

Section F: Psychiatry

What to do when a patient refuses to accept essential medical treatment after an episode of self-harm.

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1.0 Background

This can be a difficult problem and requires a sensitive clinical approach backed up by reference to the law on the **capacity to consent to treatment**. Senior medical and nursing involvement is recommended. This document is a guideline ONLY. It is being discussed with senior colleagues in psychiatry as well as the Trust's solicitors for complete ratification. In the meantime please use it as a source of information to help in decision making.

If an adult refuses treatment that is considered necessary a fully registered doctor must perform a test of their 'capacity' or 'competence'. The proposed treatment should be explained carefully.

2.0 Assessing capacity

An adult has capacity to consent or refuse medical treatment if s/he can:

1. understand and retain the information, relevant to the decision in question,
2. believe that information, and
3. weigh up the information and come to a decision.

This should be fully documented in the patient's notes. All adults are assumed to be competent to consent or to withhold consent to treatment until shown to be incompetent. If a competent adult refuses treatment then even if the reasons behind the decision are unknown or seem irrational then the decision must be respected.

If the patient fails one or more parts of this test s/he is deemed to lack capacity or be incompetent to make the decision. If the attending doctor considers the treatment as 'necessary' then s/he should **treat the patient under common law according to what the doctor considers is in their best interests**. It is considered good practice for relatives to be involved although their opinion on treatment has no legal weight. It is considered desirable to calm the patient, establish rapport and spend some time with the patient, if possible, before coming to a decision. If the patient is unable to cooperate or there is no time to assess competency then the patient should be treated according to their best interests.

It is always worth asking what treatment the patient will accept and considering whether that might be sufficient. If the patient is deemed incompetent (lacks capacity) (s)he should be restrained and treated against their wishes. This is very rare and should only be the decision of a senior doctor.

3.0 Role of the Mental Health Act.

The Mental Health Act (MHA) does not appear to empower doctors to treat physical conditions such as overdoses against the patient's wishes. If it were considered necessary for the patient to have further psychiatric assessment as an inpatient then the MHA would be used in the same way as in any other case.

Failing the capacity test does not require or necessarily imply a psychiatric diagnosis. A very distressed person who has taken a serious overdose after a relationship break up might be deemed incompetent even if there were no sign of mental illness.

Key Points on what to do?

- Follow the algorithm
- Seek senior help from medical and nursing staff.
- Establish rapport with the patient and continue to persuade. They will usually respond!

Managing patients in A&E who refuse essential medical treatment.

