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My Job

- General Practitioner
- Advisor to Scottish Government
- Deputy Medical Director
- Chair National Out of Hours Group
- Mainly urgent primary care, 8 years in University Health, 8 years in the Emergency Department, 16 years urgent care GP

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Capacity/Incapacity in practice for a GP

- Mainly about consent/refusal
- All patients are deemed to have capacity until judged otherwise
- Can be a really difficult balance, there is often no right answer
- Be kind, there but for the grace of god....
- **incapacity is *opinion*, not statement of fact**
- Incapacity is not an all or nothing phenomenon, it is not synonymous with lack of ability and it IS context specific
- Finally an unwise decision does not mean a lack of capacity

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Medical vs Legal

- Clinical function:
 - establish collaborative relationship with the patient
 - inform the patient of the nature, purpose and risks of the procedure
- Legal function:
 - removes the legal barriers which exist to protect persons from interference with their personal autonomy and physical integrity

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Consent

- only pertains to those treatments to which the consent was specifically given (unless life saving)
- acting beyond the consent risks action for assault as if no consent had existed
- To be valid, must understand, be able to retain information, know they have a choice, be voluntary and given by competent adult or mature minor
- it creates no obligation to treat. It is merely a key which unlocks a door

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Edith

- 86yrs old widow with two daughters
- Dementia living in a care home for 4 months
- Usually in bed, usually alert, some chat
- Called at 11pm has become unresponsive (likely stroke)
- Daughter one with her, daughter two lives in Canada and not seen for 5 months, daughters disagree on treatment, no POA (in progress)
- An ACP advising treat in Care home if possible, not keen on going to hospital
- What next??

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James

- 27 years old with a learning difficulty and autism
- Lives with his elderly mother and helps with chores as his mother has become increasingly frail
- He has met a girl who has Cerebral palsy at his supported work and they would like to marry but he is worried his mother won't approve
- James has inherited from his father and currently will inherit when his mother dies, there is no financial POA but does have a welfare POA
- Does James have capacity to make the decision to get married?
- What next?

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Nicola

- 22 university student
- Multiple episodes of self harm and overdoses, regular attender at the ED
- Known to psychiatry
- Comes into ED stating has taken an overdose of paracetamol, consents to bloods but refuses any other treatment
- Absconds from the Emergency Department
- What next?

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Sophie

- 14 years old at school, doing well, wants to be a lawyer!
- Comes to your young persons Family Planning Clinic
- Wants to make sure her own GP and/or parents won't know she is here
- Is having sex with her 16 year old boyfriend (year above at School) would like contraception
- What next?

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William

- 76 year old widower, lives alone, advanced Parkinsons, limited mobility, carers 4 times a day
- Infection of his leg which has not responded to antibiotics, now has fever and is unwell
- You are called at midnight for a home visit, his 2 sons and daughter are there
- He does not want to go to hospital for IV antibiotics, his family want him to go in
- What next?

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Weird ones

- Charles is a 46 year old man who has sold his 6 bed house in Edinburgh on ebay and attends his appointment wanted me to sign a letter from his family lawyer saying he has capacity to do this
- Jai Li is a 20 year old Chinese student studying in Edinburgh, she comes to a GP appointment quite agitated wanting a letter for the University to explain she was unwell when she missed her exam, she will not speak until her bag and coat are removed from the consulting room
- What should I do?

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Complexity

- Hope the cases I have presented have shown some of the complexity involved

Increasing complexity

- Children who wish to change gender
- Older adults who wish to remain at home
- Adults with mental health issues who wish to refuse treatment and produce advance directives
- Family who wish to prolong life with experimental treatment not always offered in UK

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