

A Guide for how to establish someone's Capacity To Consent to Video Link aspect of AHC

This guide is purely to assess a patient's capacity to understand the concept of communication / consultation for the Learning Disability Annual Health Check via a video link and the importance of evidencing that a Best Interest decision has been made where a person lacks capacity to understand this.

1. Once the surgery has received the carers preparation tool, the AHC virtual appointment can be booked. When booking the AHC, ask your surgery staff member who makes the booking, to establish whether the person has previous experience of communicating with others via video link eg friends and family. This will indicate whether they can conceptualise that the other person can see and hear them in real time and this isn't something they are watching, like a TV.
2. If they do not have previous experience, then ask the carers who know them well, to use whatever verbal and gestural communication level that works best for this person to explain and DEMONSTRATE how this works. This will involve getting one carer to leave the room and video call to them and assess whether they recognise them and can communicate with them. The person outside can ask them things like 'show me your book?' to see if the person can understand that they show this to the screen etc. Ask them to report back, prior to the AHC whether they believe the person has the capacity to understand this.
3. If they believe that they do understand this, then the health practitioner should confirm that they have capacity at the beginning of the virtual AHC. They should explain what they plan to do and why. They should tell the person what they can see in their screen [reference items around them or on them] and then they should ask if the person is happy to continue, to confirm that they have the mental capacity to understand and consent to this virtual means of contact. Make a record that they have Mental capacity to consent to this virtual AHC in their notes.
4. If the people who know them well have tried step 2 and report back that they do not believe they have the mental capacity to understand the concept of the virtual annual health check, then you should clarify this and establish for yourself if they lack capacity by making the call in step 3. Then use the carers evidence and your own findings as your bases of assessment that they do not have capacity to consent.
5. You then need to make a best interest decision, using the carers and your opinion to weighing up the risks and benefits of going ahead. Consider - Is it in their best interest to go ahead at this time? what are their previous health indicators / risk of diagnostic overshadowing etc? Are there any risks to the person or others with proceeding? How overdue are they for an AHC? Can this be safely delayed until after isolation restrictions are lowered without increased risk to their health?

6. If it is in their best interest to proceed now, then consider best practice Eg
Overt not Covert – At the start of the AHC the health practitioner should still introduce themselves and explain what they are looking at and why throughout the assessment
Dignity – Ensure their dignity is maintained throughout.

Remember - lack of capacity to consent to video consultation DOES NOT indicate lack of capacity to anything else.

Capacity should be assessed for each decision/treatment/procedure and reasonable adjustments made to ensure all attempts have been made to help the patient make that decision.

Where a person does not have capacity to consent to any specific investigation or procedure then the health practitioner needs to evidence that they have made a best interest decision as to whether to proceed or not, using reasonable adjustments and least restrictive practice to overcome any barriers. [use carers / family knowledge of the person and Community Learning Disability Nurses support to help overcome these barriers.

[Follow GMC guidance on remote consulting <https://www.gmc-uk.org/ethical-guidance/ethical-hub/remote-consultations>]

Consent and capacity assessment <https://www.gmc-uk.org/ethical-guidance/ethical-hub/mental-capacity>

Consent and capacity assessment BMA toolkit <https://www.bma.org.uk/advice-and-support/ethics/adults-who-lack-capacity/mental-capacity-act-toolkit>