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## Review Sheet




Last Reviewed  
12 Jan 2026



Last Amended  
12 Jan 2026



This policy will be reviewed as needs require or at the following interval:  
Annual

Business Impact:	 <p>Changes are important, but urgent implementation is not required, incorporate into your existing workflow.</p>
Reason for this Review:	Best practice
Changes Made:	Yes
Summary:	This policy and procedure details the process that should be followed when gaining consent from people that use the service. It has been reviewed with updated information added about informed consent and when advocacy services may be involved. References and links have also been checked and updated.
Relevant Legislation:	<ul style="list-style-type: none"> <li>• The Care Act 2014</li> <li>• Children Act 1989</li> <li>• Children Act 2004</li> <li>• The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014</li> <li>• Human Rights Act 1998</li> <li>• Mental Capacity Act 2005</li> <li>• Mental Capacity Act Code of Practice</li> <li>• Mental Health Act 1983</li> <li>• Mental Health Act 2007</li> <li>• Safeguarding Vulnerable Groups Act 2006</li> <li>• Data Protection Act 2018</li> <li>• The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012</li> <li>• Equality Act 2010</li> <li>• UK GDPR</li> </ul>
	<ul style="list-style-type: none"> <li>• Author: CQC, (2025), Regulation 11: Need for Consent [Online] Available from: <a href="https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-11-need-consent">https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-11-need-consent</a> [Accessed: 12/01/2026]</li> <li>• Author: National Institute for Health and Care Excellence, (2018), Decision-making and Mental Capacity [Online] Available from: <a href="https://www.nice.org.uk/guidance/ng108">https://www.nice.org.uk/guidance/ng108</a> [Accessed: 12/01/2026]</li> <li>• Author: The Care Quality Commission, (2025), Regulation 13: Safeguarding Service Users from Abuse and Improper Treatment [Online] Available from: <a href="https://www.cqc.org.uk/guidance-">https://www.cqc.org.uk/guidance-</a></li> </ul>

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Underpinning Knowledge:	<p><a href="#">regulation/providers/regulations-service-providers-and-managers/health-social-care-act/regulation-13</a> [Accessed: 12/01/2026]</p> <ul style="list-style-type: none"> <li>• Author: The Care Quality Commission, (2025), Regulation 9: Person-centred Care [Online] Available from: <a href="https://www.cqc.org.uk/guidance-regulation/providers/regulations-service-providers-and-managers/health-social-care-act/regulation-9">https://www.cqc.org.uk/guidance-regulation/providers/regulations-service-providers-and-managers/health-social-care-act/regulation-9</a> [Accessed: 12/01/2026]</li> <li>• Author: Social Care Institute for Care Excellence, (2017), Human Rights, Choice and Control in Care Planning [Online] Available from: <a href="https://www.scie.org.uk/mca/practice/care-planning/human-rights-choice-control#:~:text=A%20person%20may%20have%20capacity%20to%20make%20decisions,in%20the%20section%20Care%20planning%2C%20liberty%20and%20autonomy%29.">https://www.scie.org.uk/mca/practice/care-planning/human-rights-choice-control#:~:text=A%20person%20may%20have%20capacity%20to%20make%20decisions,in%20the%20section%20Care%20planning%2C%20liberty%20and%20autonomy%29.</a> [Accessed: 12/01/2026]</li> <li>• Author: Information Commissioner's Office, (2023), Transparency in Health and Social Care [Online] Available from: <a href="https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/data-protection-principles/transparency-in-health-and-social-care/">https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/data-protection-principles/transparency-in-health-and-social-care/</a> [Accessed: 12/01/2026]</li> <li>• Author: Secretary of State for Health and Social Care, (2022), Draft Mental Health Bill [Online] Available from: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1093555/draft-mental-health-bill-web-accessible.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1093555/draft-mental-health-bill-web-accessible.pdf</a> [Accessed: 12/01/2026]</li> </ul>
Suggested Action:	<ul style="list-style-type: none"> <li>• Encourage sharing the policy through the use of the QCS App</li> </ul>
Equality Impact Assessment:	<p>QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.</p>

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## 1. Purpose

### 1.1 Meeting Regulation 13: Safeguarding Service Users from abuse and improper treatment

This policy aims to safeguard Service Users from abuse and improper treatment by implementing robust procedures for prevention, identification, and response. Staff are trained to recognise signs of abuse and are equipped with clear reporting mechanisms to address any concerns promptly and effectively.

### 1.2 Meeting Regulation 11: Need for consent

This policy ensures that valid consent is obtained from Service Users for all aspects of their care, support and treatment, in accordance with legal and ethical standards, including the Mental Capacity Act 2005. Informed consent procedures are in place to ensure that Service Users understand and agree to their Care Plans, respecting their autonomy and rights. This policy also ensures that when Service Users lack the capacity to consent, decisions are made in their best interests, following the guidelines set out by the Mental Capacity Act.

### 1.3 Meeting Regulation 9: Person-centred care

This policy emphasises the importance of delivering person-centred care, ensuring that all services are tailored to the individual needs, preferences, and values of each Service User. This approach promotes dignity, respect, and independence, enhancing the overall quality of life for Service Users.

### 1.4 Meeting the Accessible Information Standard

This policy aims to meet the requirements of the Accessible Information Standard by ensuring that all Service Users are provided with information in formats that they can easily understand and access. Wellspring Recruitment and Care Services Limited commits to identifying the communication needs of all Service Users at the earliest opportunity, recording these needs clearly and consistently, and taking proactive steps to provide information in accessible formats. Staff are trained in recognising and addressing various communication needs, ensuring that Service Users are fully informed and able to engage with services effectively.

### 1.5 Meeting Equality, Diversity, and Human Rights

This policy aims to promote equality, diversity, and human rights by creating an inclusive environment where all Service Users are treated with dignity and respect. Wellspring Recruitment and Care Services Limited is committed to preventing discrimination and promoting equal opportunities for all, regardless of race, gender, disability, age, sexual orientation, religion, or belief. Staff are trained in equality and diversity principles and are equipped with the knowledge to recognise and challenge discriminatory practices. The policy ensures that all service delivery is fair, equitable, and respects the rights and needs of each individual.

### 1.6 Ensuring GDPR Compliance and Data Protection

This policy aims to ensure compliance with the General Data Protection Regulation (GDPR) and Data Protection Act by implementing stringent measures to protect the personal data of Service Users.

Wellspring Recruitment and Care Services Limited is committed to maintaining the confidentiality and integrity of all personal information, processing data lawfully, fairly, and

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transparently. Staff are trained in data protection principles and are equipped with clear guidelines on how to handle personal data securely. This policy ensures that Service Users data is collected, stored, and used in accordance with legal requirements, and that their privacy rights are upheld at all times.

**1.7** To ensure that Wellspring Recruitment and Care Services Limited fulfils the legal and regulatory responsibilities in relation to consent, creating respectful, compassionate care, support and treatment which ensures person centred delivery at all times.

**1.8** This policy should be read alongside the following:

- Mental Capacity Act (MCA) 2005 Policy and Procedure
- Safeguarding Adults Policy and Procedure
- Deprivation of Liberty Policies and Procedures
- Equality, Diversity and Human Rights Policy and Procedure
- The Accessible Information Standard (AIS) Policy and Procedure
- Overarching UK GDPR Policy and Procedure

**1.9**

Key Question	Quality Statements
CARING	QSC2: Treating people as individuals
EFFECTIVE	QSE6: Consent to care and treatment
RESPONSIVE	QSR4: Listening to and involving people
WELL-LED	QSW3: Freedom to speak up

**1.10** Relevant Legislation

- The Care Act 2014
- Children Act 1989
- Children Act 2004
- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- Human Rights Act 1998
- Mental Capacity Act 2005
- Mental Capacity Act Code of Practice
- Mental Health Act 1983
- Mental Health Act 2007
- Safeguarding Vulnerable Groups Act 2006
- Data Protection Act 2018
- The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012
- Equality Act 2010
- UK GDPR

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## 2. Scope

### 2.1 Roles Affected:

- All Staff

### 2.2 People Affected:

- Service Users

### 2.3 Stakeholders Affected:

- Family
- Advocates
- Commissioners
- External health professionals
- Local Authority
- NHS



## 3. Objectives

**3.1** This Wellspring Recruitment and Care Services Limited policy ensures that valid consent is obtained from Service Users for all aspects of their care and treatment, in accordance with legal and ethical standards. Informed consent procedures are in place to ensure that Service Users understand and agree to their Care Plans, respecting their autonomy and rights.

**3.2** To ensure that valid and informed consent is obtained from the Service User before any care, support or treatment is given.

**3.3** Where the Service User lacks mental capacity to make an informed decision, or give consent, staff must act in accordance with the requirements of the following:

- Mental Capacity Act 2005
- Associated code of practice
- Best Interest process
- Deprivation of Liberty Safeguards (DoLS)

**3.4** To ensure that staff understand other occasions when the Service User's valid consent is required and the implications of obtaining valid consent from a young person aged over 16 and the procedures that they must follow.



## 4. Policy

### 4.1 CQC Regulated Activities, Service Types and Service User Bands

Where required, Wellspring Recruitment and Care Services Limited will be registered with the CQC for regulated activities, service types and service user bands as defined in the CQC Statement of Purpose.

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This will ensure that Wellspring Recruitment and Care Services Limited provides services that are safe, effective, caring, responsive and well-led in line with the CQC's published quality statements, regulatory framework and associated best practice guidance.

Wellspring Recruitment and Care Services Limited **is registered to provide the following regulated activities:**

Community-based services for people with mental health needs, Community-based services for people with a learning disability, Domiciliary care service, Supported living service, Day Care, Community Services, Personal Care, Learning disabilities or autistic spectrum disorder, Older people, Adults, Younger adults, Mental health, Sensory impairment, Dementia, Autism, AHD, Cancer Care, Palliative Care, Cerebral Palsy, Epilepsy, Head/Brain Injury, Motor Neurone Disease, Multiple Sclerosis, Neuropathic, Parkinson's Disease, Orthopaedic, Schizophrenia, Stroke, Respite Care, Day Care, Independent Living Training, Mental Health

Wellspring Recruitment and Care Services Limited **is registered to provide the following service types:**

Wellspring Recruitment and Care Services Limited **is registered to support the following service user bands:**

**4.2** The Registered Manager, Olajumoke Omolola, and Nominated Individual, Michael Omolola, of Wellspring Recruitment and Care Services Limited, have overall management responsibility for this policy and procedure. This is in line with the Policy Management Policy and Procedure at Wellspring Recruitment and Care Services Limited.

**4.3** 'Consent: If you give your consent to something, you give someone permission to do it' Collins Dictionary 2025

Wellspring Recruitment and Care Services Limited understands the need to only provide care, support and treatment with consent from the Service User.

Wellspring Recruitment and Care Services Limited ensures that when the Service User is asked for their consent, information about the proposed care, support or treatment will be provided in a way that they can understand.

The information will include details about the risks, complications and any alternatives. Only staff with the necessary knowledge and understanding of the care, support or treatment will provide this information so that they can answer any questions about it to help the Service User give valid consent.

**4.4** Where the Service User lacks mental capacity to make an informed decision, or give consent, staff will act in accordance with the requirements of the Mental Capacity Act 2005 and associated code of practice. Wellspring Recruitment and Care Services Limited will respect when the Service User, or a person acting lawfully on their behalf, refuses to give consent or withdraws it. There may be circumstances where an advocate is required to support the Service User to make decisions - Wellspring Recruitment and Care Services Limited will support this process and offer signposting where applicable.

Examples of a representative who may consent on behalf of the Service User are:

- Lasting Power of Attorney for Health and Welfare
- Deputy appointed by the Court of Protection

Evidence of persons able to make decisions on behalf of the Service User are kept securely on each Service User file.

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For further details on advocacy, staff can refer to the Advocacy Policy and Procedure at Wellspring Recruitment and Care Services Limited.

**4.5** Wellspring Recruitment and Care Services Limited recognises that consent may be implied and include non-verbal communication such as sign language or by someone rolling up their sleeves to have a wash or offering their hand when asked if they would like help to move.

**4.6** Wellspring Recruitment and Care Services Limited will ensure that we treat consent as a process that continues throughout the duration of care, support and treatment, recognising that it may be withheld and/or withdrawn at any time. Staff will be trained to understand that capacity can fluctuate and this needs to be considered in the context of giving or refusing consent.

**4.7** Wellspring Recruitment and Care Services Limited will also ensure that consent processes are free from discrimination.

Service Users will be treated equally regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

**4.8** Discussions about consent will be held in a way that meets the Service User's communication needs. This may include the use of different formats or languages and may involve others such as a translator or independent advocate.

The Accessible Information Standard (AIS) Policy and Procedure at Wellspring Recruitment and Care Services Limited can be referred to for more information.

**4.9** Wellspring Recruitment and Care Services Limited will ensure that consent procedures do not pressure Service Users into giving consent and, where possible, plans will be made well in advance to allow time to respond to Service User questions and provide adequate information.

**4.10** Wellspring Recruitment and Care Services Limited will uphold the Service User's right to be involved in all decisions about their care, support and treatment.

**4.11** Wellspring Recruitment and Care Services Limited will work with other members of the multidisciplinary team to ensure that best interest decisions are made and recorded for Service Users who lack mental capacity to give valid consent.

Sharing of information with multidisciplinary partners will be done so in line with UK GDPR and Data Protection Policies and Procedures.

**4.12** Wellspring Recruitment and Care Services Limited will ensure that policies and procedures for obtaining consent to care, support and treatment will reflect current legislation and guidance and that staff follow them at all times.



## 5. Procedure

### 5.1 Consent at Initial Point of Contact

Wellspring Recruitment and Care Services Limited understands that there may be times when family members, friends or legal representatives of the Service User make contact with the service in order to arrange a pre-service visit on the Service User's behalf.

Wellspring Recruitment and Care Services Limited recognises that unless the person making contact has power of attorney for the Service User, and that Service User lacks

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capacity, consent must be obtained from the person the service is intended for, before any assessments, contracts or commencement of service.

Throughout all stages of the initial assessment process, valid consent must be obtained from the Service User or their legal representative.

## 5.2 Advocacy

Service Users and their support networks will always be involved as much as possible in any decision. If the Service User does not have any recognised external support then Wellspring Recruitment and Care Services Limited will offer to share information about local advocacy services and explain how they may be able to support in decision making.

How to find an advocate [here](#).

## 5.3 Informed Consent

Wellspring Recruitment and Care Services Limited recognises that informed consent is fundamental in ensuring person-centred care provision.

By informed consent it is meant that a wide range of relevant information is shared with the Service User about what they are being asked to give consent for, to ensure it is given with all the knowledge needed to make that specific decision.

Wellspring Recruitment and Care Services Limited understands the need to allow Service Users time to process information without feeling rushed or pressured, providing the opportunity for the individual or their legal representative to consider and formulate any questions that they have relating to their care provision.

Wellspring Recruitment and Care Services Limited presents information in a way that the Service User can understand and ensures that the relevant information, including risks, is included to allow the Service User to make a decision whether to give consent or whether to withhold consent based on the information provided.

## 5.4 Consent Before a Service Commences

Before the service starts, or as soon as is practical, Wellspring Recruitment and Care Services Limited will explain the policies and procedures at Wellspring Recruitment and Care Services Limited and discuss the Service User's rights in relation to the service they will be receiving. The Service User will receive information about Wellspring Recruitment and Care Services Limited in a format that they can understand.

Olajumoke Omolola will ensure that the staff responsible for assessing the Service User's needs and formulating the Care Plan have the skills and knowledge to answer any Service User questions and to discuss valid consent with the Service User.

The staff member responsible for the preservice assessment will ensure that mental capacity is assessed before the Service User consents to care and support. Where the assessment identifies that the Service User lacks the mental capacity to give valid consent, it will be sought from the Service User's legally authorised representative (such as a person having power of attorney) where this applies. The assessor must consider whether the lack of capacity is temporary or permanent and the Service User will be supported and encouraged to be involved, as far as they want to and are able, in decisions about their care.

The Service User will be given the opportunity to read and understand the information given. Where there are communication or language barriers, measures will be taken to

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ensure that the Service User can understand the information that is being shared.

### 5.5 Consent and Mental Capacity

The Service User lacks capacity if their mind is impaired or disturbed in some way, and this means the Service User is unable to make a decision at that time.

- The staff member responsible for the pre-service assessment will have suitable training that ensures they can assess mental capacity before the Service User consents to care and support
- Where the mental capacity assessment identifies that the Service User lacks the mental capacity to give valid consent, consent will be sought from the Service User's legally authorised representative (such as a person having Lasting Power of Attorney)
- The assessor will consider whether the lack of capacity is temporary or permanent and consider if there are occasions when capacity fluctuates
- The Service User will be supported and encouraged to be involved, as far as they want to and are able, in decisions about their treatment, care and support

It may be that Wellspring Recruitment and Care Services Limited works in partnership with other professionals such as a social worker, GP or psychologist to arrange a formal assessment for complex decision making.

Wellspring Recruitment and Care Services Limited ensures that staff receive training and understand the 5 Principles of the Mental Capacity Act to implement in their service:

- The presumption of capacity
- Service Users are supported to make their own decisions
- Service Users can make unwise decisions
- Best interest decisions
- Least restrictive option

More detailed information can be found in the Mental Capacity Act (MCA) 2005 Policy and Procedure, which staff adhere to.

When completing a capacity assessment, Olajumoke Omolola will consider if a deprivation of liberty (DoLS) application is necessary.

The applicable Deprivation of Liberty Safeguards (DoLS) Policy and Procedure for Wellspring Recruitment and Care Services Limited will always be followed. Staff should refer to this for further guidance.

### 5.6 Consent and Best Interest Decisions

Where the Service User is assessed as lacking capacity to give valid consent and has no-one formally appointed to make decisions on their behalf, the assessor will consider a best interest decision. This best interest decision is to consider whether to go ahead with the care, support or treatment. There are many important elements involved in trying to determine what the Service User's best interests are, including:

- Considering whether it's safe to wait until the Service User can give consent, if it's likely they may regain capacity at a later stage
- Involving the Service User in the decision as much as possible
- Trying to identify any issues the Service User would take into account if they were making the decision themselves, including religious or moral beliefs; these would be based on views the Service User expressed previously, as well as any insight close relatives or friends can offer

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- Best Interest decisions will also be undertaken in partnership with the multi-disciplinary team and the best interest decisions must be documented. The decision will be reviewed at regular intervals as agreed with Wellspring Recruitment and Care Services Limited and the multi-disciplinary team

## 5.7 Care Plans and care Delivery

Care Plans are formed as a collaborative approach with the Service User's wishes and more importantly, their consent.

Wellspring Recruitment and Care Services Limited will ensure that the Service User's consent is to evidence that they agree with the care and support that is to be delivered as outlined in the Care Plan. The Service User will be asked to sign the Care Plan or a consent form that clearly indicates what they are giving consent for.

A Consent Form can be found in the Forms section.

Where the Service User is unable to sign, Wellspring Recruitment and Care Services Limited will ensure that the Service User has provided valid consent.

Consent is often wrongly associated with the Service User's signature on a consent form. A signature on a form may not amount to valid consent if the Service User is rushed into signing a form on the basis of too little information. Similarly, if the Service User has given valid verbal consent, the fact that they are physically unable to sign the form is no bar to care and support.

Consent can be confirmed or withdrawn by the Service User at any time. Staff will log in the record of care notes that consent was obtained for tasks carried out with or on behalf of the Service User at each interaction.

## 5.8 Reasonable Adjustments

As part of the Care Plan process Wellspring Recruitment and Care Services Limited will also ensure that reasonable adjustments are considered and identified for all Service Users. These will be documented within their individual Care Plan.

Where reasonable adjustments have been identified these will be discussed with Olajumoke Omolola and implemented at Wellspring Recruitment and Care Services Limited, where possible, for the Service User. All actions in regards to reasonable adjustments will be clearly documented as part of the care planning process to ensure Service Users can give informed consent.

When deciding whether an adjustment is reasonable Wellspring Recruitment and Care Services Limited will consider:

- How effective the change will be in avoiding the disadvantage the disabled person would otherwise experience
- Its practicality
- The cost
- The resources and size of Wellspring Recruitment and Care Services Limited
- The availability of financial support

Examples of reasonable adjustments may include:

- Providing information in a specific format for the Service User
- Conducting assessments at a time of day that is more suitable for the Service User such as afternoon rather than morning

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- Having accessible technology available such as an accessible telephone systems or online/digital systems that supports the needs of all Service Users. All technology should be user-friendly and user training provided where required. The opportunity for feedback and providing technical support will also be in place
- Arranging for an advocate to support the Service User
- Providing physical accessibility, where needed

## 5.9 Consent to Share Information

Wellspring Recruitment and Care Services Limited will ensure that the Service User gives permission for information to be shared with other professionals or providers. If the Service User lacks capacity to make this decision, Wellspring Recruitment and Care Services Limited, in consultation with any representatives, will need to make a best interests decision about sharing information. Examples of when information might be shared are:

- Transferring care between providers
- Discussing an acute medical condition with a GP
- Discussing mobility goals with a physiotherapist involved in the Service User's care

Wellspring Recruitment and Care Services Limited will also ensure that staff comply with the UK GDPR and Data Protection Act and that consent is sought from the Service User before sharing any information with inspectors or regulators. Wellspring Recruitment and Care Services Limited will be aware of the need to maintain confidentiality and that the Service User's right to confidentiality continues even when they are deceased.

Service Users must understand what information is recorded about them and how Wellspring Recruitment and Care Services Limited uses that information, stores it and whether the information is shared. The Service User will be asked to provide consent for any information about their health, care, support, treatment or personal identifiable information to be shared. Wellspring Recruitment and Care Services Limited will consider this within the context of the UK GDPR.

## 5.10 Consent and Staff Assessments

Wellspring Recruitment and Care Services Limited will ensure that the Service User's consent is sought prior to undertaking the following:

- Quality checks involving the Service User's care
- Observational competency assessments for staff involving the Service User's care
- Training in the Service User's personal environment

This will be explained to the Service User in a way they can understand.

## 5.11 Duration of Consent

- When the Service User gives valid consent to care, support or treatment, that consent remains valid unless the Service User withdraws it or there are circumstances that mean it can be treated as if it had been withdrawn
- Such circumstances would include the procedure having taken place or there being a significant gap since the consent was given. In addition, if new information becomes available regarding the proposed intervention (for example, new evidence of risks or new treatment options) between the time when consent was sought and when the intervention is undertaken, Wellspring Recruitment and Care Services Limited will inform the Service User and reconfirm their consent
- Similarly, if the Service User's condition or circumstances have changed significantly in the intervening time, it may be necessary to seek consent again, on the basis that the likely benefits and/or risks of the care, support or treatment may also have changed

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- Under no account will staff behave in a way that pressurises Service Users into giving consent. Each interaction or visit will be viewed independently where the Service User should feel able to withdraw consent for an activity at any time

### 5.12 Consent Refusal and Withdrawn Consent

Wellspring Recruitment and Care Services Limited recognises that consent may be obtained by the Service User themselves or by a lawful legal representative. This can be given, refused and withdrawn at any time and must be respected.

If the process of seeking consent is to be a meaningful one, refusal must be one of the Service User's or lawful representative's options. A competent, adult Service User is entitled to refuse any care or treatment, except in circumstances governed by the Mental Health Act 1983.

If, after discussion of possible care, support or treatment options, the Service User refuses care or treatment (this includes personal care, medication, for example), this fact must be clearly documented in their notes and escalated to Registered Manager.

There are a wide range of reasons why a person may withdraw their consent from preferring not to complete personal care as a one off to not connecting well with a staff member. It is the responsibility of Registered Manager to ensure that this is monitored and to respond to any ongoing concerns such as self neglect as per the Safeguarding Adults Policy and Procedure.

If the Service User has already signed a consent form but then changes their mind, this must be noted on the consent form, and where possible, it will be noted on the consent form by the Service User.

When care, support or treatment is refused and when the Care Worker cannot follow the agreed Care Plan, staff must ensure that they follow the procedure for refusal of care, support or treatment at Wellspring Recruitment and Care Services Limited to ensure that safeguarding issues do not arise:

- Reporting the refusal to the Registered Manager
- The Registered Manager will ensure that this is monitored to ascertain if certain patterns are forming and if the occurrence is regular, which may be detrimental to the Service User's health and wellbeing
- Following this, the Registered Manager or a senior staff member will liaise with the Service User or their legal representative if they have concerns relating to their health or wellbeing

### 5.13 Care Worker Obtaining Consent

- The Registered Manager will ensure that staff understand the importance of ensuring that they obtain consent each and every time any aspect of care is delivered. Once valid consent has been obtained, for example, in relation to administering medication, Care Workers will check before they start to administer medication, that the Service User still consents to have the medication. This consent may be verbal or implied consent, e.g. saying 'yes' or holding out their hand for the medication
- Care Workers will be trained on consent procedures, including regular updates, evaluations and what they should do if the Service User refuses consent
- Where Service Users have communication difficulties or lack capacity, the Care Plan will clearly state how ongoing consent will be obtained

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- Service Users will be asked to give individual ('granular') options to consent separately to different purposes in line with the UK GDPR

### 5.14 Recording Consent

Care Workers will ensure that consent is recorded as given or refused in the Service Users daily records at each episode of Service User care.

Wellspring Recruitment and Care Services Limited is responsible for ensuring that consent is gained in an informed and lawful way.

Please refer to the forms in the Mental Capacity Act (MCA) 2005 Policy and Procedure. Additional forms can be found within this policy and in the Care Plan forms section.

### 5.15 Advance Decisions

- Wellspring Recruitment and Care Services Limited will ensure that where the Service User has an advance decision in place, it is valid and that it is clearly documented what it relates to
- Where the advance decision relates to the Service User's decision not to resuscitate, this will be in writing, signed and dated, be witnessed, and state clearly that the decision applies even if life is at risk

Staff can refer to Advance Decisions to Refuse Treatment and Advance Statements Policy and Procedure for further information on advance decisions.

### 5.16 Staff Training

Staff will be trained to understand the principles of the Equality Act 2010 and how to apply these principles in the context of obtaining consent.

Wellspring Recruitment and Care Services Limited provides robust training from Induction, as well as ongoing, to all staff regarding consent and the Mental Capacity Act (2005) to ensure best practice knowledge and understanding.

Staff are also trained to recognise and respect the diverse needs of each Service User and ensure that consent is obtained in a manner that is inclusive and respects individual differences.

### 5.17 Regular Review and Updates

Wellspring Recruitment and Care Services Limited will ensure that this policy will be reviewed regularly as outlined in the policy summary and updated as necessary to reflect any changes in legislation or best practices.

Wellspring Recruitment and Care Services Limited will also regularly review consent practices to ensure compliance with the Equality Act 2010. Feedback from Service Users and staff will be used to identify and address any potential inequalities in the consent process.

Any issues related to discrimination or inequality in the consent process will be promptly addressed, and corrective actions will be implemented to ensure ongoing compliance.



## 6. Definitions

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## 6.1 Informed Consent

- A key concept is that consent must be in the form of 'informed consent'. This means that the Service User being asked to give their consent for a procedure or for a care service, must have adequate information given to them so they can understand all the issues involved and weigh up the pros and cons in order to make a valid decision

## 6.2 Consent

- Consent is demonstrated when the Service User (either verbally or non-verbally) indicates what they are willing to do, or allow a third party to do to, or for them

## 6.3 Valid Consent

- For consent to be valid, it must be voluntary and informed, and the Service User consenting must have the capacity to make the decision

## 6.4 Capacity

- The Service User must be capable of giving consent, which means they understand the information given to them, and they can use it to make an informed decision by considering all the risks and options, and they can remember what has been explained to them and the decision they have made. Capacity refers to having the mental capacity as defined in the Mental Capacity Act

## 6.5 Best Interest Decisions

- If the Service User has been assessed as lacking capacity then any action taken, or any decision made for, or on behalf of that Service User, must be made in his or her best interests

## 6.6 Independent Advocate

- An independent advocate involves speaking on behalf of a person(s) to ensure that their rights and needs are recognised

## 6.7 Power of Attorney

- A power of attorney is a legal document that allows someone to make decisions for someone else if the person is no longer able to, or if they no longer want to make their own decisions
- There are a number of reasons why the Service User might need someone to make decisions for them or act on their behalf:
  - This may just be a temporary situation: for example, if they are in hospital and need help with everyday things such as making sure bills are paid
  - Alternatively, they may need to make longer-term plans if, for example, they have been diagnosed with dementia and they may lose the mental capacity to make their own decisions in the future

## 6.8 Advanced Decisions

- An advance decision (sometimes known as an advance decision to refuse treatment, an ADRT, or a living will) is a decision a person can make now to refuse a specific type of treatment at some time in the future

## 6.9 Young Person

- The UN Convention on the Rights of the Child defines a child as everyone under 18 unless, "under the law applicable to the child, majority is attained earlier". However, there are a number of different laws across the UK that specify age limits in different circumstances. These include child protection; age of consent; and age of criminal responsibility

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- **People aged 16 or over are entitled to consent to their own treatment, and this can only be overruled in exceptional circumstances**
- Like adults, young people (aged 16 or 17) are presumed to have sufficient capacity to decide on their own medical treatment, unless there's significant evidence to suggest otherwise
- Children under the age of 16 can consent to their own treatment if they're believed to have enough intelligence, competence and understanding to fully appreciate what's involved in their treatment. This is known as being "Gillick competent"

## 6.10 UK General Data Protection Regulation (UKGDPR)

- The UK's implementation of the General Data Protection Regulation (GDPR)

## 6.11 Deprivation of Liberty Safeguards (DoLS)

- Deprivation of Liberty Safeguards (DoLS) are the legal protections under the Mental Capacity Act 2005 that apply where a person lacks capacity to consent to their care or treatment arrangements and those arrangements amount to a deprivation of their liberty, as defined by the Supreme Court "acid test"
- In residential and nursing homes, deprivation of liberty is authorised under the DoLS framework by the relevant Supervisory Body
- In community settings, including domiciliary care and supported living, any deprivation of liberty must be authorised by the Court of Protection
- Any restrictions must be necessary, proportionate, and the least restrictive option, and individuals and their representatives must be supported to understand and exercise their rights



## 7. Key Facts - Professionals

Professionals providing this service should be aware of the following:

- Mental capacity will be assessed before seeking consent to ensure that the consent is informed and valid
- Consent from the Service User is needed regardless of the care, treatment or support that is going to take place
- Generic 'tick boxes' will not be used to obtain consent
- Once written consent is obtained for permission to provide care and support and assist with medication, care staff must always ask for consent before providing any care or support



## 8. Key Facts - People Affected by The Service

People affected by this service should be aware of the following:

- You have a right to withdraw consent at any time
- Just because you are unable to verbally express your consent does not mean that treatment or care cannot be given. Staff will assess your mental capacity and seek

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to obtain consent in other ways such as implied consent, i.e. nodding, holding out an arm for a wash

- You have a right to refuse to provide consent



## Further Reading

### NHS - Consent to Treatment:

<https://www.nhs.uk/conditions/consent-to-treatment/>

### Skills for Care - Inspection Toolkit:

<https://www.skillsforcare.org.uk/Support-for-leaders-and-managers/Good-and-outstanding-care/inspect/Topic-examples.aspx?kloe=effective&topic=consent-to-care-and-treatment&services=residential-nursing-care>

### SCIE - National Mental Capacity Forum:

<https://www.scie.org.uk/mca/directory/forum>

### Alzheimer's Society - Consent and Capacity of People with Dementia:

<https://www.alzheimers.org.uk/dementia-professionals/dementia-experience-toolkit/how-recruit-people-dementia/consent-and-capacity>

### NHS - Someone to Speak Up For You (Advocate):

<https://www.nhs.uk/social-care-and-support/help-from-social-services-and-charities/someone-to-speak-up-for-you-advocate/>



## Outstanding Practice

To be "outstanding" in this policy area you could provide evidence that:

- Regular reviews of the Service User's consent take place to ensure that it remains valid
- The wide understanding of the policy is enabled by proactive use of the QCS App
- Consent is obtained and recorded to provide any care treatment and support
- There is evidence that staff understand the Mental Capacity Act 2005 in relation to consent
- Information is shared appropriately and in a format the Service User understands to ensure valid consent

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## Forms

The following forms are included as part of this policy:

<b>Title of form</b>	<b>When would the form be used?</b>	<b>Created by</b>
Consent Form - CR22	When consent is required. When the Service User is unable to give consent, a best interest decision is required.	QCS
Issue Specific Consent Form - CR22	To be used to gain consent	QCS

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### Consent Form - CR22

Service User Name:	
ID:	
Date of Completion:	

For your protection and privacy, your consent is required before we request information from you or carry out any type of care or support or share information about you and the services you receive from us.

- Please read the questions below, or ask someone to read them to you, and indicate clearly **YES** or **NO** to each question
- You will be asked to sign each answer at the end. If you cannot sign, our staff will record that you have given your consent and how this consent was given
- You have a right to refuse or withdraw your consent at any time

<p><b>Part A: For Service Users who have been assessed as having the mental capacity to give valid consent</b></p> <p><b>Consent to Undertake Care, Support and Risk Assessments</b> I have had the reasons for why this information is required and what the information will be used for explained to me and I understand those reasons. I understand that you may discuss my health, my mobility, my memory and understanding, my medication, my skin, any history of falls, my eating and drinking, my overall mental health, any risks to me or the staff who will be providing care and support plus aspects about my life that I need to share with you that is important to me or for me. I understand that my needs will be reviewed if my needs change.</p> <p>I give consent: <b>YES or NO</b> (delete as appropriate)</p> <p>(Signature):</p>
<p><b>Consent to Undertake Medication Administration</b> I have had the reasons why your assessment of my needs has shown I need support to administer my medication. I understand what type and level of support your staff will be providing. I understand this will be reviewed if my needs change</p> <p>I give consent: <b>YES or NO</b> (delete as appropriate)</p> <p>(Signature):</p>

Continued next page.

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**Part A: For Service Users who have been assessed as having the mental capacity to give valid consent (Continued)**

**Consent to the Care and Support Plan storage in my Home, Flat, Apartment, Room (delete if not applicable)**

I have had the reasons why the care and support plan and risk assessments are important to ensure that I am safe and your staff understand what care and support they need to provide for me. I understand that I need to leave the Care Plan and any associated records in a place where staff can read and complete it easily. I understand that only staff who are involved in my care will be able to have access to this information.

I give consent: **YES or NO** (delete as appropriate)

(Signature):

**Information Sharing**

I have had the reasons for information sharing explained to me and I understand those reasons. I agree to information recorded being shared as indicated by those reasons. I agree to:

[indicate the range of providers that may be included and the way that this information will be shared, e.g. CQC, GP, Local Authority Quality Compliance Team via email, phone, review of records.]

I give consent: **YES or NO** (delete as appropriate)

(Signature):

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**Part B: If Service Users appear to lack the mental capacity to give informed consent (To be completed by the assessor)**

**Consent to Undertake Care, Support and Risk assessments**

I have given an explanation of what information we need about ..... and how we will use that information. I have also explained when we will need to share that information, who with and how we might share that information. I discussed the information in a way and format that maximises ..... to be able to make decisions for him/herself **Yes / No**

I can confirm that ..... lacks the capacity to give or withhold consent to the assessment of care, support and risk assessments, to support with medication administration and to sharing of information because the person has an impairment of the mind or brain and cannot do one or more of the following;

- Understand the information about the assessment of care support and risk assessments, the sharing of information or information about the administration of medication **Yes / No**
- Retain the information in their mind **Yes / No**
- Use or weigh up that information as part of the decision-making process including any risks **Yes / No**
- Communicate their consent (by talking, sign language or any other means) **Yes / No**

If the answer is 'no' to any of the above points, then complete the Best Interest section on the next page, otherwise if the Service User has capacity to provide consent return and complete Part A.

Best Interest: ..... lacks the mental capacity to give informed consent and make a decision about the care, support and risk assessments, medication administration and information sharing. It is in their best interest that we create the care and support plan and undertake the risk assessments, staff deliver the care as planned and that information is shared appropriately in line with our policies.

In making this decision I have;

- Considered the MCA Code of Practice and Best Interest Checklist which includes any views they may have expressed in the past including any advanced decisions which would help understand what their views and feelings might be **Yes / No**
- The views of their family members, parents, carers and other relevant people who support them or are interested in their welfare, if this is practical and appropriate **Yes / No**
- If they have named someone or given someone powers to decide for them then they will also be consulted **Yes/ No**

*continued on next page*

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<b>Part B continued</b>	
<p>If you have answered 'No' to anything in the previous sections in Part B, state the reason why. If you have decided it is not in their best interest explain the proposed action.</p>	
<p>No one can give consent on behalf of the Service User unless they have the relevant power (e.g. an LPA) but you can obtain the signature of a family member/friend/carer to evidence they have been consulted and agree with the decision.</p>	
Signature of Relevant Person:	Relationship to Service User:
Print of Relevant Person:	Date:
Print Name of Assessor:	Date and Time:
Signature of Assessor:	

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### Issue Specific Consent Form - CR22

Personal Information	
Service User Name:	
Date of Birth:	
Address:	

GP / Consultant Information	
GP / Consultant Name:	
NHS No:	
Any Known Allergies:	

Describe the consent that is being sought and why:

Describe the support given to enable informed consent:

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Describe how and what information was provided in an accessible format:

Was anyone else consulted? Record names and any discussions:

Record of any documentation in place/reviewed:

Mental Capacity Assessment	Yes	No	N/A	Date:	
Best Interest Record	Yes	No	N/A	Date:	
Care and Support plan	Yes	No	N/A	Date:	
Risk Assessment	Yes	No	N/A	Date:	
Any Comments/Notes:					

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16 Patmore House, Mayville Estate, Mathias Road N16 8LQ

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Consent (Circle appropriate response)		
I Do	I Do Not	Consent to the above request
I declare that the information I have given on this form is correct and complete.		

Service User Consent			
Service User Name:			
Date:			
Representative Consent (Circle appropriate response)			
To be completed by the representative if the individual is unable to give consent. Evidence that the representative has power of attorney must be seen.			
Unable to sign:		Reason:	
I Do	I Do Not	Hold a valid Legal Power of Attorney – Health and Welfare	
I can confirm that I am authorised to consent to all the above on behalf of the individual named, in accordance with the individual's "Best Interests" and in line with the Mental Capacity Act 2005.			
Name:			
Relationship:		Date:	

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