

Mental Capacity Act 2005

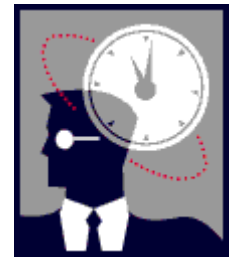
Dementia and Mental Capacity

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What determines if a person lacks capacity ?

"The Capacity Test"

- The Act sets out the best practice approach to determining capacity - whether an individual is able, at a particular time of making a particular decision
- **It is decision specific**
- **It sets out detail on what is involved in assessing capacity, as covered by the Code of Practice**



What is Mental Capacity?

“Capacity”

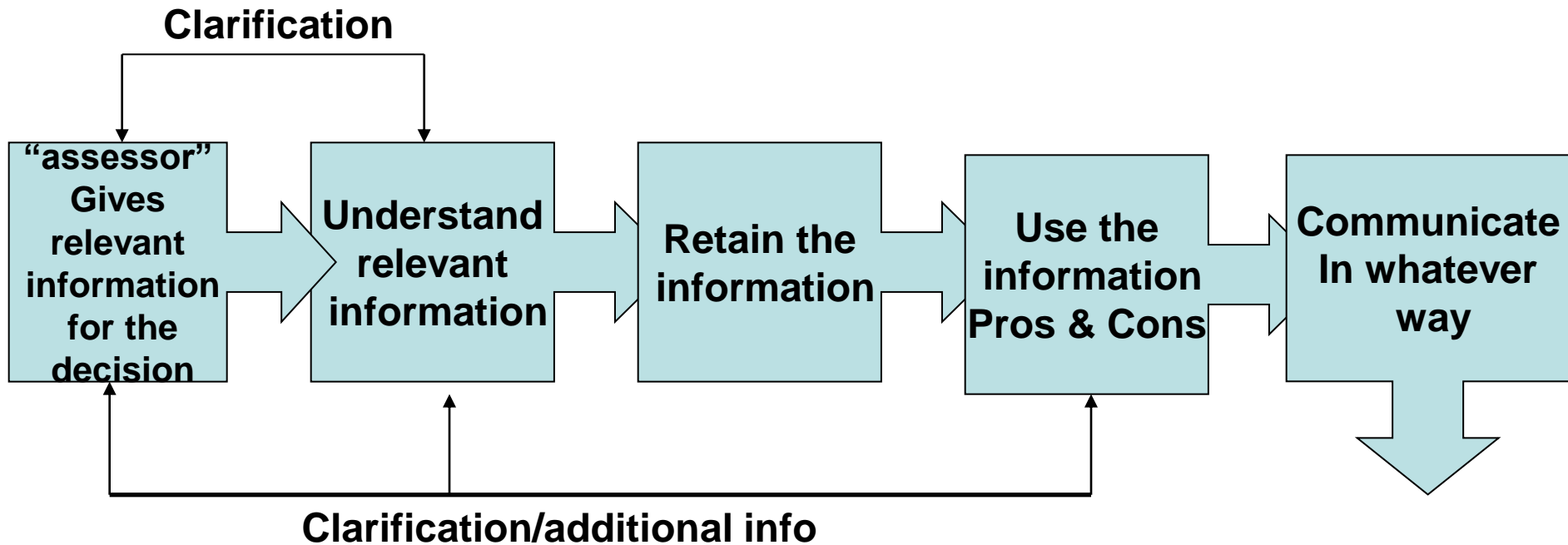
- For the purposes of this Act, a person lacks capacity in relation to a matter if he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain (**diagnostic test**)
- Mental capacity can be permanent or temporary.

Determining Capacity

“The Capacity Test”

- Ability to make decisions – **functional test**
- Act says in 3(1)....a person is unable to make a decision for himself if he is unable
 - a)to understand the information relevant to the decision
 - b)to retain that information
 - c)to use or weigh that information as part of the process of making that decision,
 - d) to communicate his decision (whether by talking, using sign language or any other means).

The Mental Capacity Test



“Decision Maker” who or what is it ?

- **The person making decisions or acting on behalf of the person without capacity**
- **Different people at different times related to the type of decision-related to “legal responsibilities” or job role**

Working in someone's best interests means:

