Mental Capacity and Deprivation of Liberty (DoL) Safeguarding Policy

PRN-177: Mental Capacity and Deprivation of Liberty (DoL) Safeguarding Policy

CAREHOPES™

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1. Policy Statement

CAREHOPES™ is committed to protecting the rights, dignity, freedom, safety, and wellbeing of all service users.

CAREHOPES™ recognises the importance of the:

- Mental Capacity Act 2005 (MCA)
- Deprivation of Liberty Safeguards (DoLS)
- Human Rights Act 1998
- Safeguarding legislation
- Equality legislation

This policy promotes the least restrictive approach possible and supports individuals to make their own decisions wherever possible.

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2. Purpose

The purpose of this policy is to:

- Protect the rights of service users.
- Promote autonomy and independence.
- Ensure lawful decision-making.
- Prevent unlawful deprivation of liberty.
- Reduce restrictive practices.

- Promote positive behavioural support.
- Promote de-escalation and reassurance approaches.
- Protect employees and service users.
- Support safeguarding responsibilities.

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3. Scope

This policy applies to:

- Employees
- Supervisors
- Managers
- Volunteers
- Contractors
- Agency workers
- Third-party providers

It applies across:

- Client homes
- Community settings
- Supported living environments
- Travel assignments
- Airport companionship assignments
- Hospitals and healthcare settings where companionship services are provided
- Digital support environments

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4. Mental Capacity Act Principles

CAREHOPES™ adopts all five principles of the Mental Capacity Act:

Principle 1

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

Principle 2

Individuals must be supported to make their own decisions.

Principle 3

People are entitled to make decisions that others consider unwise.

Principle 4

Any decision taken on behalf of a person lacking capacity must be in their best interests.

Principle 5

Any intervention must be the least restrictive option available.

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5. Understanding Mental Capacity

Mental capacity refers to an individual's ability to:

- Understand information.
- Retain information.
- Weigh information.
- Communicate a decision.

Capacity is:

- Decision-specific.
- Time-specific.
- Subject to change.

Employees must not assume someone lacks capacity due to:

- Age
- Disability
- Learning disability
- Autism
- Mental illness
- Appearance
- Communication difficulties

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6. Employee Responsibilities

Employees must:

- Promote independence.
- Support decision-making.
- Respect choice.
- Encourage participation.
- Maintain dignity.
- Escalate concerns regarding capacity.
- Work within their competence.
- Follow safeguarding procedures.
- Record concerns accurately.

Employees must never:

- Conduct formal capacity assessments except where their role specifies that they will be trained to do so.
- Override a person's lawful decisions.
- Create unnecessary restrictions.
- Ignore safeguarding concerns.

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7. Deprivation of Liberty

A deprivation of liberty may occur when a person:

- Is under continuous supervision and control.
- Is not free to leave.
- Lacks the mental capacity to consent to the arrangements.

Employees must immediately escalate any situation where they believe a deprivation of liberty may be occurring.

Employees must never authorise deprivation of liberty arrangements.

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8. CAREHOPES™ Position on Restraint and Restrictive Practice

CAREHOPES™ adopts a **least restrictive practice** and **de-escalation first** approach.

The preferred interventions are:

- Reassurance
- Emotional support
- Positive communication
- Active listening
- Redirection
- De-escalation
- Positive behavioural support
- Environmental adjustments

Employees must never:

- Use physical restraint.
- Use mechanical restraint.
- Use chemical restraint.
- Use seclusion.
- Use restrictive interventions.
- Restrict movement.
- Prevent a service user from leaving.
- Block exits.
- Confiscate mobility aids.
- Use force to obtain compliance.

Exception

The above prohibition remains in force:

Even where an employee has previously completed restraint training through another employer, agency, healthcare provider, educational institution, or training provider.

Restraint, restrictive practice, or physical intervention may only be undertaken if:

- The employee's role specifically requires it.
- CAREHOPES™ has approved the role.

- CAREHOPES™ Academy has provided the training or formally approved equivalent training.
- The employee has been assessed as competent.
- Written authorisation has been provided by CAREHOPES™.

Without all of the above, restraint remains prohibited whilst acting on behalf of CAREHOPES™.

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9. Positive Behaviour Support and De-escalation

Employees should prioritise:

- Building trust.
- Maintaining rapport.
- Calm communication.
- Offering choices.
- Active listening.
- Reducing environmental triggers.
- Supporting emotional regulation.
- Person-centred engagement.

Where risk is increasing, employees should seek support and escalate concerns rather than attempting restrictive intervention.

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10. Safeguarding Considerations

Mental capacity concerns may be linked to:

- Abuse
- Neglect
- Self-neglect
- Financial exploitation
- Coercive control
- Domestic abuse
- Discriminatory abuse

- Organisational abuse

All safeguarding concerns must be reported immediately.

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11. Training Requirements

Employees may be required to complete:

- Mental Capacity Act Awareness
- Deprivation of Liberty Awareness
- Safeguarding Adults
- Safeguarding Children
- Positive Behaviour Support Awareness
- De-escalation Training
- Conflict Resolution Training
- Therapeutic Observation Training

Additional training may be required according to role responsibilities.

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12. Supervisor Responsibilities

Supervisors must:

- Support lawful decision-making.
- Monitor restrictive practice concerns.
- Review safeguarding risks.
- Escalate capacity concerns appropriately.
- Promote least restrictive practice.
- Support employee development.
- Monitor training compliance.

Supervisors must never instruct employees to use restraint unless the employee has received CAREHOPES™ authorised training and written approval.

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13. Third-Party Provider Responsibilities

Third-party providers must:

- Follow Mental Capacity Act principles.
- Respect service user rights.
- Promote least restrictive practice.
- Escalate concerns.
- Work within their competence.
- Follow safeguarding requirements.

Third-party providers must not undertake restrictive practices whilst representing CAREHOPES™ unless formally authorised under written contractual arrangements.

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14. Recording and Documentation

Employees must record:

- Capacity concerns.
- Safeguarding concerns.
- Restrictive practice concerns.
- Observation findings.
- Escalations made.
- Actions taken.

Documentation must be:

- Accurate
- Objective
- Professional
- Timely

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15. Monitoring and Compliance

CAREHOPES™ will monitor compliance through:

- Supervision
- Appraisals

- Safeguarding reviews
- Incident reviews
- Audits
- Observation reviews
- Training records

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16. Breach of Policy

Failure to comply with this policy may result in:

- Additional training
- Corrective action plans
- Formal disciplinary action
- Suspension
- Termination of engagement
- Referral to regulatory or safeguarding authorities

Unauthorised restraint or restrictive practice may constitute gross misconduct.

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17. Related Policies

- Duty of Care Policy
- Therapeutic Observation Policy
- Conflict Resolution and De-escalation Policy
- Safeguarding Adults Policy
- Safeguarding Children Policy
- Suicide Prevention Policy
- Wellbeing Monitoring Policy
- Risk Assessment Policy
- Professional Boundaries Policy

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18. Policy Review

This policy will be reviewed:

- Annually
- Following safeguarding incidents
- Following legislative changes
- Following regulatory updates
- Following service developments