

Mental Health Interventions for People Sleeping Rough: Acquired Brain Injury - Appendix 2

Supporting someone to make a decision and considering their mental capacity

About this appendix

This appendix supports The Mental Capacity Act Guidance and the Mental Capacity Screening Tool in The Mental Health Service Interventions for People Sleeping Rough: www.pathway.org.uk/services/mental-health-guidance-advice

It is designed to help people who are not mental health professionals, but who are concerned that someone they are supporting may lack capacity to make a decision, and that this is because of known or suspected brain injury.

Completing the Mental Capacity Screening Tool will help you to follow the principles of the law and should help you to make a better judgement about someone's ability to make a decision. The completed tool can also act as evidence of your concerns to help mental health professionals carry out additional assessments where needed.

What is acquired brain injury?

The brain controls almost everything a person thinks, feels, does and says. To do this it needs a constant supply of energy provided through blood and oxygen; if the flow of either is disrupted brain tissue dies. Once brain tissue dies it does not regenerate. In simple terms this is the reason for acquired brain injury.

Acquired brain injury means that a person's brain has been damaged by an event at some point. Common causes include:

- Road traffic collisions
- Assaults
- Accidents e.g. falling from a height
- Alcohol
- Cardiac arrests
- Strokes
- Tumours

People who are sleeping rough may be at greater risk of some of these than the general population. In addition, people may experience several of the above issues, with additional brain injury each time.

The brain is a highly complex organ and some areas seem to be responsible for specific skills and abilities. For example damage to the left side of the brain may mean that a person is unable to communicate as they did before. This is because part of the left side of the brain, called the temporal lobe, is responsible for many aspects of our ability to communicate.

Some abilities, such as memory, are complex functions that support other abilities. If memory is affected by a brain injury it may also cause communication difficulties and difficulties in solving problems: the person no longer has the ability hold both what they are saying (their 'train of thought') and the problem they are addressing in their mind. This makes solving the problem very difficult.

Brain injury can have wide ranging effects on physical, sensory, cognitive, memory, emotional abilities and behaviours. It can affect every area of a person's life, from relationships, education and employment, to managing money and other life skills.

The prevalence of acquired brain injury amongst people who are homeless

We do not know how prevalent brain injury is amongst people who are homeless, but there is a growing research base which indicates that brain injury can be a factor for people who are sleeping rough.

The Disabilities Trust found that 48% of people who were homeless had experienced a head injury¹ and that people who were homeless and had experienced brain injury were likely to die sooner than other homeless people. Research in Canada indicates that men who are homeless and heavy drinkers are 400 times more likely to experience a head injury than the general population.

Anecdotal reports, from front line staff in London and the South East, suggest that some people sleeping rough were involved in road traffic collisions many years ago, when they were living independent lives. The associated brain injury has led to a breakdown in relationships, loss of employment, accommodation and an inability to address these problems, resulting in them rough sleeping.

Communicating with a person who may have a brain injury

- Create a calm, quiet environment.
- Minimise interruption.
- If safe to do so, work one to one with the person. If it is not safe to work alone with the person, ensure only one member of staff speaks.
- Use short sentences and everyday words.
- Give time for the person to understand what you have said and time for them to think about their response.
- Write key words down and use pictures if it helps understanding and memory.
- Provide the minimum amount of information.
- Do not provide lots of choice.
- Avoid "why" and "how" questions as these are cognitively demanding.
- If possible try to obtain information from other sources to corroborate what the person you are supporting tells you and/or fill in gaps in the history the person provides.
- Listen to information the person provides which will help you work with them e.g. they may mention they use shop frontage to navigate, or every Wednesday they go to X service, you can then provide directions to places using shop fronts or arrange appointments at X service on Wednesday.

¹ <https://www.thedtgroup.org/foundation/brain-injury-and-homelessness>

Using the Guidance to the Mental Capacity Act Questions

The text below details things that could be relevant to people who may have an acquired brain injury. The numbers next to each of these points reference “Guidance regarding the Mental Capacity Act screening tool” on page 26-27 of the [Mental Health Interventions for Rough Sleepers – Tools and Guidance](#) book.

1. What is the decision the person you are concerned about needs to make and why do they need to make this decision now?

It may take some experimenting to find the best way to communicate with the person you are supporting, and understand their skills and abilities. If the decision is not urgent, try some of the suggestions above and seek advice from specialists such as the Headway UK Helpline.

2. Is there reason to believe that the person may lack mental capacity due to a known or suspected mental health problem, learning disability, brain injury, dementia or intoxication?

Your observations and assessment of the person will provide the basis of your concern around brain injury; things like unexplained gaps in memory or confusing timelines may be present. The person may have confabulated events i.e. mixed up separate things, or say things that cannot be true. It is important to note that this is not deliberate lying or fantasy, it is a cognitive difficulty. The person may become very fixed on certain subjects and return to them repeatedly. An acquired brain injury may be present with any number of the other issues mentioned in the question.

3. Has sufficient information been given to the person to help them understand the decision?

4. Have all practicable steps been taken to support the person to make the decision?

Describe what information has been provided to the person and how you have adjusted your communication to support understanding.

5. Is it felt the person is free from external pressures to make their decision?

A person experiencing brain injury may not be able to ‘put themselves in someone else’s shoes’. This may mean that they find it more difficult to judge other people’s motives. They may not remember coercion applied by others or be able to accurately communicate what is happening. Be aware of this and if you have doubts express this in your response to this question.

6. Can the client understand, in simple language, the information involved in making the decision?

As described above, use different ways of communicating, such as pictures, diagrams, or writing key words down. Understanding language is different from being able to speak. A person may just agree with you because they have not understood what you have said, but do not want to disclose that. Clues may include the person always picking the last thing you say as the choice they want to make. You might want to check why they have chosen a certain option. “Why?” may be a difficult question, but the response may provide information about how much the person understands.

7. Can they retain the information long enough to make the decision?

8. Can they use or weigh up the information to make the decision?

9. Can they communicate their decision?

A person's memory may be very severely affected by brain injury, but you can support them by writing things down. Fatigue is very common in people with brain injury, so the person may be able to manage discussions about a decision better at times of the day when they have more energy.

Be mindful that memory is key to problem solving. If a person cannot retain pertinent information for long enough to think a problem through and come to a decision, even with support (for example they forget that the information is written in front of them), that will affect their capacity to make the decision.

Likewise in communicating a decision the person may 'lose track' of what they intended to say, or confabulate events and become unclear in their communication of their decision. A flow diagram may help, or verbal prompts. You may even wish to video discussions about the decision (of course with consent only and the video securely stored), if that can help a person to think a decision through and communicate it to others.

10. Does the person on balance of probabilities have the capacity to make a specific decision at a specific time?

11. How did you decide what was in the person's best interests?

If the person has particular needs as a result of their brain injury, it may be useful to reference this here. For example: 'following brain injury John is known to feel anxious and defensive around males. 87% of people sleeping rough are male, so John may be feeling more threatened than other men in this environment and it may not be in his best interests'.

12. What action should be taken in the person's best interests?

There will be no standard answer to this question but you may want to mention that you suspect, or know, that brain injury is a factor for the person and any action should take this into account and/or assessment for brain injury could be considered.

Further help and advice

Service provision for brain injury varies around the UK. The services may be called different things in different areas and may focus on different types of brain injury.

Headway UK

An informative the website and advice helpline for all head injury issues. They will be able to tell you if there is a Headway service in your area that can provide more specific information about services where the person you are supporting lives.

Web: www.headway.org.uk

Telephone: 0808 800 2244

Email: helpline@headway.org.uk

ABiL

The Acquired Brain Injury Forum in London holds directories of NHS rehabilitation services.

Web: www.abil.co.uk

contact-us@abil.co.uk

Homeless Link

There is more information about accessing help and advice in the Homeless Link Frontline Briefing on Brain Injury.

Web: <https://www.homeless.org.uk/brain-injury-and-homelessness>

Advice for London charities

Pathway offers an advice line for homelessness outreach workers in London seeking advice on the use of the guidance with complex clients on the streets. The helpline can:

- Support workers from housing and mental health services in London with expert advice.
- Give guidance to workers in the homeless sector around considering whether someone has mental capacity to make a particular decision.
- Help health workers understand how services for homeless people operate.
- Help apply mental health and housing legislation in specific situations

Advice line: 020 3291 4184 (24 hour answerphone)

Email: mentalhealthenquiries@pathway.org.uk

All messages will be answered within 24 hours by an Approved Mental Health Professional with expertise in homelessness and mental health. The service is open to any professional or organisation working with people sleeping rough. Please remember to leave contact details and a brief outline of the issue.

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