

Consent to Care Policy

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Review Sheet

Last Reviewed

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Last Amended

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Next Planned Review

Within 12 Months

Policy Lead

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Policy Statement

This policy is written to comply with Regulation 11: Need for Consent of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, the accompanying guidance issued by the Care Quality Commission (CQC), and the Quality Statement, which forms part of the CQC's single assessment framework from 2023 under key domain Effective, ie:

“We tell people about their rights around consent and respect these when we deliver person-centred care and treatment.”

Regulation 11 expresses a requirement on all care providers to seek the consent of service users to carry out any proposed care and treatment, and to follow specific procedures in line with the Mental Capacity Act 2005 where people are unable to give their informed consent.

It has always been the policy of the care service to empower its service users to lead their own lives, enabling them to exercise choice and to maximise their independence, while offering them the care and support that they need. This involves obtaining service users' agreement in respect of any proposals or plans for their care and treatment and making sure that such agreements are fully recorded.

Reflecting our acceptance of service users' human rights, the care service works on the basis that everyone is competent to take their own decisions about their care and treatment needs unless it can be shown otherwise.

The care service will consider that everyone is competent to take their own decisions about their care and support needs unless it can be shown otherwise. It considers that valid consent is given when it is:

- > given freely, without duress or coercion
- > given by someone who is legally capable (or competent) of consenting
- > specific and covers the care and support that has been proposed and planned
- > informed, ie the person understands what is involved
- > definite and lasting, ie the person agrees that what is being proposed is right for them at the time, and this will continue, but any changes to the plan will also require their consent.

If any of these conditions are not met, a person might not be giving their valid consent.

The care service then makes sure that any service user who might not have the mental capacity to give informed valid consent about any care and treatment proposed is properly assessed in line with the requirements of the Mental Capacity Act 2005. If from the assessment it is clear that the person cannot give their informed consent on account of their mental incapacity, a decision will be taken in their “best interests” following Mental Capacity Act procedures.

To make sure that a decision is in a person's best interests, the care service will always encourage and enable the person to have the services of an independent advocate if needed. If the care and treatment proposed implies a deprivation of that person's liberty in any way the care service will always invoke established deprivation of liberty safeguarding procedures.

Procedures

The care service takes the following actions to make sure that service users are always giving their consent to decisions about their care and treatment.

about their service provision. They will be consulted on any proposed changes to these and their consent sought.

- > Where the person's use of a care service has been taken as a "best interests" decision because they lack mental capacity the fact that they have not been able to give their valid consent is fully recorded and deprivation of liberty safeguarding procedures will be implemented.
- > Service users (or their representatives) are always asked to sign their plan of care as an indication that they are in agreement with the services being proposed to meet their needs, which include personal, health (including medication), social, psychological and spiritual needs.
- > Any proposed changes to the plans of care are always discussed with service users and their representatives to obtain their consent, which is recorded on the care plan or review form. Service users' agreements and signatures are always obtained following regular reviews.
- > Where it is considered that the care and treatment provided might restrict a person's ability to exercise choice or their freedom of movement, such as when bed rails are proposed, their written consent is always obtained or a "best interests" decision fully recorded. Service users and their representatives are asked to read and sign all basic agreements about their service provision. They will be consulted on any proposed changes to these and their consent sought.
- > Where the person's use of a care service has been taken as a "best interests" decision because they lack mental capacity the fact that they have not been able to give their valid consent is fully recorded and deprivation of liberty safeguarding procedures will be implemented.
- > Service users (or their representatives) are always asked to sign their plan of care as an indication that they are in agreement with the services being proposed to meet their needs, which include personal, health (including medication), social, psychological and spiritual needs.

- > Any proposed changes to the plans of care are always discussed with service users and their representatives to obtain their consent, which is recorded on the care plan or review form. Service users' agreements and signatures are always obtained following regular reviews.
- > Where it is considered that the care and treatment provided might restrict a person's ability to exercise choice or their freedom of movement, such as when bed rails are proposed, their written consent is always obtained or a "best interests" decision fully recorded.
- > Where verbal consent is being sought for what are usually day-to-day care and treatment proposals or changes, the reasons for the need to seek consent, the fact that it has been obtained, and how, are all recorded on the person's care plan.
- > Service users' consent is always sought in relation to any proposed participation in the social and community activities organised or facilitated by the care service. Consent is obtained either directly from the service user or as a "best interests" decision taken in discussion with their relatives and representatives.
- > The care service expects other healthcare professionals such as GPs and community nurses to be responsible for seeking service users' consent for any care and treatment that they provide. The care service will help to implement their decisions on the basis that the service user has given their consent to the proposed treatment or a "best interests" decision has been taken. The care service will check that this has been the case and make sure that the relevant consent decision has been recorded.
- > Any refusal to give consent or difficulty in obtaining it because of suspected mental incapacity is recorded on the person's care plan together with an account of the actions taken to address the consequences of the decision or difficulty. The person's decision to refuse consent is always fully respected.
- > The care service encourages and enables any service user who might be undecided though able to give a valid consent or who might lack the capacity to give their informed consent to have the services of an independent advocate or representative.
- > If a service user provides the care service with any advance decisions about wishing to refuse care and treatment in the event of a loss of mental capacity, these will be disclosed under the appropriate circumstances in order for a decision to be made in line with the person's wishes.
- > Consent is always sought if any proposal or request is made to take part in any research project and "best interests" meetings are held in the cases of anyone who cannot give their informed consent about taking part.

Training

Consent issues are fully covered in the care service's induction and training programmes in line with the guidance and standards produced by the relevant social and healthcare workforce development organisations.

The care service provides training in the Mental Capacity Act 2005 for all of its staff involved in the care of the people using the service. It allows only staff who have completed the training, and have shown that they are competent, to take part in "best interests" decision-making in relation to service users who cannot give their informed consent.