

Good and outstanding care

Transitional monitoring approach

Effective

This resource includes good practice recommendations related to the Care Quality Commission's (CQC) Transitional Monitoring Approach focus being used by inspectors from October 2020.

Whilst the recommendations predate the COVID-19 pandemic, they provide insight from existing CQC inspection reports as what constitutes good and outstanding practice.

As part of their Transitional Monitoring Approach, CQC inspectors will only look at the following specific area of Effective focus. This relates to consent, managing restraint and Mental Capacity Act during the pandemic.

The document covers the following Key Lines of Enquiry:

E7: How do you ensure consent to care and treatment is always sought in line with legislation and guidance?

Service type key:

A = Applicable to all services

C = Community based care, including homecare

R = Residential and nursing homes

For organisations who may be subject to a full CQC inspection, please refer to our main [Good and outstanding care guide](#).

E7. Consent

Managers and leaders play a vital role in good and outstanding rated care services to ensure that consent is sought and the service supports people to make their own decisions. Where people lack mental capacity, best interest decisions are made.

Recommendations from good and outstanding providers	Service type
 <p>Ensure consent is an integral part of the care provided and work closely with people who need care and support (and/or their families) to obtain it.</p>	
 <p>Where possible, ensure staff routinely ask for people's consent on a day-to-day basis before giving assistance and wait for a response. When people decline, staff are respectful and return to try again later if necessary.</p>	
 <p>Ensure staff receive training about the Mental Capacity Act and Deprivation of Liberties at levels appropriate to their role. Provide regular refresher training.</p>	
 <p>Empower staff to recognise when people needing care and support are being deprived of their liberty. Where deprivation of liberty is needed, ensure staff seek authorisation and actions are both necessary and proportionate.</p>	
 <p>Ensure managers and leaders are aware of the correct legal process to follow if these assessments of people's needs change.</p>	
 <p>Provide information in the most accessible format possible to help people with limited capacity to understand their options.</p>	
 <p>Ensure staff support people to make decisions through various communication methods, e.g. using prompts such as pictures, large print, as well as support from families and advocates where necessary.</p>	
 <p>Use innovative ways to ensure people are involved in decisions about their care so that their human and legal rights are sustained.</p>	
 <p>Invest time in assessing people's changing capacity, which for some people may change on a daily basis.</p>	

	Where needed, ensure best interest decisions are carried out appropriately with the person, their family/advocates and a multidisciplinary team (e.g. a group of health care workers who are members of different professions such as psychiatrists, social workers, etc.)	
	Ensure care plans clearly detail capacity to make decisions and how this may fluctuate, as well as what support should be provided to help the person make choices and decisions about their care and support.	
	Ensure the service has effective processes in place to regularly monitor the mental capacity of the people who need care and support, including flexibility to adapt the support provided.	
	Capture detailed records of mental capacity assessments and best interest decisions. Document other less formal discussions around capacity, including daily notes and handovers. Keep records with the care plan.	
	Ensure staff know how to apply to the 'court of protection' if people using the service are deprived of their liberty.	
	Ensure managers regularly audit and review consent and associated good and poor practice with the aim of strengthening processes.	

What to avoid	Service type	
✘	Staff had either not been trained on MCA and DoLS or their training wasn't sufficient.	A
✘	Staff who are unable to effectively translate their knowledge learning into practice.	A
✘	There had been no capacity assessment, best interest decision meetings and no DoLS application made where necessary.	A
✘	Person who needs care and support and/or their family/advocates weren't involved in making decisions on their care (or the service was unable to evidence this).	A
✘	Excessive gaps between MCA assessments being undertaken (e.g. 18 months).	A
✘	Not keeping clear records of what checks have been done to ascertain legal advocates (e.g. whether power of attorney has been seen or what type of authority does the family member or advocate have).	A
✘	People were at times being unlawfully restrained due to the lack of understanding by staff on the MCA and DoLS.	A
✘	Lack of understanding leads to DoLS (a shower room is locked to stop a resident from using for their own safety but no DoLS application has been made).	A
✘	There were inconsistencies between the care plans and the how the service was acting in relation to MCA.	A



Available to help

[Mental Capacity Act directory \(SCIE\)](#)

[Mental Capacity Act pocket sized guide \(Skills for Care\)](#)

[Managing risk, minimising restraint \(SCIE\)](#)

E7. Minimising restraint

Effective services support practices that minimise restraint and restrictions, promoting positive behaviour and helping people remain as independent as possible.

Recommendations from good and outstanding providers		Service type
	Ensure leaders and managers lead by example in the adoption of good and best practice around positive behaviour support, ensuring it's effectively embedded into the service.	
	At the first assessment, review people's care needs and consider how best the service can support them.	
	Involve people, their families or advocates in deciding the most appropriate way to support them.	
	Ensure any restrictive intervention must be legally and ethically justified, be absolutely necessary to prevent serious harm and be the least restrictive option.	
	Create positive relationships between the people who deliver services and the people they support.	
	Where possible, try to identify and understand the root cause of the issues that may result in challenging behaviour, engaging with specialists to understand how best to safely respond to this.	
	Embed appropriate guidance on restraint and restriction into care plans, looking to minimise these wherever appropriate.	
	If restrictions are needed, ensure these are time-limited and under constant review.	
	Enable staff to understand and have the confidence to deliver strategies to positively support people's behaviours that present challenges to themselves and others.	

What to avoid	Service type	
✘	Blanket restrictions based on people with similar conditions (e.g. people being locked in a communal living area).	A
✘	Use of restrictive practice without related risk assessment being undertaken.	A
✘	Limited expertise within the service fails to identify that restrictive practice is being undertaken.	A
✘	Plans that don't clarify which approaches to use depending on the circumstances, potentially leading to staff using the wrong approach.	A
✘	Staff ignoring care plans leading to restricting practice (e.g. refusing to allow a person to use the stairs alone despite this not being identified as a risk).	A
✘	Failure to protect staff and people who need care and support by not providing restrictive practice related training and support.	A
✘	Managers and senior staff unaware of what restrictive practice is being provided by their care workers.	A



Available to help

[Positive behaviour support \(Skills for Care\)](#)

[COVID-19: Guidance from other agencies](#)
(MCA, DoLS and Safeguarding)