

DO NOT RESUSCITATE (DNR) FORMS

The Mental Capacity Act must be taken into account in making a do not resuscitate decision. There are many traps for the unwary who do not follow and document the correct procedures. Patients can be divided into two categories; those who are competent, and those who lack competence.

There is a legal presumption of capacity

Two stage test of capacity;

- is there impaired / disturbed functioning of mind or brain?
- is it sufficient that person lacks capacity to make the **particular decision**?

However, if the patient lacks capacity;

Best interests - statutory checklist

All factors must be considered:

- equal consideration & non-discrimination
- all relevant circumstances
- can decision be put off until capacity regained?
- permitting & encouraging participation of person
- special considerations for life-sustaining treatment
- person's wishes & feelings, beliefs & values
- views of other relevant people

A doctor must consider;

- current wishes, feelings, beliefs & values
- relevant past statements or views, expressed in writing or verbally, in habits or behaviour, indicating patient's beliefs & values
- factors person would be likely to consider if able
- conflict between past wishes & feelings - would this influence decision if patient had capacity?

Advance Directives;

- requesting particular medical treatment - should be considered – not required to give unnecessary / inappropriate treatment if not in patient's best interests
- refusing specified treatment - if legally valid this must be respected

Chapter 9 of the Mental Capacity Code of Practice on the DH website has useful documentation on Advance Directives.

This is a complex subject with such potentially serious consequences if you get it wrong, that great care should be taken if asked to sign such an order. No GP should be pressurised into making a decision unless he or she is satisfied that all of the procedures have been followed correctly with appropriate consultation and consideration and that the basis for the decision is well documented.

If in doubt the GP should always consult his medical defence organisation for specific advice before agreeing to a decision that may later be called into question.