

{COMPANY LOGO AND CONTACT DETAILS}

Policy Title: Advance Care Planning	Regulation: N/A
CQC KLOE Reference:	RESPONSIVE
Implemented Date:	Next Review Date:

Policy

It is a fundamental part of good practice and a general legal and ethical principle that valid consent must be obtained before providing personal care of any kind.

At **{Care agency Ltd}**, a care worker must always assume that a client has the mental capacity to give valid consent to care and unless the contrary can be established and in such situation, all reasonable and practical steps should be taken to help the client to make their own decisions about all elements of their care needs.

In the event of a lack of mental capacity, service user's wishes and beliefs will be respected in making any decision on their behalf, and such decisions will always be made after taking into account service user's best interests and involving others as appropriate to the circumstances.

Procedure

Valid Consent

For consent to be valid, it must be given voluntarily and freely, without pressure or undue influence, by an appropriately informed person who has the capacity to consent to the intervention in question.

An appropriately informed person will be:

- a) Service user
- b) Someone authorised to give consent under a Lasting Power of Attorney(LPA)
- c) Someone who has the authority to make decisions as a court-appointed deputy.

Acquiescence where the person does not know what the intervention entails is not "consent".

Lacking capacity to give Consent

The Code of Practice published alongside the Mental Capacity Act, 2005 lists 5 key statutory principles, which **{Care agency Ltd}**, will observe when considering the question of capacity, or lack thereof –

1. A presumption of capacity - every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise.

2. The right for individuals to be supported to make their own decisions - people must be given all appropriate help before anyone concludes that they cannot make their own decisions
3. Best interests - anything done for or on behalf of people without capacity must be in their best interests
4. Least restrictive intervention - anything done for or on behalf of people without capacity should be an option that is less restrictive of their basic rights and freedom of action - as long as it is still in their best interests.

The Act defines a person who lacks capacity to give consent as:

A person who is unable to make a decision for themselves because of an impairment or disturbance in the functioning of their mind or brain.

It does not matter if the impairment or disturbance is permanent or temporary. A person lacks capacity if –

- a) They have an impairment or disturbance (for example a disability, condition or trauma, or are under the effects of drugs or alcohol) that affects the way their mind or brain works.
- b) That impairment or disturbance means that they are unable to make a specific decision at the time it needs to be made.

Consent can be given:

- verbally – for example, by saying they're happy to be supported with my daily living activities
- in writing – for example, by signing a consent form for home support.
- non-verbal consent, as long as they understand the treatment or examination about to take place .

There are a few exceptions when support may be able to go ahead without the person's consent, i.e. when the person lacks the mental capacity of make decisions relating to their welfare and support needs.

Review

Review will be carried as and when required.