



## Very Important People Services

### CONSENT POLICY

**Title:** Consent Policy

**Purpose:** To provide information and guidance to staff on all aspects of gaining consent.

**Scope:** Contains information and guidance from legislation and from relevant bodies that all staff are expected to adhere to including:

- Mental Capacity Act (2005)
- Mental Capacity Act (2005) Code of Practice
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 - Regulation 11 (Need for consent)

Managers should check guidance from relevant bodies on a regular basis to ensure they are up-to-date with the latest information about consent and will amend this policy and its procedures accordingly.

Staff are expected to adhere to this legislation through implementation of the policy and procedures.

**Consent definition:** Consent is a formal acceptance from service users to accept the care and treatment assessed, planned and offered.

Consent procedures

#### 1. Training requirements

All staff will receive training on how to manage consent. Training will include:

- The legislation and how this might affect staff.
- What this policy and procedures expects of staff.
- Definition of the different types of consent and when they are appropriate.
- How to identify whether a service user might not have the capacity to consent.

- Making sure people have all the information they require to help them make an informed decision and what this might include.
- How to ensure people give consent voluntarily.
- What to do if a person doesn't have the capacity to make a decision.
- Documentation required when dealing with consent and how staff should complete this.
- Care planning requirements.
- Staff roles and responsibilities.
- How to review consent.

## 2. Gaining consent

Consent will be required for all aspects of care and treatment, although this doesn't have to be in writing, provided a contemporaneous record is made of the consent.

The following consent is required to be in writing:

- Entering or leaving the service.
- Agreeing to the care / service plan.
- The use of specialist equipment such as hoists or other equipment arranged to be delivered to the service user's home.
- The use of equipment that might be restrictive (according to DoLS) such as bed rails.
- Specialist treatment such as intravenous infusions, syringe drivers, PEG feeding systems.
- Participation in social activities and outings.
- Participation in projects or research activities.

All other consent can be given verbally or can be implied, although on each occasion staff should gain the consent of the service user and document their response.

Staff should make sure that the service user is making the decision voluntarily and is not under duress from clinicians, family or others to make a decision they do not really want to make.

## 3. Testing capacity

Staff should use the four steps below when testing capacity. Staff should be able to assess whether the service user is able to meet the criteria for each of these steps.

- 1) Does the service user understand the decision they must make and why?
- 2) Does the service user understand what will happen if they do or don't make the decision?
- 3) Is the service user able to retain the information long enough to be able to decide whether to make the decision or not?

- 4) Can the service user convey their decision either, verbally, non-verbally or through the help of another professional such as a speech therapist?

#### **4. Providing information**

Staff should make sure people have the following information with which to help them make an informed decision about their care and treatment:

- Information about their condition and prognosis.
- Information about the signs and symptoms they might experience.
- Information about the care and/or treatment proposed.
- Information about the benefits of the care and/or treatment proposed.
- Information about the risks associated with the care and/or treatment proposed.
- The answers to other information requested.

In addition, staff should ensure that this information is understandable, with regards to the person's communication abilities, language, culture and religion.

#### **5. Best interest decisions**

If there is no lasting power of attorney to make decisions, or the power of attorney needs the help of professionals to make a complex or a range of decisions, a 'best interest' meeting will be set up.

The meetings should:

- Encourage participation from the service user where possible.
- Identify the issues where the service user cannot make a decision and separate these from those decisions they can make.
- Find out what the service user might have done had they been able to make the decision for themselves. This might include:
  - Reviewing their past actions, wishes, behaviours and habits.
  - Taking account of any cultural, religious, social or political beliefs and values.
- Avoid discrimination.
- Withhold making the decision, if possible, if the lack of capacity is temporary.
- Consult others who may be able to provide an insight into the person's past wishes values and beliefs. This might include relatives, friends, carers, advocates, solicitors, people who have power of attorney, doctors, professional staff and even a court appointed person.
- Make a decision about the person's best interest that doesn't restrict their rights.
- Find out whether the person has a valid advance decision to refuse treatment in place. If this is the case, the 'best interest' panel cannot overturn this.

Managers should make sure they document meetings. This will include keeping a record of how the panel reached the decision about the person's best interests and why; who was present at the meetings and what issues the panel took into account when coming to the decision.

This record should remain on the person's file. Managers should update the service users plan and inform all staff of their responsibilities in carrying out the care and treatment for the person.

## **6. Care planning**

The care plan should be updated to ensure staff ask whether the service user consents to care and treatment at this visit and of each task involved. Staff should record consent in the care records. Staff should complete this procedure in conjunction with their normal care planning requirements.

## **7. Regular review**

Consent should be reviewed regularly alongside all other care, and should be reaffirmed (in writing if initially give this way). Managers should complete this procedure in conjunction with their normal review requirements.

## **8. Record keeping**

Staff will record consent in the notes as per the care / service plan as part of their normal record keeping requirements.