

Capacity Assessment for Mental Health Treatment (Gillick Competence) – Child and Youth

Guide for use

The *Capacity Assessment for Mental Health Treatment (Gillick Competence) Child and Youth* form is an optional tool for documenting the outcome of a capacity assessment with a patient. The form is based on the meaning of 'capacity' in section 14 of the *Mental Health Act 2016*.

This form provides a structured method for obtaining evidence of the patient's capacity to consent to treatment, during conversations you have with relevant persons, and helps you to identify which areas of capacity are present or lacking. It also includes the opportunity to recommend and undertake further assessment to demonstrate stability of capacity.

There is no requirement for this form to be used; it is provided as a support for practice.

How does this form support the less restrictive way under section 13 of the *Mental Health Act 2016*?

Having clear documentation relevant to determining the capacity of a patient to consent to treatment ensures that the most appropriate person consents to the mental health treatment of a child or young person. In most instances, this person is a parent/legal guardian, if the child or young person does not have capacity.

If the child or young person does have the requisite capacity, they can consent to the treatment.

The *Capacity Assessment for Mental Health Treatment (Gillick Competence) Child and Youth* form may support best practice in undertaking a capacity assessment, and documenting the assessment, to ensure that decisions for treatment are made with respect to the child or young person's rights and in their best interest.

When might I use the *Capacity Assessment for Mental Health*

Treatment (Gillick Competence) Child and Youth form?

In circumstances where consent is required, the capacity of the patient to consent to treatment must always be determined before treatment is contemplated. Capacity assessment may be documented in a number of ways.

This form is not intended to replace current practices, rather it is intended to provide an option for structuring a capacity assessment for mental health treatment when more detailed documentation is needed. You may consider using this form to document capacity in the following circumstances:

- to assist in identifying the less restrictive way for the patient to receive treatment (i.e. if the child or young person has capacity and can consent to treatment themselves)
- when a decision to use involuntary treatment under the *Mental Health Act 2016* is being made
- when a decision is being made to revoke a treatment authority – to determine if the child or young person has capacity, or if consent is required from a parent or legal guardian
- when there is uncertainty about the patient's capacity to consent to treatment, and a number of opinions on capacity to consent are being sought
- where concerns exist about fluctuating or emerging capacity to consent to treatment, to record recommendations and recurrent assessment in order to establish stability of capacity
- when concerns exist about how a child or young person is presenting with regards to capacity, to record and clearly document the conversation and measures taken in the capacity assessment.

The form does NOT have to be completed on each of these occasions; it is at the discretion of the

clinician, treating team and local health service to determine how the form may be most effectively used. Local health services may develop protocols around the use of the form.

When NOT to use this form

The *Capacity Assessment for Mental Health Treatment (Gillick Competence) Child and Youth* form is only intended to assist in establishing whether the child or young person has capacity to make decisions related to mental health treatment and care.

Capacity is decision-specific; any other decisions, such as managing finances, schooling or lifestyle choices, need to be assessed separately.

How do I use the *Capacity Assessment for Mental Health Treatment (Gillick Competence) Child and Youth* form?

The form provides a structured method for assessing the capacity of a child or young person, through assessment conversations. It is not intended to be used as a questionnaire. It provides prompts for all the relevant criteria in section 14 of the *Mental Health Act 2016*, to clearly document the factors important for capacity assessment.

You may find it useful to read through the form prior to undertaking a capacity assessment, as a reminder of the areas you will need to explore, and the considerations of factors that may enhance or effect decision making at the time.

During the capacity assessment, you may take notes. Use the child's or young person's own words (as much as possible), as this provides stronger evidence supporting the assessment and your observations. You should complete this form as soon as possible after the assessment.

Section A records the child/young person's details.

Section B provides context for the capacity assessment by identifying who is included in the discussion as a supported decision maker. This acknowledges that parents, carers, cultural

supports and others may assist a child or young person in weighing up and making a decision.

Sections C to F are the criteria for capacity under section 14 of the *Mental Health Act 2016*. It is important to provide details under each of these criteria, including:

- i) how these were explained;
- ii) the child's or young person's responses indicating understanding or lack thereof;
- iii) any written or other materials provided;
- iv) any factors that were considered important to the child or young person;
- v) how the decision was communicated by the child or young person.

In section G, the form assists in identifying any considerations for enhancing capacity. If any environmental, social or other factors may have been present to support or diminish capacity, please note these here. A range of considerations are provided to assist clinicians.

Section H documents the decision by the clinician regarding the child or young person's capacity to consent to treatment at the time of the assessment. It requires the signature of the assessing clinician, by way of showing that this assessment was undertaken by that clinician.

The 'Stability of Capacity' subsection gives options to identify further assessment if required to establish capacity, or to document that consistent capacity has been demonstrated. This may be relevant if the child or young person has shown fluctuating or emerging capacity.

Section I: If the child or young person is assessed as not having capacity to consent to treatment, a parent or legal guardian needs to be identified and documented in this section. Refer to the *Less Restrictive Way – Decision Making for Child and Youth Mental Health Treatment and Care* flowchart to assist with this if required.

Where do I record the *Capacity Assessment for Mental Health*

Treatment (Gillick Competence) Child and Youth form?

The *Capacity Assessment for Mental Health Treatment (Gillick Competence) Child and Youth* form can be uploaded to the Consumer Integrated Mental Health Application (CIMHA) as a clinical note.

In the CIMHA clinical note, choose the “Assessment” category and an “Attachment summary” template, then record and upload the scanned form.

Be sure to use the attachment naming convention, **<Attachment>_<date>** to make it easier to search (e.g. **Capacity Assessment_20180702**). To search for previous capacity assessments, filter for the Assessment category. Refer to the [CIMHA Attachment Description Naming Convention Factsheet](#) for more information.

Do I need training to use the Capacity Assessment for Mental Health Treatment (Gillick Competence) Child and Youth form?

If you are confident with capacity assessment, you may not need any further training to use this form. If you are not confident, but feel you have the skills and knowledge needed, this form may help you to structure and record your assessment more fully. If you feel that you do not have the skills required to identify factors related to capacity when talking with a person, it is recommended that you undertake training in capacity assessment.

For more information about Less Restrictive Way and Capacity Assessment, refer to the ‘Guidelines to Providing Treatment and Care in the Less Restrictive Way’.

CIMHA Attachment Description Naming Convention Factsheet link:

https://qheps.health.qld.gov.au/_data/assets/pdf/file/0028/2153683/fact-attachdescrip.pdf