MENTAL CAPACITY ACT POLICY

PRN-88: Mental Capacity Act Policy
Company Name: AI Auto-Tech Ltd
Trading/Business Name: CAREHOPES
Company Registration Number: 15556946
SIC Code: 88100 – Social Work Activities Without Accommodation for the Elderly and Disabled
Email: admin@carehopes.com
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1. Purpose

The purpose of this policy is to ensure that the organisation complies with the requirements and principles of the Mental Capacity Act 2005 (MCA) and promotes the rights, independence, choice, and wellbeing of older people and adults with disabilities who use our services.

The organisation recognises that some individuals may experience difficulties making certain decisions due to illness, disability, cognitive impairment, mental health conditions, acquired brain injury, dementia, learning disabilities, or other factors.

This policy provides guidance for employees and volunteers on supporting individuals to make their own decisions and responding appropriately where concerns arise regarding a person's capacity to make a specific decision.

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2. Scope

This policy applies to:

- Employees
- Volunteers
- Managers
- Directors
- Agency workers
- Students and placements

This policy applies whenever staff are supporting adults aged 18 years and over who may have difficulties making decisions.

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3. Policy Statement

The organisation is committed to:

- Promoting individual choice and control.
- Preserving independence wherever possible.
- Supporting informed decision-making.
- Respecting people's rights and freedoms.
- Applying the principles of the Mental Capacity Act 2005.
- Preventing unnecessary restrictions on individuals.
- Ensuring people are treated with dignity and respect.
- Protecting individuals who may be unable to make specific decisions.

The organisation recognises that having a disability, dementia, learning disability, mental health condition, or communication difficulty does not automatically mean a person lacks mental capacity.

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4. Legislative Framework

This policy is informed by:

- Mental Capacity Act 2005
- Human Rights Act 1998
- Care Act 2014
- Equality Act 2010
- Data Protection Act 2018
- UK GDPR
- Mental Health Act 1983 (as amended)

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5. Definition of Mental Capacity

Mental capacity means a person's ability to make a specific decision at the time it needs to be made.

Capacity is:

- Decision-specific.
- Time-specific.
- Not based on age, appearance, condition, or behaviour.

A person may have capacity to make some decisions but not others.

A person may have capacity one day and experience difficulty on another day depending upon circumstances.

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6. The Five Statutory Principles

The organisation will apply the five principles of the Mental Capacity Act 2005.

Principle 1: Presumption of Capacity

Every adult must be presumed to have capacity unless it is established otherwise.

Employees and volunteers must never assume a person lacks capacity simply because they:

- Have a disability.
- Have dementia.
- Require support.
- Make choices that others disagree with.

Principle 2: Support to Make Decisions

All practicable steps must be taken to help a person make their own decisions before concluding they are unable to do so.

Support may include:

- Using simple language.
- Providing information in different formats.
- Allowing additional time.

- Using communication aids.
- Involving trusted individuals.
- Choosing the best time of day for discussion.

Principle 3: Right to Make Unwise Decisions

People have the right to make decisions others may consider unwise or risky.

Making an unwise decision does not in itself indicate a lack of capacity.

Employees and volunteers must distinguish between:

- A decision others dislike.
- An inability to make a decision.

Principle 4: Best Interests

Where a person lacks capacity for a particular decision, any action or decision taken on their behalf must be in their best interests.

Principle 5: Least Restrictive Option

Any action taken must interfere as little as possible with the person's rights and freedoms.

Employees and volunteers should always seek the least restrictive approach.

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7. Supporting Decision-Making

The organisation is committed to empowering individuals to make their own decisions.

Employees and volunteers should:

- Encourage participation.
- Provide information clearly.
- Respect communication preferences.
- Consider cultural and religious needs.
- Promote independence.
- Support informed choice.

Support should be person-centred and tailored to the individual's needs.

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8. Assessing Capacity

As a companionship and wellbeing support service, our staff do not normally undertake formal capacity assessments.

However, staff may identify concerns that suggest an individual may be struggling to make a particular decision.

If concerns arise, staff should:

- Record observations.
- Discuss concerns with their manager.
- Consult the Safeguarding Lead where appropriate.
- Consider referral to relevant professionals.

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9. The Two-Stage Capacity Test

Under the Mental Capacity Act 2005, determining whether someone lacks capacity involves a two-stage test.

Stage One

Is there an impairment of, or disturbance in, the functioning of the person's mind or brain?

Examples may include:

- Dementia
- Learning disability
- Brain injury
- Mental illness
- Delirium
- Effects of medication

Stage Two

Does that impairment mean the person is unable to make a specific decision when required?

A person is unable to make a decision if they cannot:

- Understand relevant information.
- Retain that information long enough.
- Use or weigh that information.
- Communicate their decision.

All four elements should be considered.

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10. Best Interest Decisions

Employees and volunteers must understand that they are not authorised to make major decisions on behalf of service users.

Where a best-interest decision is being made by an authorised professional or representative, staff should:

- Cooperate appropriately.
- Share relevant information.
- Contribute observations regarding the individual's wishes and preferences.

Best-interest decisions should consider:

- The individual's wishes.
- Their beliefs and values.
- Past views and preferences.
- Views of family members and relevant professionals.

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11. Consent

Valid consent requires that a person:

- Has capacity.
- Is provided with sufficient information.
- Gives consent voluntarily.
- Understands what they are agreeing to.

Employees and volunteers should seek consent before:

- Providing support.
- Sharing information.
- Recording information where appropriate.
- Involving other agencies.

Consent should be viewed as an ongoing process.

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12. Communication and Accessibility

The organisation recognises that effective communication is central to supporting capacity.

Employees and volunteers should consider:

- Communication difficulties.
- Hearing impairments.
- Sight impairments.
- Learning disabilities.
- Language barriers.
- Cognitive impairments.

Information should be presented in accessible formats whenever possible.

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13. Safeguarding and Mental Capacity

Concerns relating to capacity may arise alongside safeguarding concerns.

Employees and volunteers must:

- Remain alert to signs of abuse.
- Recognise potential exploitation.
- Report concerns promptly.
- Follow safeguarding procedures.

A lack of capacity may increase a person's vulnerability to abuse and financial exploitation.

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14. Financial Decisions and Capacity

Employees and volunteers must never:

- Manage a service user's finances.
- Make financial decisions on behalf of a service user.
- Access bank accounts.
- Handle investments.
- Influence financial choices.

Where concerns arise regarding financial decision-making, they must be reported to management and managed under the Adult Safeguarding and Financial Safeguarding Policies.

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15. Professional Boundaries

Employees and volunteers must maintain professional boundaries at all times.

They must not:

- Use influence to obtain agreement.
- Coerce decisions.
- Manipulate vulnerable individuals.
- Substitute their own wishes for those of service users.

Support should always focus on empowering individuals to make their own decisions wherever possible.

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16. Training

All employees and volunteers will receive training appropriate to their role.

Training may include:

- Principles of the Mental Capacity Act.
- Consent.
- Decision-making support.
- Safeguarding.
- Communication skills.

- Professional boundaries.
- Record keeping.

Refresher training will be provided periodically.

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17. Record Keeping

Where concerns regarding capacity arise, employees should maintain accurate records.

Records should include:

- Observations made.
- Discussions held.
- Support provided.
- Actions taken.
- Referrals made.

Records must be:

- Accurate.
- Factual.
- Timely.
- Securely stored.

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18. Responsibilities

Directors

Responsible for:

- Ensuring organisational compliance.
- Promoting person-centred practice.
- Supporting implementation of this policy.

Managers

Responsible for:

- Providing guidance and oversight.

- Supporting staff.
- Ensuring training compliance.
- Monitoring practice.

Employees and Volunteers

Responsible for:

- Applying MCA principles.
- Supporting decision-making.
- Respecting individual rights.
- Reporting concerns.
- Maintaining professional boundaries.

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19. Monitoring and Quality Assurance

The organisation will monitor:

- Training completion.
- Safeguarding concerns.
- Complaints relating to decision-making.
- Incident reports.
- Supervision records.
- Compliance with person-centred practice.

Lessons learned will inform service improvement.

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20. Review Arrangements

This policy will be reviewed:

- Annually.
- Following legislative changes.
- Following safeguarding reviews.
- Following serious incidents.

Related Policies

- Adult Safeguarding Policy
- Financial Safeguarding Policy
- Person-Centred Support Policy
- Dignity and Respect Policy
- Confidentiality Policy
- Risk Assessment Policy
- Incident Reporting Policy
- Data Protection and GDPR Policy