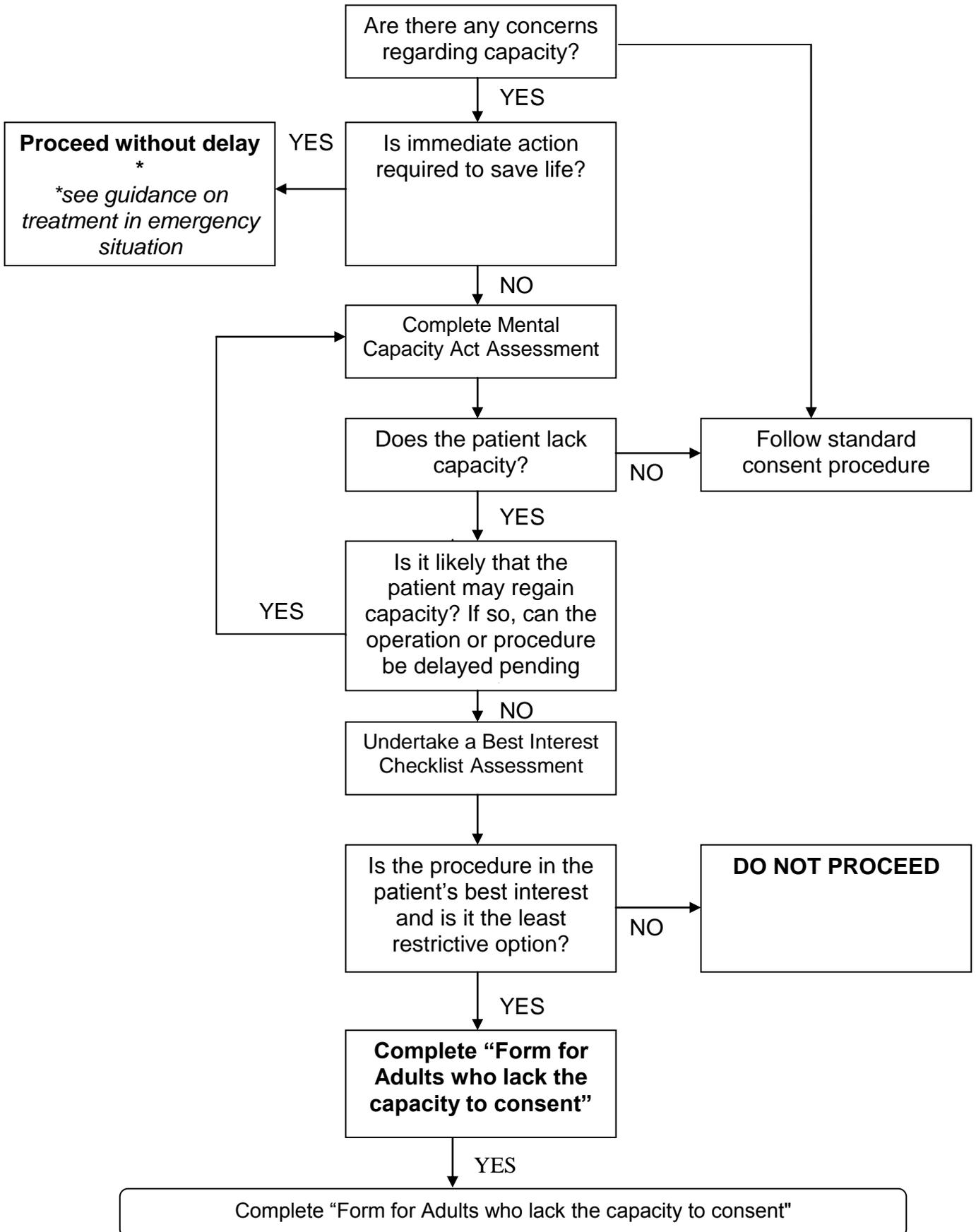


**Consent Process for Patients without Capacity –  
when procedures, interventions or operations are proposed.  
Summary Clinical Guideline**

Reference no.:MCA/3032/2018



## IS THIS AN EMERGENCY SITUATION?

### YES

- Is there an Advance Decision to Refuse Treatment (ADRT)? Does it relate to the specific treatment and is it valid? **If** obvious, it must be followed (an ADRT refusing specific treatment will overrule an LPA, court appointed Deputy & medical staff decisions). The Best Interests principle will not apply where there is a valid ADRT.
- If there is no valid ADRT as above, is there someone with a valid Power of Attorney? If so, they can make the decision. If there is a disagreement between the clinicians involved and the Power of Attorney, seek immediate legal advice. However; if the procedure or operation is clearly indicated and in the patient's best interests proceed with emergency treatment without delay.
- Communicate with the patient as much as possible as to what is happening and why.
- Discuss with those close to the patient e.g. relatives or carers if available, either "face to face" or by telephone, and clearly record this discussion on the consent form and file in medical notes. *However*, do not delay emergency treatment whilst undertaking this process.
- Healthcare professional proposing treatment to complete consent form.
- Consent form must be countersigned by a second healthcare professional. This must be the healthcare professional undertaking the procedure if not the first signatory e.g. surgeon, endoscopist or interventional radiologist.

### NO

- Is there an Advance Decision to Refuse Treatment (ADRT)? Does it relate to the specific treatment and is it valid? If so it must be followed.
- Is there someone with a valid Power of Attorney for Health and Welfare? If so they can make the decision as to treatment / procedure. However, if there is a disagreement between the clinicians involved and the Power of Attorney in respect of the patient's best interests, seek a formal second opinion from another clinician. If agreement cannot be reached, seek legal advice as soon as possible.
- Is there a court appointed Deputy or Order?
- If no to the above - you are the Decision Maker.
- Undertake the Best Interest checklist to record consultation with those close to the patient, e.g. family/carers before proceeding with any procedure or operation, to ascertain previously expressed wishes and feelings made by the patient and use all means to communicate with the patient to aid their participation.
- If the patient has no one close to support them and the procedure constitutes 'serious medical treatment', an IMCA must be appointed.
- Healthcare professional proposing treatment to complete consent form.
- Consent form must be countersigned by a second healthcare professional. This must be the healthcare professional undertaking the procedure if not the first signatory e.g. surgeon, endoscopist or interventional radiologist.

