• Reflecting on the fact that everyone has their own values, beliefs, preferences and attitude.
• ‘Minimum intervention’ principle, least interference with individual’s freedom of action.

Section Two:
• A person lacks capacity if at the material time 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 mind or brain.
• DOES NOT MATTER if permanent or temporary.
• Examples include dementia, learning disabilities, loss of consciousness, concussion, symptoms of alcohol or drug use.
• ‘Material time’ = specific, not general capacity.

Section Three:
• Inability to make decision IF UNABLE TO:
  • understand relevant information
  • Retain that information
  • Use/weigh up that information in a process of decision-making
  • Communicate their decision.

(Understand, Retain, Weigh, Communicate).
Not necessary to prove the first three points, one element will be sufficient.
All practical steps to help have to be taken first e.g.: using different forms of communication, non-verbal/sign language, providing information in a more accessible form such as photographs or drawings, treating the medical condition affecting ability, or helping learn new skills.

Issue specific capacity:
- Test for capacity is functional, and has to be assessed for each decision at the time of decision needs to be made.
- Not a general statement of incapacity.
- Cannot be established merely by someone’s age or appearance, or any conditions they have.
- Assessment of capacity often carried out on a day to day basis by those close to individual, professional involvement only required with more complex decisions or in cases of disagreement or abuse.
- Must be made in individual’s best interests.

Section 4: Circumstances to consider in person’s best interests.
• Ascertainable past and present wishes and feelings of the person concerned.
• Beliefs and values that would likely to influence decision (religious beliefs).
• Other factors they would be likely to consider.