relationships with them.)
- Context, Choices and Consequences – Understanding and appreciation will need to be demonstrated for all three domains.
- Validate the result; check for authenticity – Authentic results will be compatible with the individual's values, beliefs and historical decisions. If significantly different from expected results it will be important to explain the deviation. Is there a logical explanation that verifies authenticity or was there coercion, lack of education, lack of knowledge or incapacity.

## 6. Resources Supporting Clinical Services

- Regional Patient Educational Materials - Personal Directives, POA, Wills
- Alzheimer Society and the Society for the Retired and Semi-retired
- Regional Geriatric services for Neuropsychological tests and assessments
- Lawyers specializing in Wills and estate planning

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# Cognitive Impairment

## Capacity Assessment Work Sheet Using A Process Standard

**Date:** \_\_\_\_\_

**Patient's Name:** \_\_\_\_\_

**Physician:** \_\_\_\_\_

**Reason Assessment Needed:** \_\_\_\_\_

1. TASK: \_\_\_\_\_

2. CONTEXT - Evidence of Understanding and Appreciation:

\_\_\_\_\_  
\_\_\_\_\_

3. CHOICES - Evidence of Understanding and Appreciation:

\_\_\_\_\_  
\_\_\_\_\_

4. CONSEQUENCES - Evidence of Understanding and Appreciation:

\_\_\_\_\_  
\_\_\_\_\_

5. AUTHENTICATION:

a. Performance reflects baseline? \_\_\_\_\_

b. Consistent with personal history? \_\_\_\_\_

c. Evidence of coercion? \_\_\_\_\_