

City Care Southwest Ltd offers care and support services to adults over the age of 18 in their own homes. Our service is regulated by the Care Quality Commission (CQC) in relation to the regulated activity “Personal Care” and in accordance with the Health and Social Care Act 2008 and its associated regulations 2014.

## Version Control

Date	New Version #	Made by	Changes/updates	Review Date
8/12/2023	V1.2023	Rhiannon		08/12/2024
28/03/2024	V1.2024	Rhiannon	Inclusion of regulated activity statement	28/03/2025
19/01/2026	V2.2026	Rhiannon	Full review and update	19/01/2028

## Statement and purpose of policy

City Care Southwest Ltd is committed to providing the highest quality care. To do this, we want to ensure that every person who partners with us in their care is valued and has a voice.

The purpose of this policy is to outline the procedures and principles for obtaining and managing consent from individuals receiving home care services. This policy aims to uphold the rights, dignity, and autonomy of individuals while ensuring their safety and well-being.

We will ensure that every person who partners with us in their care is asked to give their consent whenever care is offered, proposed, or changed and that there are effective procedures in place to ensure that individuals can give or withhold their consent.

## Scope

This policy contains guidance from legislation and relevant bodies that all staff must adhere to. This includes:

- The Mental Capacity Act 2005 and its Code of Practice
- Health and Social Care Act 2008
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 11

## Responsibilities

The Nominated Individual/Directors will:

- Review this policy annually, or sooner as required.
- Conduct audits in line with the Quality and Governance Policy, including a review of the efficacy of this policy in practice.
- Stay up to date with legislation, guidance, and best practice in relation to consent and mental capacity.
- Undertake regular training as part of their continuing professional development.

The Registered Manager will:

- Implement this policy, ensuring that all staff read and understand it.
- Conduct audits in line with the Quality and Governance Policy, including a review of the efficacy of this policy in practice.
- Undertake regular training as part of their continuing professional development.
- Provide adequate training and supervision for all staff in Consent and Mental Capacity.
- Stay up to date with legislation, guidance, and best practice in relation to consent and mental capacity.
- Ensure that initial assessments and reviews of care are conducted by a suitably skilled and trained member of the team.

- Monitor and manage any changes, or concerns in relation to a client’s ability to consent, or make a decision, in accordance with this policy and current legislation and best practice.

All staff will:

- Adhere to relevant legislation by reading, understanding, and implementing this policy and its procedures.
- Attend regular, relevant training in consent and mental capacity.
- Comply with the Mental Capacity Act 2005 and with the CQC Regulations, particularly Regulation 11.
- Follow guidance and advice detailed in the client’s care plan.
- Obtain consent for all care at the point of delivery, regardless of any previous consent provided.
- Report any changes or concerns in relation to a client’s ability to make a decision, to the Registered Manager without delay.

## What is Consent?

Consent, in the context of care and support services, refers to the voluntary agreement given by a client or potential client, to receive specific care and support services based on a clear understanding of what is being proposed. This agreement should be based on sufficient information provided to the individual, enabling them to make an informed decision about their care.

Consent can only be obtained from individuals who have the capacity to provide their consent, and alternative arrangements must be made for individuals who may lack capacity to make a decision at a specific time.

Consent is a Care Quality Commission Fundamental Standard, which means it is a standard below which care should never fall. It states that:

**“You (or anybody legally acting on your behalf) must give your consent before any care or treatment is given to you”**

There are five key principles which underpin the Mental Capacity Act and can be used to understand, obtain, and record consent.

These are:

1	Always assume that the individual has capacity	We should never make assumptions as to the ability of our clients in giving their consent or making a decision unless it has been proven that they are not able to do so.
2	Provide support to an individual to make a decision	Everyone has the right to be supported to make a decision. This could be by providing information in large print, explaining the details in a quiet space or by using assistive technology for example. We should make every effort to support the individual to make the decision before we consider a capacity assessment.
3	Understand that people have the right to make unwise decisions	No matter how eccentric or unwise a person’s decision may seem, if they have capacity then they have the right to make it. It’s important to offer information and support to highlight the risks and benefits of such a decision but the decision remains the right of the person making it.
4	Where a person lacks capacity, a decision is made in their best interests	A best interest decision is made in partnership with the persons preferences and wishes at its centre. A partnership will include professionals, friends, families, and other people who are important to the individual and seeks to make a decision that is aligned with the individual’s ideals and beliefs.

5	Any decisions made must be the least restrictive option	Where an individual lacks capacity to make a decision and a best interest decision is made, it should always consider the least restrictive way to make the decision and not the easiest way to make the decision.
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## Obtaining Consent

### Initial Assessment

Prior to commencing care delivery, a comprehensive assessment will be conducted by a suitably skilled member of the City Care Southwest team to determine the individual's needs, preferences, and goals. As part of this assessment, the individual's capacity to provide consent will be evaluated in accordance with the Mental Capacity Act (2005).

The client will be provided with clear and understandable information about the nature, purpose, risks, benefits, and alternatives of the proposed care and support services and this will be communicated in a manner that respects the individual's communication preferences and level of understanding. This may include the use of plain language, visual aids, assistive technology, or alternative formats as necessary.

Our client will be given adequate time to consider the information provided and ask questions before making a decision and where necessary, the individual will be supported by a family member, advocate, or independent supporter to ensure their preferences and wishes are adequately represented or supported.

Consent will be reviewed regularly in consultation with the client to ensure that their preferences and circumstances are taken into account and that they continue to be informed and involved in decision-making regarding their care. Any changes in the client's capacity or circumstances that may impact their ability to provide consent will be promptly assessed and addressed.

### During Care Delivery

Staff will always seek the consent of the client during care delivery. We often support with minor decisions such as clothing choices, medication, acceptance of drinks or care at the point of delivery, all in line with the client's agreed plan. Where tasks, engagements or activities come outside the scope of the plan, staff will report this to the Registered Manager so that the plan can be updated to reflect the client's request.

Staff are trained to understand that the client, regardless of their agreed plan of care, may decline to provide consent at any time. Where consent is withdrawn or refused, staff will explore this with the client to ensure that the risks and benefits are clear and respect the decision of the client at all times. Any refusal or withdrawal of consent is reported to the Registered Manager.

### During Review

The consent provided to City Care Southwest Ltd will be reviewed regularly with the client in line with our Quality and Governance Policies. The five-to-six-month review will include consideration of consent in relation to any Advance Care Plan Assessment completed with the client.

### Emergencies

There may be occasions where, due to illness or injury, a client is unable to give their consent at a specific time, in an emergency. In these circumstances, where staff have a reasonable belief that the client lacks capacity to consent or request emergency care and/or treatment, a decision may be made in their best interests to contact a medical professional for assistance.

## Individuals who may Lack Capacity

Where it is identified that an individual may lack capacity to make a decision, or provide their consent, a capacity assessment will be conducted by a suitably trained member of staff or relevant professional. The capacity assessment will focus on the individual's ability to understand, retain, weigh, and communicate relevant information about the decision in question.

If it is suspected that the client does not have capacity to provide consent following an assessment, a suitably skilled individual will conduct a best interest meeting. These meetings enable us to work in partnership with the client and people who are important to them, to make a decision in relation to consent in their best interests which will take into account the individual's past and present wishes, feelings, beliefs, and values, as well as any relevant external factors. The decision-making process will be documented, including the factors considered, the decision reached, and the rationale behind it. (Birdie) Where a valid Health and Welfare Lasting Power of Attorney or Court of Protection Deputy exists, they will be consulted and their authority verified before a best interest meeting.

An assessment of capacity is made at a specific time, and for a specific decision, but a client's ability to understand and make a decision may change so City Care Southwest Ltd will undertake regular reviews in line with our Quality and Governance Policies to ensure that the client's right to make a decision is recognised and updated.

## Recording Consent

Consent will be documented in the client's plan, including details of the discussions held, decisions made, and any conditions or preferences expressed by the client and where consent is provided by a representative or advocate on behalf of the individual, their relationship to the individual and authority to provide consent will be verified and documented. The client will be asked to sign a consent form. If they are unable to sign, this will be clearly recorded on the form along with the reason. Where a legally authorised representative exists (e.g., Health and Welfare LPA or Court of Protection Deputy), their authority will be verified and documented.

In our day-to-day work, we often support with minor decisions such as clothing choices, medication, acceptance of drinks or care at the point of delivery and this consent will often be recorded in the client journal but has already been agreed formally with the client during the initial assessment and review.

Where new tasks or activities are requested or proposed and are not already included in the plan of care, they will be reviewed by a manager and recorded in the client's journal. The manager authorising will then update the client's plan of care to include the changes. The purpose of reporting any new tasks or activities is to ensure that consent for these changes is recorded appropriately, that sufficient information has been provided to the client when making the decision and to ensure that the client understands the risks and benefits.

The consent provided to City Care Southwest Ltd will be reviewed regularly with the client in line with our Quality and Governance Policies and recorded in the client's plan.

Clients and their representatives will be provided with information on how to raise concerns or complaints regarding consent issues, and these will be handled promptly and transparently in accordance with the organisation's complaints procedure.

## Training

Consent and Mental Capacity will be covered in our induction programme, and all staff, regardless of seniority, will demonstrate their understanding in the completion of the Care Certificate Standard 9.6 as detailed below:

9.6 Understand the meaning of mental capacity in relation to how care is provided

9.6a Explain what is meant by the term “Capacity”

9.6b Explain why it is important to assume that someone has capacity unless there is evidence that they do not

9.6c Explain what is meant by consent, and how it can change according to what decisions may need to be taken

9.6d Describe situations where an assessment of capacity might need to be undertaken and the meaning and significance of “advance statements” regarding future care

Following successful completion of our six-month probation period, staff will have access to a number of courses which offer enhanced understanding of Consent, Capacity and Liberty Protection Safeguards as part of their continuing professional development.

Senior Carers will complete the Level 2 Mental Capacity Act 2005 within their probation period in addition to the Care Certificate. The learning outcomes for this course are as follows:

- Look at what the Mental Capacity Act 2005 is
- Consider how to assess Capacity
- Explore how to support someone to make a decision
- Gaining an awareness of Deprivation of Liberty Safeguards (DoLS)
- Understanding the importance of record keeping

Managers in the Service will undertake additional learning to advance and enhance their understanding and support continued professional development. This will include internal and external learning.

Further opportunities to explore the topic of Consent and Mental Capacity will be implemented by the Registered Manager periodically and as required for all staff.

## Complaints

The Registered Manager will seek the feedback of individuals who receive our services on a regular basis in line with our quality and governance policy.

If an individual wishes to make a complaint in relation to their care and support, or their care plan and the associated processes, including consent, which were undertaken to complete the care plan or any subsequent reviews, they should contact the Registered Manager on 01752 545 122.

A copy of our complaints policy is included in the welcome pack and available on request at any time.

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