"Life was simpler in the old days ... There was no room for negotiation, no informative or deliberative models of consultation, and no shared decision making. Autonomy was a phrase that would only have been used in relation to cars."

Do any of us truly have the capacity to consent?

Life was simpler in the old days. A patient would turn up to their doctor seeking to find out what was wrong with them. The doctor, a professional with several years of study and immeasurable experience, would consider the symptoms. The doctor would hopefully examine the patient and, based on all of this, consider a differential diagnosis. *'This is your diagnosis'*, they would confidently say. Then either *'take these pills'* or *'have this test'*. There was no room for negotiation, no informative or deliberative models of consultation, and no shared decision making. Autonomy was a phrase that would only have been used in relation to cars.

Nowadays, from the novice medical student, to the nascent doctor stalking the wards, to the harangued medical registrar, through to the learned professors, we are told that patients should give informed consent and therefore be involved in shared decision making. In order for consent to be valid, the patient must have the mental capacity to be able to make a decision. They must also make this decision voluntarily and be given sufficient information so that they understand the implications of that decision. At medical school we learn about Gillick competence and discuss a variety of ethical scenarios, always involving a blood transfusion and a Jehovah's Witness.

However, when it comes down to a patient making a decision, do any of us really have the capacity to make it? The law is clear — a patient who suffers from no mental incapacity has an absolute right to choose whether to consent to medical treatment. This right of choice is extended to decisions others may regard as inappropriate, not sensible, or different from their own.[1]

Consider the following examples:

A young woman presents for follow-up after some tests were arranged for a breast lump. She may be prepared for some bad news. A woman with some back pain has an X-ray that surprisingly shows a mass. Using all of the consultation skills learnt, the diagnosis of *'It's cancer'* must be mentioned. Evidence suggests that very little information given to patients is retained, with up to 80% forgotten immediately,[2] and in these examples that figure rapidly diminishes. How then is someone expected to have the capacity to listen, retain, repeat, weigh up, and be appropriately involved in a management plan? Indeed, on a geriatric ward, an older patient with dementia who seems to retain less than 10% of the conversation would likely be deemed as lacking in capacity. Doctors are quick to assume the idea of autonomy in scenarios when patients make a decision they themselves can understand. However, if this is based on a tenth of the information, is this truly an informed decision?

Therefore, when consulting, our focus should perhaps be on assessing ability. We should be assessing whether the patient has the intellectual, emotional, and physical reserves to weigh up and make these decisions alone.

When a car goes wrong, I take it to the mechanic. This similarly applies to needing a haircut, having a dental check-up, and so on. In such situations I do not feel I have the capacity to make an informed judgement so I leave it in the hands of the professionals. If I need surgery, despite being given the information, it would seem impossible to truly weigh up the risks and thus make an informed choice. A statistic of *x* chance of a complication is not something one can relate to or put into context, nor, in an emotionally charged situation, can one be said to be impartially assessing the decision.

So does this mean I don't have capacity? Someone fetch the straitjacket, like in the old days.

Ed Schwarz,
GPST2 Educational Scholar, Royal Cornwall Hospital, Truro, Cornwall, UK.
E-mail: edward.schwarz@nhs.net

Stuart Walter,
Core Medical Trainee 2, Royal Infirmary of Edinburgh, Edinburgh, UK.
E-mail: stuart.walter@nhs.net

DOI: https://doi.org/10.3399/bjgp17X693689

REFERENCES

1. [1992] 4 All ER 649. Re T (adult: refusal of medical treatment). Court of Appeal, Civil Division. Lord Donaldson of Lymington Mr, Butler-Sloss and Staughton LJJ 22, 23, 24, 30 JULY 1992. http://www.globalhealthrights.org/wp-content/uploads/2013/03/EWCA-1992-In-re-T-adult-refusal-of-medical-treatment.pdf (accessed 11 Oct 2017).
2. Kessels RPC. Patients' memory for medical information *J R Soc Med* 2003; **96(5):** 219–222.