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| Service Users Who Lack Mental Capacity to Take Decisions   |  |  | | --- | --- | |  |  |     **Policy Statement**  The purpose of this document is to explain the care service's approach to service users who might lack the ability to take their own decisions. The service's policy has been established to comply with the provisions of the Mental Capacity Act 2005, which sets out how people who lack capacity should be helped to take decisions and under what circumstances decisions might be taken on their behalf when they lack the ability to do so. It is recognised that decisions under the act include those to be made about matters of personal health, such as consent to medical intervention, care, general welfare and finance.  **Principles and Aims**  The service supports the principles of the Mental Capacity Act, which consist of the following.   1. Individuals must be assumed to have capacity unless it is established that they lack capacity. 2. Individuals are not to be treated as unable to make a decision unless all practicable steps have been taken without success to help them to take the decision. 3. Individuals must not be treated as unable to make a decision just because they might or have been known to make an unwise decision. 4. When people take a decision on behalf of someone else who lacks capacity, they must act in that person's best interests. 5. If anyone takes a decision on behalf of someone lacking capacity at the time they must act so as to minimise any restriction of that person's rights and freedom of action.   **Implementation**  The service implements these principles in the following ways.   1. The service treats all current and prospective service users on the basis that they are able to take their own decisions. 2. Where the service has information that suggests the person might be unable to take some decisions at some times, it will carry out an assessment of that person's mental capacity. The assessment follows the two-step assessment process recommended in the Mental Capacity Act 2005's Code of Practice. 3. The service familiarises itself with and acts upon any advance directives or “living wills” that its service users have chosen to make in contingency situations where they might lose the ability to take a decision. The service also encourages service users to make end-of-life plans so that their wishes are known in the event of their death. 4. The service ensures that it responds correctly where service users are accepted for service who are subject to guardianship proceedings or who have made arrangements or seek to make arrangements for others to assume decision making powers on their behalf. 5. The evidence and methods used to make the assessment and the outcomes are recorded on the service user's needs assessment and plan of care respectively. The information indicates:    1. which decisions the person is able to take at all/most times    2. those that the person has difficulty in taking, and    3. those that the person is unable to take. 6. In respect of each area of decision taking where there are difficulties or an inability to take decisions, the service user plan of care records the actions to be taken for the person that are deemed in their best interests. 7. The individual is always as fully involved as possible. Decisions are only taken on the basis of the best information available and the agreement of those concerned in the person's care and future. All decisions taken for that person are fully recorded and made subject to regular review. 8. The service has a separate policy on restraint. Service users who lack mental capacity as any others, are only subject to any form of restraint when not doing so would result in injury or harm to them or to other people. All incidents where restraint has been used follow the home's procedures for reporting and recording. 9. The service has access to independent advocates (IMCAs) and other professionals who can assist in the assessment and who understand the implications for that person's care.   **Staff Involvement**   1. The service expects its care staff to implement the agreements and decisions that are identified on an individual's plan of care. 2. The service also expects its staff to involve service users in all day-to-day decisions that need to be taken by seeking their consent and checking that the actions to be taken are consistent with their plan of care if the individual service user lacks capacity at the time. 3. Where the service user needs to take a decision that lies outside of their ability at the time staff must do everything to help the service user to decide for her or himself. 4. The service expects its staff to avoid taking decisions on behalf of a service user unless they can show that it is necessary and the service user is at the time unable to take that decision her or himself. 5. The service expects its staff to take decisions for service users lacking capacity only because they have reasonable beliefs that they are necessary and in the person's best interests. When in doubt that they can proceed in this way they must seek advice from their line manager.      |  |  |  | | --- | --- | --- | | Date Reviewed: | Signature | Next Renewal Date | | 06/08/2014 | Sharon Moore | 06/08/2015 | | 06/08/2015 | Sharon Moore | 06/08/2016 | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |