



## 6th International Conference on Clinical Ethics Consultation

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### Abstract Submission Form – Papers

Please contact John Tuohey at [ethics@providence.org](mailto:ethics@providence.org) with any questions.

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Proposed title of paper: Determining best interests for patients who cannot decide for themselves: challenges for clinical ethic committees

Abstract with 3 clearly stated objectives in 250 words:

Many of the cases referred for ethics case consultation involve difficulty in making decisions for a patient who lacks capacity to decide for herself. Often these cases involve conflict between those involved about what is best for the patient. In a survey of clinical ethics committees in the UK the most frequent ethical issue identified as a reason for a case consultation request was determination of what was in the patient's best interests.

The legal framework in the UK for treating people who lack capacity (Mental Capacity Act 2005) provides limited scope for proxy decision making and the test for all decision makers, whether proxy decision makers or members of the health care team is that of best interests. However the Act does not define best interests or give an account of what is to be understood by best interests other than a procedural checklist and therefore does not provide any clear guidance on what is meant by best interests to guide those faced with these difficult decisions. There are some indications within the Act that a concept of best interests based on substituted judgement is being advocated, a concept that is used more commonly in other jurisdictions such as the United States.

In this paper our objectives are:

- To provide an analysis of the MCA's account of best interests.
- To challenge the conception of substituted judgment as the most appropriate means by which to make decisions about the care of a person who lacks capacity.

- To suggest that a more complex conception of best interests is required if we are to help decision makers, and clinical ethics committees to truly do what is best for the patient.

If you have or will publish on this topic, please cite reference:

Hope T, SLowther A, Eccles J. Bestinterests, dementia and the Mental Capacity Act. Journal of Medical Ethics. In press

Are you planning to or will you be willing to submit a poster along with your paper?

Yes     No