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CONSENT TO CARE, SUPPORT & TREATMENT

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CONSENT TO CARE, SUPPORT AND TREATMENT POLICY AND PROCEDURE

The Aim of this policy is to ensure that Nursing Direct Healthcare Limited (hereinafter referred to as "Nursing Direct") as a care provider complies with its' legal and ethical responsibilities in obtaining valid consent before providing care, support and treatment to their service users, whilst maintaining their choice and right not to consent including the consent to complete a care needs assessment. The policy also aims to reflect the rights of individual service users to determine how their personal health, medication, social and psychological needs should be met. Nursing Direct focusses on the legal rights of a service user's, ensuring choice is respected all times in accordance with the provisions of Care Act 2014 and other relevant legislation.

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 including Agency Workers 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. Nursing Direct 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 including Agency Workers 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. Nursing Direct is committed to preventing discrimination and promoting equal opportunities for all, regardless of race, gender, disability, age, sexual orientation, religion, or belief. Staff including Agency Workers 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.

Nursing Direct is committed to maintaining the confidentiality and integrity of all personal information, processing data lawfully, fairly, and transparently. Staff including Agency Workers 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 Nursing Direct 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 in Community Settings Policy and Procedure
- Equality, Diversity and Human Rights Policy and Procedure
- The Accessible Information Standard (AIS) Policy and Procedure
- Overarching UK GDPR Policy and Procedure

1.9 To meet the Key Lines of Enquiry and Quality Statements as set out by the Care Quality Commission (CQC).

1.10 RELEVANT LEGISLATIONS, RULES, AND REGULATIONS:

To meet the legal requirements of the regulated activities that Nursing Direct is registered to provide:

- 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

2. SCOPE

2.1 The following roles may be affected by this policy:

- All staff including Agency Workers

2.2 The following Service Users may be affected by this policy:

- Service Users

2.3 The following stakeholders may be affected by this policy:

- Next of Kin and/or families
- Advocates as duly authorised
- Commissioners
- External health professionals
- Local Authorities
- NHS/ICB

3. OBJECTIVES

- 3.1 This Nursing Direct 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, Nursing Direct must act in accordance with the requirements of the following:
- Mental Capacity Act 2005
 - Associated code of practice
 - Best Interest process
 - Deprivation of Liberty in Community Settings
- 3.4 To ensure that staff including Agency Workers 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, Nursing Direct will be registered with the CQC for regulated activities, service types and service user bands as defined in the CQC Statement of Purpose.

This will ensure that Nursing Direct 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.

Nursing Direct is registered to provide the following regulated activities:

- Personal Care
- Treatment of disease, disorder or injury

Nursing Direct is registered to provide the following service types:

- Dementia
- Learning disabilities
- Mental health conditions
- Physical disabilities
- Sensory impairments
- Substance misuse problems

Nursing Direct is registered to support the following service user bands:

- Caring for adults over 65 years old
- Caring for adults under 65 years old
- Caring for children (0-18 years)

4.2 The Registered Manager and Nominated Individual of Nursing Direct have overall management responsibility for this policy and procedure.

4.3 Nursing Direct understands the need to only provide care, support, and treatment with consent from the Service User.

Nursing Direct 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 including Agency Workers 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 a Service User lacks mental capacity to make an informed decision, or give consent, staff including Agency Workers will act in accordance with the requirements of the Mental Capacity Act 2005 and associated code of practice. Nursing Direct will respect when Service Users, 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. Nursing Direct 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.

For further details on advocacy, staff including Agency Workers can refer to the Advocacy Policy and Procedure.

4.5 Nursing Direct 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 Nursing Direct will ensure that consent is treated 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 including Agency Workers 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 Nursing Direct 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 Nursing Direct can be referred to for more information.

4.9 Nursing Direct 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 Nursing Direct will uphold the Service User's right to be involved in all decisions about their care, support, and treatment.

4.11 Nursing Direct 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 **TREATMENT AND DELEGATED HEALTHCARE TASKS**

Consent to Treatment

Nursing Direct is registered with the CQC and works in partnership with local health professionals, including registered nurses and other clinicians, to support Service Users with their assessed needs.

In line with government guidance on delegated healthcare tasks in social care (Department of Health and Social Care and Skills for Care), there may be occasions where staff including Agency Workers support Service Users with treatment or healthcare-related activities that have been delegated by a registered healthcare professional. Treatment is carried out under the direction and oversight of these healthcare partners, who retain clinical accountability for the task.

The inclusion of treatment within this policy ensures that all staff including Agency Workers involved in delivering care, support or delegated healthcare tasks at Nursing Direct continue to follow the principles of gaining valid, informed consent at all times. This includes ensuring Service Users are given appropriate information, supported to make decisions, and that consent is obtained, reviewed and recorded in accordance with the Mental Capacity Act 2005.

Delegated healthcare tasks will only be undertaken by staff including Agency Workers who are suitably trained, competent and authorised, and in accordance with written instructions, Care Plans and risk assessments agreed with the delegating healthcare professional.

- 4.13 Nursing Direct will ensure that their policy on consent to care, support and treatment will reflect current legislation and guidance and that staff including Agency Workers follow them at all times.

5. PROCEDURE

5.1 CONSENT AT INITIAL POINT OF CONTACT

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

Nursing Direct recognises that unless the person making contact has power of attorney for the Service User, and that Service User lacks 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, Nursing Direct will offer information about local advocacy services and explain how they can help in decision making.

When Advocacy Services Might Be Needed

Advocacy services may be needed when:

- The Service User cannot make informed decisions independently
- There are disagreements about the best course of action
- Complex decisions need to be made, such as medical treatments or living arrangements
- Issues of rights, discrimination, or safeguarding arise
- Support is needed to understand and navigate legal, financial, or social service systems

Involvement of Powers of Attorney and Legally Appointed Deputies

Powers of attorney and legally appointed deputies will be involved by:

- Ensuring clear communication about the Service User's needs and decisions Including them in decision-making meetings
- Documenting all decisions made with their involvement
- Providing them with the necessary support and information

How to Find an Advocate

Nursing Direct can provide Service Users and, where appropriate, their families and support networks with information about advocacy and how to access it, including signposting to local services and supporting local referrals/contacts when this is requested and consented to. Where a person may be legally entitled to independent advocacy, Nursing Direct will support them to engage with the relevant commissioners' process.

5.3 INFORMED CONSENT

Nursing Direct 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.

Nursing Direct 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.

Nursing Direct 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, the Service User will receive information about Nursing Direct in a format that they can understand. This will include how to locate Nursing Direct policies and procedures, how to make a complaint and the Service User's rights in relation to the service they will be receiving.

The Registered Manager will ensure that delegated persons 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.

Staff including Agency Workers who are responsible for the pre-service 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 and/or their representative will be given the opportunity to read and understand the information given. Where there are communication or language barriers, alternative measures will be taken to 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.

- Staff including Agency Workers 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 a power of attorney)
- The assessment will consider and determine 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 Nursing Direct works in partnership with other professionals such as a social worker, GP or psychologist to arrange a formal assessment for complex decision making.

Nursing Direct ensures that staff including Agency Workers 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 including Agency Workers must adhere to.

When completing a capacity assessment, the Registered Manager will consider if a Deprivation of Liberty in Community Settings application is necessary. The applicable Deprivation of Liberty in Community Settings Policy and Procedure for Nursing Direct will always be followed. Staff including Agency Worker 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. The 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 a Service User's best interests are, including:

- Considering whether it is safe to wait until the Service User can give consent if it is 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 that 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.
- 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 Nursing Direct 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.

Nursing Direct 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 consent form that clearly indicates what they are giving consent for.

Where a Service User is unable to sign, Nursing Direct will ensure that the Service User has provided valid consent.

Consent is often wrongly associated with a 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 a 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 a Service User at any time. Staff including Agency Workers 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 Nursing Direct 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 the Registered Manager and implemented at Nursing Direct, where possible, for the Service User. All actions in regard 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 Nursing Direct 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 Nursing Direct
- 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
- Signposting for an advocate to support the Service User
- Providing physical accessibility, where needed

5.9 **CONSENT TO SHARE INFORMATION**

Nursing Direct will ensure that the Service User gives permission for information to be shared with other professionals or providers before doing so. If a Service User lacks capacity to make this decision, Nursing Direct, in consultation with any representatives, will need to make a best interest's 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 or other healthcare professionals involved in the Service User's Care

Nursing Direct will also ensure that staff including Agency Workers 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. Nursing Direct will be aware of the need to maintain confidentiality and that a Service User's right to confidentiality continues even when they are deceased.

Service Users must understand what information is recorded about them and how Nursing Direct 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. Nursing Direct will consider this within the context of the UK GDPR.

5.10 **CONSENT AND ASSESSMENTS**

Nursing Direct 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 including Agency Workers 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 a 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, Nursing Direct will inform the Service User and reconfirm their consent
- Similarly, if a 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
- Under no account will staff including Agency Workers 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**

Nursing Direct 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, etc.), this fact must be clearly documented in their notes and escalated to the Registered Manager.

If a 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 staff including Agency Workers cannot follow the agreed Care Plan, including Agency Workers must ensure that they follow the procedure for refusal of care, support or treatment at Nursing Direct, to ensure that safeguarding issues do not arise. This should include:

- Reporting the refusal to the Nursing Direct and/or the Registered Manager
- The Registered Manager ensuring 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 will liaise with the Service User if they have concerns relating to their health or wellbeing.

5.13 **OBTAINING CONSENT**

- Nursing Direct will ensure that staff including Agency Workers 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, staff including Agency 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.
- Staff including Agency 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.
- 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**

Staff including Agency Workers will ensure that consent is recorded as given or refused in the Service Users daily records at each episode of Service User care. Nursing Direct are responsible for ensuring that consent is gained in an informed and lawful way.

5.15 **ADVANCE DECISIONS**

- Nursing Direct will ensure that where a 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, dated, be witnessed, and state clearly that the decision applies even if life is at risk

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

5.16 **TRAINING**

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

Nursing Direct provides robust training from Induction, as well as ongoing, to all staff including Agency Workers regarding consent and the Mental Capacity Act (2005) to ensure best practice knowledge and understanding.

Staff including Agency Workers 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**

Nursing Direct 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.

Nursing Direct will also regularly review consent practices to ensure compliance with the Equality Act 2010. Feedback from Service Users and staff including Agency Workers 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**

6.1 **STAFF INCLUDING AGENCY WORKERS**

6.1.1 **Staff**

Denotes the employees of Nursing Direct Healthcare Limited.

6.1.2 **Agency Workers**

Refers to individuals who are contracted with Nursdoc Limited or another employment business as an Agency Worker (temporary worker) provided to Nursing Direct Healthcare Limited to perform care services under the direction of Nursing Direct.

6.2 **NURSING DIRECT**

Nursing Direct, also known as Nursing Direct Healthcare Limited, is the entity regulated by the CQC (Care Quality Commission) and responsible for the care service provision, contracted to provide homecare services to service users in their homes, in placements, essential healthcare facilities and in the community.

6.3 **NURSDOC LIMITED**

As the sister company to Nursing Direct Healthcare Limited, Nursdoc Limited acts as an employment business, specialising in providing staffing solutions to the healthcare sector.

6.4 **CQC (CARE QUALITY COMMISSION)**

CQC throughout this policy, the term “CQC” refers to the Care Quality Commission (CQC) which is the independent regulator of health and social care in England.

6.5 **POWER OF ATTORNEY**

- There are a number of reasons why a 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.
 - 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.

6.6 **UK GENERAL DATA PROTECTION REGULATION (UK GDPR)**

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

6.7 **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
- 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 are believed to have enough intelligence, competence and understanding to fully appreciate what is involved in their treatment. This is known as being “Gillick competent”

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 **INDEPENDENT ADVOCATE**

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

6.10 **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

6.11 **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

6.12 **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. ‘Consent: If you give your consent to something, you give someone permission to do it’ Collins Dictionary 2025

6.13 **INFORMED CONSENT**

A key concept is that consent must be in the form of ‘informed consent’. This means that a 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


6.14 **BEST INTEREST DECISIONS**

If a 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

OUTSTANDING PRACTICE

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

- Regular reviews of a Service User’s consent take place to ensure that it remains valid
- Consent is obtained and recorded to provide any care treatment and support
- There is evidence that staff including Agency Workers 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

COMPLETED DATE:	04.03.2026
SIGN OFF DATE:	04.03.2026
REVIEW DATE:	04.03.2027
SIGNED:	 Marc Stiff – Group Managing Director