**CONSENT POLICY**

**Name: Care Stream Limited**

**Policy Statement**

Care Stream needs to ensure that suitable arrangements are in place for obtaining and acting in accordance with the consent of service users’ in relation to the care, treatment and support they receive.

**Aim of the Policy**

The aim of this policy is to provide an overview and understanding of consent, the process of gaining consent and in relation to the Mental Capacity Act 2005 as well as the importance of capacity in relation to agreed consent. All staff within Care Stream will be kept updated of any changes via legislation or guidance.

**What is Informed Consent?**

“The process of agreeing to care, treatment or support based on access to all relevant and easily digestible information regarding their care, treatment or support needs”.

The above definition is straightforward and sets out the importance of the information which service users should receive before consent is agreed, in order that the consent is valid.

To give truly informed consent, service users need to understand the following:

* The purpose of the care, treatment or support.
* Who is involved in the delivery of the service?
* The practicalities and processes involved.
* The benefits and risks.
* Data Protection and storage.
* The purpose of the consent form.
* How information will be provided and updated.
* The notice periods which apply.
* Contact details should they have any further questions.
* Full details of fees and the process of collection.

In addition, a support plan should be prepared which uses language appropriate to the service user and avoiding the use of jargon or technical terms.

It is also important to remember that written information is only one way of sharing and can include diagrams, pictures, tables and flow charts if these can contribute to understanding the information. There may be circumstances where video pens, podcasts, recordings or other means of sharing information may be more appropriate.

All of the above contribute to an informed consent decision.

**Ongoing Consent as a process**

Informed consent is an ongoing process and consequently, providers must ensure that service users:

* Continue to understand what they are consenting to.
* Are provided with any new information which could influence their decision to consent.
* Continue to consent to care, treatment and support in an informed environment.

**Reviewing Informed Consent**

Revisiting informed consent is often done informally but on occasions it will be appropriate for formal consent to be obtained and recorded e.g. where there is a significant change to the care plan.

**The Legal and Ethical Framework**

“The aim of the Mental Capacity Act 2005 is to balance the importance of care, treatment and support of people who lack capacity with a need to protect their interests and respect their current and previously expressed wishes and feelings”.

The ethical principle relating to informed consent is the belief that everyone should be treated with respect and that their diverse needs when gaining informed consent must take into account factors such as:

* Ethnicity
* Gender
* Disability
* Religious beliefs
* Culture
* Language
* Level of understanding

Sensitivity and care must be taken when going through the process of gaining informed consent. When the service user has made the decision relating to their care, treatment or support, Care Stream will respect that autonomous decision even if they disagree with it.

This respect for autonomous and informed decision making also requires that the service user is never coerced into Informed Consent decisions. It is important to remember that service users are potentially vulnerable to such coercion by nature of their relationship with Care Stream.

UK case law on consent has established three requirements that need to be satisfied before a service user can give informed consent:

* Consent should be given by someone with the mental capacity to do so
* Sufficient information should be given to the service user
* Consent must be freely given

If any of these requirements is lacking, then the consent is invalid.

**Informed consent in special circumstances**

The principles and processes in obtaining informed consent are the same but occasionally, it is not possible to obtain such consent where usual practices may be difficult to apply.

**Delayed Consent**

This usually applies in emergency situations e.g.

* At the road side in the event of an accident
* At a cardiac arrest
* During the early stages of a person’s admission to an Accident and Emergency department

In these circumstances, a “Best Interest” decision will be taken by the emergency team involved.

**Implied Informed Consent**

This may arise when express written and/or verbal consent is not given e.g. when a service user is asked to transfer from chair to bed, implied consent is assumed when they participatein the manoeuvre.

**The process in gaining informed consent**

Below are the factors to be considered when going through the process of obtaining Informed Consent.

**The discussion**

It is important to make service users, their family or representative as comfortable as possible at the assessment of needs stage in order that they are able to concentrate and feel confident enough to ask questions. The location should be private and free of any interruptions where possible. Where necessary, repeat, explain, and reinforce the information given. Always ask questions to check their understanding of the information.

It is also important to think about the timing of the discussion, e.g. service users who have just been given news of a life-threatening illness are unlikely to be able to make informed decisions regarding, care, treatment or support whilst struggling to come to terms with their situation. Such issues will need to be considered at different intervals.

**Acknowledging Diversity**

It is important to acknowledge diversity alongside other factors when gaining informed consent. Asking questions can help to understand service users’ needs and how these can best be met.

**Re-enforcing the discussion**

It is not enough to give service users a verbal explanation of their care, treatment or support. You must ensure their understanding of the sometimes complex and often large amounts of information which they have been given.

It may be necessary to prepare information material in different formats and languages where appropriate.

**Consent Form**

The signing of such a form has become standard practice in confirming that the service user has freely given their informed consent to care, treatment or support they receive. Service users should not be asked to sign the consent form until they have been given adequate information and time to consider their decision. It is important to explain verbally all aspects of their care, treatment or support and check their understanding.

During the assessment of needs process, it is important to engage with the service user, their families or representatives in a meaningful and professional manner in order to make the process work.

**Vulnerable Service Users**

Government issued guidance in 2013 “Statement of Government policy on Adult Safeguarding” issued by the Department of Health introduces six principles of safeguarding adults. The principle of empowerment is based on a presumption of person-led decision and informed consent. This new principle needs to be embedded in practice that informed consent and person-led decision making is at the core of working with adults. This includes safeguarding but generally needs to be seen as the individual being able to take person-led decisions and their views and wishes must be listened to and respected. Where lack of capacity is an issue, the Mental Capacity 2005 Code of practice must be observed.

Assessing a service users’ capacity to give Informed Consent autonomously is an essential part of the Informed Consent process. This however can prove challenging, so it is important to involve multi-agency partners and others who know the service user in making such decisions. It is important to remember that the Mental Capacity Act 2005 begins with the presumption of competence and that capacity can fluctuate and be affected by the manner in which information is provided.

The provision of accurate and meaningful information is at the very heart of acquiring Informed Consent.

Below are factors to consider when working with service users’ or groups who may be considered vulnerable.

**Recognising special needs**

Service users can have a range of special needs which should to be taken into account but are not always obvious. Some service users may conceal them, service users with reading or writing difficulties may conceal their limitations due to embarrassment “I’ve forgotten my glasses, I will read it later”, whilst others may have visual or hearing impairment, illness or emotional difficulties.

It is vital therefore to explore the service users’ abilities sensitively. The ability to process information can slow with some conditions such as a learning disability, so service users should be given plenty of time and opportunity to ask questions and think about whether they want the care, treatment and support. It is important, however, that older people are encouraged to participate fully in the consent process.

**Capacity to Decide**

Service users can only give consent if they are capable of choosing between alternative courses of action. This means they must be able to understand the information given to them by Care Stream. Where a service user lacks capacity, a Best Interest decision involving those who know the service user should be instigated using the Mental Capacity Act 2005 Code of Practice and the local Mental Capacity team guidance**.**

**Service Users with Learning Disability**

Service users with learning disabilities must be given the same respect as anyone else. Some may not be able to exercise fully their right to self-determination, but should be offered choices within their capabilities.

Care should be taken in evaluating each individuals comprehension by using plain language, supported if necessary, and using other materials such as pictures. Dependent upon the service users’ needs, it may be necessary to present the information in different formats or over a longer period of time.

Every effort should be made to seek Informed Consent. It may be necessary to involve a range of multi-agency partners who are knowledgeable about the service users’ situation and can contribute to an assessment of their best interests.

**Conclusion**

The key principles in obtaining Informed Consent is to put the service users’ needs first.

To participate effectively in Informed Consent processes, all staff should have the knowledge, expertise and competencies to give sufficient information in an appropriate format and be able to answer any questions raised by the service user, their family or representative.

It is vital that the relevant staff be able to assess a service users capacity to give Informed Consent. If staff are open and honest and ensure the service user is able to understand, then truly Informed Consent will be obtained.

**Training**

All staff undertaking assessment of needs and care planning duties will be updated yearly on the Mental Capacity Act 2005 and relevant guidance including guidance from local authority team dealing with capacity issues. All staff as part of their Induction would be expected to undertake Mental Capacity Act 2005 awareness training and this will be updated every two years.

The Director of Operations is responsible for the regular updating of the policy.

Signature:

Date: