

Is “Capacity to use Sex toys” the same as “Capacity to have Sex”?

Developing Criteria to Assess Capacity to use Sex Toys

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Aims

To develop a set of criteria for the assessment of capacity to use sex toys within an inpatient setting.



Background

For many people, sex toys offer a solitary sexual outlet or a means to enhance sexual interactions.

However, it seems there is a reluctance to acknowledge the need and facilitate use, especially for vulnerable, long-stay patients detained in secure hospitals.

This is likely influenced by a dearth of literature and related guidelines to help professionals to make clinically and ethically apt decisions. There is further no related case law to guide clinicians.

However, there is reason to suggest that the concept is distinct from that relating to sexual intercourse e.g. informed consent or risk of pregnancy.

The patient needs to be able to understand and consider:

- 1.The mechanics of the toy and the sexual act (i.e. how it is operated, how to use safely, consideration for appropriate size and shape)**
- 2.how to maintain cleanliness during and after use**
- 3.risks if toys are to be shared – understanding how to ensure cleanliness and hygiene including transmission of infection**
- 4.The sensitivity of cultural values and norms e.g. using sex-toys in public places...**

Methods

The criteria were developed via a series of steps which included multidisciplinary discussion, review of the current literature and case law, consultation with legal teams and Sex Steering group, application of the criteria to two cases and presentation of cases at the regional Forensic and LD network group.

Results

The process resulted in a set of five criteria for the individual to demonstrate to be considered capacitious to use sex toys. These include an understanding of:

variations in toys and risk of injury, instructions for use, practices for good hygiene, that the toys should not be shared and the need for use to be private.

Conclusions

The criteria can be used as a robust starting point but we recommend professionals to be mindful of the possibility of cultural and value-based biases.

We recommend seeking advice and instructions from Court of Protection in any case that the patient’s capacity or the proposed care plan has been disputed. This is to safeguard patient’s human rights and get clarity from court about the legitimate and safe decisions in such cases until nationally accepted guidelines become available.

Rank	18-28 years	29-45 years	46-65 years	66+ years	All Ages
1	Sporting items (39.6%)	Sporting items (28.5%)	Sporting items (23.6%)	Furniture (19.5%)	Sporting items (30.1%)
2	Clothing items (8.7%)	Clothing items (8.8%)	Bathroom fixtures (10%)	Bathroom fixtures (15.6%)	Furniture items (9%)
3	Shaving items (8.1%)	Furniture (8.8%)	Clothing items (9.4%)	Climbing fixtures (10.9%)	Clothing items (8.7%)
4	Furniture (7.7%)	Shaving items (6.8%)	Furniture (7.4%)	Flooring (8.8%)	Shaving items (6.9%)
5	Bathing products (5.5%)	Bathing products (4.9%)	Shaving items (6.3%)	Sporting items (8.8%)	Bathroom fixtures (5.6%)
6	Climbing fixtures (3.6%)	Climbing fixtures (4.6%)	Climbing fixtures (5.3%)	Clothing items (5.9%)	Climbing fixtures (4.9%)
7	Sex Toys (2.6%)	Bathroom Fixtures (4.2%)	Bathing products (4.1%)	Bathing products (3.5%)	Bathing products (4.8%)

Sex toys were found to present the lowest risk compared with “everyday items” (Bagga et al. 2014)

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