How even the best interviews go wrong

Evidence is emerging that clinicians use idiosyncratic and unreliable methods of assessment to determine decisional capacity[1,] and a Mental Health Foundation report showed 52% of medical personnel to be violating the principle of assumption of capacity[2]. Many are not confident about carrying out assessments & refer elsewhere.

Assessment tools centring on the components of capacity improve reliability but, as interviews themselves are known to be problematic for vulnerable adults, clinicians' agreement may be based on unreliable patient responses. Structured interview tools greatly improve inter-rater reliability for capacity interviews. These focus on the four components of capacity derived from US legal definitions of competence which map almost directly onto the criteria listed in the Mental Capacity Act guidelines.

But while improvement in inter-rater reliability is valuable, it is only as good as the data upon which it is based. The forensic literature documents the development of the cognitive interview for eliciting best evidence from vulnerable witnesses. Our observation from many
years' experience of developing and using *Good Question* is that it improves significantly the quality of patient responses in capacity interviews and so further improves capacity judgments.

Where capacity is wrongly assessed, patients are poorly served. Those who lack capacity and have no reliable family or friends must, in UK law, be referred to an Independent Mental Capacity Advocate (IMCA). Estimates by the Department of Health in 2010 indicated that there was a significant under-referral to this service. Those wrongly thought to have capacity are likely to be subject to procedures they do not understand and to which they have not given valid consent.

The cognitive interview has vastly improved the quality of reporting in vulnerable witnesses with between 23 - 63% more information being obtained[3]. *Good Question* extends this methodology, places it in the context of the Mental Capacity Act, and adds in extra probes about understanding and meaning.

1. Lim, T. & Marin, D. (2011) The Assessment of Decisional Capacity. Neuro Clin 29, 115-126
2. Pitt, V. (2010) To assess or not to assess. Community Care, 8, 5. Issue 1830, 22-23
3. Milne, R. & Bull, R. (1999) Investigative Interviewing: Psychology & Practice. Wiley.