

COVID-19 Testing: Testing someone who lacks the relevant mental capacity without their consent



1 All practicable steps should be taken to support the person to make the decision to be tested for COVID-19 for themselves.

2 If this is not possible or is unsuccessful, then a mental capacity assessment and best interests decision under the Mental Capacity Act (MCA) will need to be carried out.

This decision *it is not connected to an existing DoLS authorisation nor does it affect DoLS in any way.*

3 **Those responsible for carrying out or facilitating the carrying out of a COVID-19 test on someone who may lack capacity to consent to this, is responsible for doing this assessment.**

The 'decision maker' would therefore usually be a:

- Nurse
- Doctor
- Care Home Manager
- involved relevant health professional



4 The decision-maker must consider all the relevant circumstances, including the person's wishes, beliefs and values, the views of their family and what the person would have wanted if they had the capacity to make the decision themselves. **This must be clearly recorded.**

5 The MCA process needs to assess whether the person understands relevant information including;

- *that there is a virus which is causing serious harm,*
- *a swab/blood test is needed to determine whether you have the virus or antibodies to the virus,*
- *the swab needs to go to the back of the throat and/or top of the nose (where the swab test is being used),*
- *that a needle will be used to obtain blood for the test (where blood/pin prick test is being used)*

6 **No blanket best interests decisions can be applied to several people in one setting.** Best interests decisions should be made on an individual basis. Relevant professionals involved in the person's care should determine if the test is proportionate to the level of distress which may be incurred. If there are doubts whether a person would comply with the test or the person is objecting to having it, it is likely it would not be in their best interests to carry out the test.

7 Where a test is not proportionate to the distress that it would cause to the person, care homes should then consider what reasonable protective measures can be put in place to protect the person and others in the environment.