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Video 1: Expert examples of assessing capacity

Dr Theodora
Pepera-Hibbert

Consent is time-specific in the same way as, you know, a consultation is time-specific. If somebody didn't understand something the previous week, it doesn't mean they are not going to understand it the following week. It depends on the circumstances and again, people's circumstances change.

Geraldine McCluskey

What needs to be borne in mind whenever you think of the capacity to consent and someone with a learning disability is the whole communication element of it. In order for someone to be deemed to have capacity to consent, the person has to be able to understand the information that is actually presented to them and then they have to be able to retain and use that information in order to make a decision

Professor Baroness
Sheila Hollins

In thinking about a person's capacity, there are ways to increase or to make it more likely that they will have capacity and it really boils down to communication style, I think, and using communication aids.

Because the point about capacity is that the person both needs to understand the information and they need to be able to retain that information, so that they can make an informed decision.

(Baroness Hollins)

Again, I go back to pictures. It's the way that I'm comfortable working with people who can't read and by choosing pictures carefully, identifying pictures that the person can understand...I mean, they can be pictures that are already available, published, or they can be pictures that you find for yourself or they might be pictures that you draw yourself, if you are artistic. But you can usually find pictures even from magazines – you know, there will be something available. Use pictures, and use them as a prompt.

Perhaps even put some pictures together – two, three, four pictures - which will be a reminder for the person so that they will remember what it is that they have understood, that has been explained to them and is going to be relevant to them as they, you know, actually renew their treatment choice during possibly lengthy treatment.

So it's about making sure that the person has information which they can also hold on to, which empowers them and which thereby maximises their capacity.