

Assessing Mental Capacity for LPoA/Finances/Social Care

This guidance is aimed at solicitors, patients/their relatives who are seeking an assessment to determine if patient has capacity regarding their own health, finances and care.

As GPs, we have a duty of care to assess a patient's capacity in relation to medical treatments and investigations that we propose for them. We can discuss capacity relating to immediate health requirements. Since capacity is decision and time dependent, any evaluation we do is only valid in the context of a particular decision and specific to the time of the assessment.

GPs are commissioned to provide NHS services under the General Medical Services (GMS) contract. Assessing capacity for social care, managing finances or overall welfare are not the responsibility of the general practitioner as per the contract, hence GPs are not contractually obliged to conduct such assessments. Additionally, these assessments are more complex and sit outside our expertise.

Lasting Power of Attorney is a legal procedure and the best person to assess patient's capacity to engage with that process is someone with adequate knowledge and training of the law i.e. a solicitor along with a private psychiatrist or a private GP. For social care, the social services/social worker need to assess capacity.

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