

# MENTAL CAPACITY ASSESSMENTS

**As qualified and registered social workers, we provide a range of Mental Capacity Assessments to help people make decisions and get the support they need, and to safeguard vulnerable individuals.**

Our assessments are person-centred and therapeutic in nature, to put you at your ease and support your decision-making. We can visit you at home or wherever you feel most comfortable so you'll feel relaxed and cared for.

Rest assured, all our assessments are compliant with the Mental Capacity Act (2005) and are based on the Social Care Institute for Excellence guidelines for best practice Mental Capacity Assessments, so you're in expert, experienced hands.

We understand how important Mental Capacity Assessments are for individuals, their families, and the agencies supporting them. That's why we aim to complete our assessments within 7 days, from enquiry to completion. We can carry out assessments in person or via secure Telehealth video link to suit your individuals needs.

## **OUR PROMISE**

**Everything we do is ethically priced and we'll provide you with a full quote before your assessment gets underway so you know the exact cost. There'll never be any hidden charges, ever.**

## MENTAL CAPACITY ASSESSMENT



### OUR MENTAL CAPACITY ASSESSMENT SERVICE INCLUDES:

- Testamentary Capacity Assessment.
- Court of Protection (COP3) Capacity Assessment.
- Capacity to Grant Lasting Power of Attorney.
- Activating a Lasting Power of Attorney.
- Capacity to Gift.
- Health & Welfare Decisions.
- Decision Specific Assessments.
- Property Sale following care home move.
- Children and Young Person COP3 Mental Capacity Assessment.

**GET IN TOUCH TO SEE  
HOW WE CAN HELP**

**0333 987 5118**

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# COURT OF PROTECTION CAPACITY ASSESSMENT (COP3)

**You can apply to become someone's deputy if they lack the mental capacity to make a decision for themselves at the time it needs to be made, for example, because of an illness or accident, or because they have dementia or severe learning disabilities.**

**As a deputy, you'll be authorised by the Court of Protection to make decisions on their behalf. You can apply to be someone's deputy to help them manage property and financial affairs, or to help them manage their personal welfare, including their health, wellbeing and care.**

As experienced COP3 assessors, we understand how important it is to act quickly and safeguard individuals at risk. That's why we aim to complete COP3 assessments within 7 days, from referral to completion.

A COP3 form is designed to evidence a lack of mental capacity, but in line with the principles of the Mental Capacity Act (2005), we always assume an individual has capacity.

## **DISCHARGE FROM THE COURT OF PROTECTION (COP24)**

A loss of mental capacity can be temporary, which means that someone who needed a deputy, is now able to make their own decisions again. As experienced assessors, we can provide a thorough assessment of your capacity and evidence any changes, to support your discharge application to the Court of Protection.

**When you apply to the Court of Protection to become a deputy, the courts require a Mental Capacity Assessment to be completed by a health and social care professional, commonly referred to as a COP3.**

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# CAPACITY TO GRANT LASTING POWER OF ATTORNEY

**There are two types of Lasting Power of Attorney (LPA):**

- **Property and Financial Affairs**
- **Health and Welfare**

To arrange a Lasting Power of Attorney, to manage either your property and finances, or your health and wellbeing, you must have the mental capacity to do so. If the donor's (the person seeking the LPA) mental capacity is in doubt, a formal mental capacity assessment should take place to show:

- You understand the significance of the LPA.
- You haven't been put under pressure to make it.
- No fraud is involved in making the LPA.
- There is no other reason for concern.

The Mental Capacity Act (2005) states that capacity is 'decision specific' which means that each type of Lasting Power of Attorney requires a separate assessment.

**"A Power of Attorney is a legal document that allows someone to make decisions for you, or act on your behalf, if you're no longer able to or if you no longer want to make your own decisions."** Age UK

## CAPACITY TO GRANT LASTING POWER OF ATTORNEY



### ACTIVATING A LASTING POWER OF ATTORNEY (LPA)

When you make a Lasting Power of Attorney for Property and Financial Affairs, the donor (the person seeking the LPA) can choose whether their attorney acts for them from the moment the LPA is registered, or only when they lose capacity.

If the donor has chosen to activate their LPA only when they lose capacity, and you, as their attorney, have doubts about their mental capacity, we can help. Many professionals and organisations require a Mental Capacity Assessment to evidence lack of capacity, before they will deal with you as an attorney.

We provide an evidence-based assessment to identify if a donor has lost the capacity to manage their own property and finances independently, to activate the LPA and give attorneys the authority they need to act. This report can be used to evidence your authority as an attorney with banks, solicitors and other professionals.

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# TESTAMENTARY CAPACITY ASSESSMENT

**Testamentary capacity is the term used to describe someone's capacity to make, or amend, a Will. As expert mental capacity assessors, our assessments are completed in line with the principles of the Mental Capacity Act (2005) and case law (Banks v Goodfellow (1870) LR 5 QB 549.**

The test for testamentary capacity is based in case law (Banks Vs Goodfellow, 1870) and includes:

- Understanding the nature of making a will and its effects.
- Understanding the extent of the property involved.
- Being able to comprehend and appreciate the claims involved.
- Having no disorder of the mind that perverts your sense of right, or prevents you exercising your natural faculties when it comes to making or amending your will.

## CAPACITY TO GIFT

The High Court defines the test to establish mental capacity to make lifetime gifts as the common law test, applying the principles set out in Re Beaney (1978) 1 WLR 770, rather than those set out in the Mental Capacity Act (2005).

As experienced mental capacity assessors, we apply this case law throughout our assessment to make sure we gain the relevant evidence.

The test defines whether an individual is capable of understanding the effect of making a lifetime gift, if the consequences had been fully explained to them. Depending on the specific gift in question, this could include your capacity to understand:

- The nature of the gift you're making.
- The value of your gift.
- Why you're making it.
- The implications of making it.

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# HEALTH AND WELFARE DECISIONS

**The This is the Mental Capacity Act (2005) not the Mental Health Act (1983) makes it clear that any decision or action affecting a person's care and treatment must always be made in their best interests, taking into account their feelings, beliefs, values, wishes and capacity to be involved.**

We complete independent assessments for a whole range of individuals and organisations, including local authorities and solicitors. When it comes to Health and Welfare decisions, there are many different reasons why an assessment may be needed, including:

- To support a specific decision – such as a move into a care home.
- To allow health and welfare attorneys to act.
- To provide evidence for tribunals and Best Interest decisions.
- For Court of Protection (COP3) applications.

## DECISION SPECIFIC ASSESSMENTS

The Mental Capacity Act (2005) states that the assessment of capacity should be decision-specific. As expert mental capacity assessors, we're experienced in assessing individuals for any decision where there's a particular concern. For example, their capacity to:

- Marry or divorce.
- Choose where they live.
- Create a Trust.
- Act as a Trustee.

**Many day-to-day decisions and actions can be supported or made by a person's family or carers, but for more complex decisions, a formal assessment may be required, to assess their mental capacity for decision making.**

### PROPERTY SALE (FOLLOWING A CARE HOME MOVE)

If you're a deputy or attorney deciding to sell a property following someone's move into residential or nursing care, you need to be able to answer the specific question of whether there's a possibility of them returning home.

With our experience of mental capacity assessments, we can provide all the relevant information and evidence to support your decision making, including:

- A Care Act (2014) Needs Assessment to identify the individual's needs, abilities and wishes and their care home needs
  - to help determine whether their needs are best met in a care home or their own home, and the probability of this changing in the future.
- To complement this assessment, we can also complete a Mental Capacity Assessment for the specific decision - to identify if the individual is able to choose where they live and decide on their residency and care.

This information will help to ensure your decisions are evidence-based, well documented and in the individual's best interests.

### WHY IS DECISION-SPECIFIC ASSESSMENT SO IMPORTANT?

**This is the Mental Capacity Act (2005) not the Mental Health Act (1983) says, a person's mental capacity to make decisions can change, depending on their specific situation and health condition. For example, someone recovering from an accident, or someone living with dementia who's ability to retain information may vary from day to day.**

It's also important to remember that while someone may need help with a specific decision, it doesn't necessarily mean they can't make other kinds of decisions for themselves.

Our assessments are designed to uphold the principles of the Mental Capacity Act (2005) and support everyone involved in decision-making.

**Our service includes a Financial Decision Tracker at no additional cost.**

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# CHILDREN AND YOUNG PERSON COP3 MENTAL CAPACITY ASSESSMENT

**When applying to be a deputy for a child or teenager, the Court of Protection requires a mental capacity assessment to be completed by a health and social care professional, referred to as a COP3 report.**

**We have a wealth of experience when it comes to supporting children, young people and their families, including working with children with life-limiting conditions and supporting children in educational settings.**

Assessments are carried out in your own home or wherever you feel most comfortable. To create a relaxed environment for children, we've worked with educators and illustrators to create a fun and simple colouring book to help start the conversation around finances for example.

We work from a social model of disability to provide you with the most accurate, evidence-based, truthful assessment possible and aim to complete assessments within 7 days from enquiry to referral.

As experienced social workers we understand how important the decisions being made are to your family's wellbeing. All our assessments are fully compliant with the Mental Capacity Act (2005).

**Assessing a child or young person's mental capacity brings its own unique challenges. Our caring, innovative approach puts them at the heart of the process at all times.**

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