

CARE HOME DENTAL

Scotland's Trusted Domiciliary Dental Service
NHS SCOTLAND

Understanding Dental Care Under the Adults with Incapacity (Scotland) Act 2000

Information for Patients, Families, and Carers

Why This Leaflet Exists

Some people are unable to make decisions about their dental care due to illness or disability. This may include people living with dementia, learning disabilities, brain injury, or other conditions affecting memory, understanding, or communication.

The Adults with Incapacity (Scotland) Act 2000 (AWI Act) exists to ensure decisions are made:

- Lawfully
- Fairly
- In the person's best interests
- With respect for dignity, rights, and wellbeing

This leaflet explains:

- How we assess understanding and capacity
- How decisions are made when someone cannot consent
- How families and carers are involved
- How Care Home Dental applies the AWI Act in practice

What Does "Lack of Capacity" Mean?

A person may lack capacity if they are unable to:

- Understand information about treatment
- Retain that information long enough to decide
- Weigh up the options
- Communicate a decision

Capacity is decision specific and time specific. A diagnosis such as dementia does not automatically mean a person lacks capacity.

How We Check Understanding: The AMCUR Method

Care Home Dental uses a structured and legally recognised framework called AMCUR to assess capacity fairly and consistently.

AMCUR considers whether a person can Act, Make decisions, Communicate, Understand, and Retain information relevant to the dental decision.

A — Act

Can the person initiate or request help? Some people are unable to ask for dental care even when they are in pain or distress.

M — Make Decisions

Can the person weigh up options? Information is provided in simple terms. If the person cannot compare options or reach a reasoned decision, this suggests difficulty with decision making.

C — Communicate

Can the person communicate a choice? Support may include simple language, visual prompts, or familiar carers. Inconsistent or unreliable responses suggest difficulty communicating a decision.

U — Understand

Does the person understand what is being proposed, including the dental problem, purpose of treatment, and consequences of treatment or no treatment?

R — Retain

Can the person retain information long enough to decide? Some people cannot retain information even for short periods.

Conclusion of Capacity Assessment

If the person cannot demonstrate capacity for the specific dental decision after AMCUR assessment, they are assessed as lacking capacity under the AWI Act.

Who Makes Decisions If Someone Lacks Capacity?

Decisions may legally be made by:

- A Welfare Power of Attorney (financial powers do not cover health decisions)
- A Welfare Guardian
- A Dental or Medical Practitioner using a Section 47 certificate

Care Home Dental will always verify legal authority, ensure it covers the proposed treatment, and document decisions clearly.

Important Note About "Next of Kin"

In Scotland, being "Next of Kin" does not give legal authority to consent to medical or dental treatment. Unless you hold a registered Welfare Power of Attorney or Guardianship, the dentist may authorise treatment under Section 47 of the AWI Act. This prevents delays and ensures treatment is lawful and in the person's best interests.

What Is a Section 47 Certificate?

A Section 47 certificate allows medical or dental treatment when a person cannot consent.

- It is decision specific
- It may be time limited
- One-off treatments usually require a separate certificate
- More than one certificate may exist at the same time

The Five Principles of the Adults with Incapacity (Scotland) Act

All decisions made under the AWI Act must follow these five principles:

- **Benefit** – treatment must provide clear benefit
- **Least Restrictive Option** – interfere as little as possible with freedom and dignity
- **Wishes and Feelings** – past and present wishes must be considered
- **Consultation** – decisions are made collaboratively
- **Encouraging Skills** – support participation as much as possible

How Care Home Dental Applies the AWI Act in Practice

- Assess capacity carefully and respectfully
- Apply the AMCUR method
- Verify legal authority
- Issue treatment-specific Section 47 certificates when required
- Document decisions clearly
- Work closely with families, carers, and healthcare professionals

Common Questions

Does AWI mean treatment is automatic?

No. Treatment proceeds only if it provides benefit and meets all legal principles.

Are families involved?

Yes. Families and legal representatives are central to consultation and decision making.

Does this affect everyday care?

No. The AWI Act applies only to specific medical or dental decisions where capacity is lacking.

Contact Us

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Important Note

This leaflet is for general information only and does not replace individual legal or clinical advice.