

COVID-19 Vaccination: Vaccinating someone who lacks the relevant mental capacity



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Vaccination is a medical procedure - the process of obtaining consent or determining best interests is led by a **relevant healthcare professional** responsible for prescribing and/or administering the vaccination (for example GP, Care Home Nurse or Practice Nurse). Other non-healthcare staff involved in the person's welfare can contribute to the processes as outlined below. Multi-disciplinary collaboration ensures lawful decision-making processes are followed and prevents delay

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A person must be presumed to have mental capacity to consent to receiving the Covid-19 vaccination, **unless there is reason to doubt otherwise**. If there is reason to doubt, a mental capacity assessment must be undertaken. The capacity assessment should present the following baseline information;

- that there is a virus which is causing serious harm, and that a vaccine will help protect them
- how the vaccine will be administered
- any side effects of receiving the vaccine (for example, a sore arm for 48 hours)

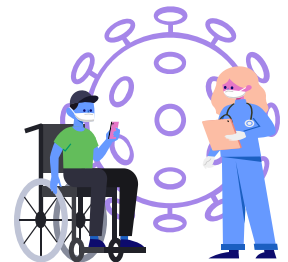


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All practicable steps must initially be taken to support the person to make the decision for themselves. **If, despite this support, the person is assessed as lacking capacity, a best interests decision must be made** on whether the person should receive the vaccination

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If the person has a known Lasting Power of Attorney (LPA) or Court Appointed Deputyship (for **Health and Welfare** decisions) then the LPA or Deputy will make the best interests decision. If there is no relevant LPA or Deputy, then the best interests' decision-maker is the **relevant healthcare professional**.



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The person's present and past wishes should be ascertained (past wishes may include previous vaccination uptake, for example), as well as **reasonable efforts** to obtain the views of relevant others, such as family or carers. It is not usually necessary to instruct a professional advocate for people who are unbefriended.

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If there is agreement it is in the persons best interests to receive the vaccine **and** it is not in contravention with their wishes **and** the person is compliant with the procedure - the vaccine can be administered

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However, if the administration of the vaccine is in contravention of the persons present and past wishes, or the person is potentially non-compliant with the procedure, this may constitute Serious Medical Treatment - **please refer to your safeguarding lead for further advice.**

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If an objection to the vaccination emanates from a family member or friend, then the nature of that objection needs to be explored with them. For example, if the objection is related to potential misinformation, then it may be helpful to provide up-to-date information and resources accordingly.

If the objection continues despite discussion with the objector, the decision-maker needs to consult with their Safeguarding Lead for advice.

There are certain circumstances where the case may need to be taken to court for a Judge to determine what is in the person's best interests

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The capacity assessment and best interest decision should be recorded. Detailed recording is essential where there are objections, non-compliance with the procedure, and any contravention with the persons wishes

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Blanket best interest's decisions about vaccination, applying to several people in one setting **must not be made**. Each best interests decision must be taken on an individual basis