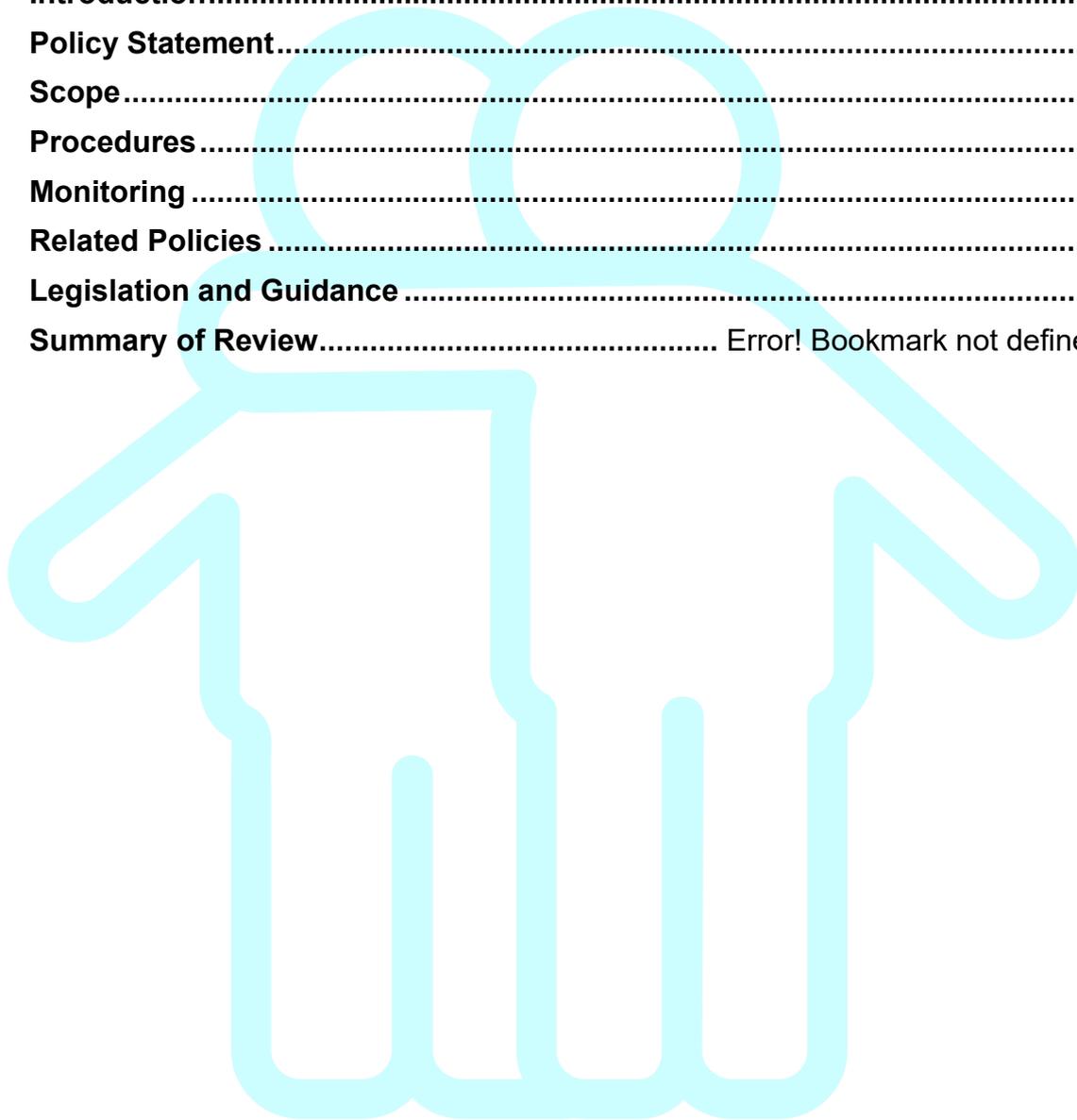


BUDDIES COMMUNITY CARE LTD

CONSENT (ADULT) POLICY

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Introduction

As part of providing person-centred care, BUDDIES understands that obtaining consent is essential before administering any type of treatment or undertaking any degree of personal care. Every client with capacity has the legal right to determine what does and does not happen to their body and BUDDIES aims to support this.

Policy Statement

BUDDIES fully embraces the fundamental legal and ethical right of clients to determine what happens to them during their care. As such this policy aims to support our staff in providing client -centred information, while ensuring that consent is given on a voluntary basis and that the client has the capacity to make the decision.

In line with the Mental Capacity Act 2005, BUDDIES understands that there is a presumption of capacity for everyone over the age of 16. Where capacity is in doubt, BUDDIES appreciates that capacity is determined on a decision-by-decision basis and, as such, it cannot be presumed that just because the client has capacity to make a decision over personal care, for example, it follows that the client has capacity to consent to major surgery.

BUDDIES will seek to ensure that the information provided to the client is led by the client, as opposed to being based on a clinical judgment.

We will take all reasonable steps to ensure that consent is given on a voluntary basis without undue duress or influence from other parties.

Scope

This policy and the procedures apply to all client-facing staff. The principles of consent in this policy apply specifically to the treatment and care of adult clients, however the principles of choice and participation are equally applicable to the assessment phase of care.

Procedures

Three essential elements are required for valid consent to be given: information, capacity, and voluntariness. Clients should always be given enough time to think about their consent decisions if possible. acknowledges that in an emergency this may not always be possible. In a life-threatening emergency, when receiving consent is not possible, decisions should be made in the best interests of the client, with reference to any advance decisions that may have been made.

Information

The information provided to the client should include details of the following:

- details of the proposed treatment/care

- risks and benefits of the treatment/care, including specific risks to the individual client
- any alternatives to the proposed treatment/care (including the option of no treatment)
- how the client's consent or refusal will be recorded
- how access to the client's medical records/care plan is given to other professionals only when there is a legal basis for doing so.

Capacity

Capacity to consent should be presumed for all patients over the age of 16. However, it is important to recognise that sometimes capacity may be impaired by trauma, or by a severe emotional response or physical illness. Staff obtaining consent must ensure that they remain aware of this possibility and ensure that account is taken of it.

If it has been determined that the client lacks capacity to give consent, a best interests decision, considering the best interest checklist in the Mental Capacity Act 2005, must be made (please refer to the Advocacy Policy for further information). In this scenario, BUDDIES encourages the use of independent advocates to ensure that the client is supported to express their opinion. It may also be useful to seek the opinion of family members and any holders of a Lasting Power of Attorney or deputyship, where relevant. The opinions of family members, deputies and Lasting Powers of Attorney should not be decisive but can help staff to understand what the client would have chosen for themselves.

Voluntariness

Every effort should be made to ensure that consent is being given on an entirely voluntary basis, without any undue duress from any external parties. This may be difficult to achieve given that the opinions of others are often sought when important decisions are made. Nevertheless, staff obtaining consent should satisfy themselves that any external influences are minimal, and that the client is free to make the decision that is best for them.

Recording

Written consent is usually only required for the most invasive of procedures, such as surgery. Similarly, consent can be implied by the client's body language, such as presenting an arm for an intravenous injection. Best practice determines that the more invasive or intimate the care, treatment, or procedure, the more important it is to obtain written consent.

Where verbal consent is being sought for what are usually day-to-day care and treatment proposals or changes, the reasons for the need to seek consent, the fact that it has been obtained and how, should all be recorded in the client's care plan.

Clients should always be asked to sign their plan of care as an indication that they agree with the services being proposed to meet their needs, which include personal, health (including medication), social, psychological and spiritual needs.

Withdrawal of consent

A client has a right to withdraw consent at any stage without giving any reasons.

Monitoring

The Senior Management Team will review any incidents or complaints to identify any themes and trends relating to consent. Furthermore, the client's care plan will be audited in line with the Governance and Risk Policy to ensure that both verbal and written consent to treatment are evidenced within the care documentation.

Related Policies

- Complaints Policy
- Information Governance Policy
- Mental Capacity Act and DoLS Policy
- Person Centred Care Policy
- Quality Assurance Policy
- Safeguarding Policy
- Whistleblowing Policy

Legislation and Guidance

Relevant Legislation

- *Montgomery v Lanarkshire Health Board* [2015] SC 11 [2015] 1 AC 1430
- Mental Capacity Act 2005
- Compensations Act 2006
- Data Protection Act 2018
- Human Rights Act 1998
- Mental Capacity Act 2005
- The Care Act 2014
- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

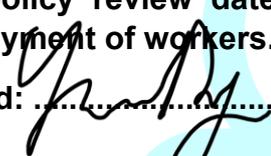
Guidance

- A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture, Clwyd & Hart, October 2013.
- Complaints in health and social care: standards & guidelines for resolution and learning, Department of Health, Social Services and Public Safety, June 2013.
- Complaints Matter, CQC, December 2014
- How to complain about a care home or care in your home – self-funded or council-funded, Local Government Ombudsman, February 2015.
- Mental Capacity Act Code of Practice

- Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, Francis, 2013.
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

END OF POLICY

The policy review date is **ONGOING**. On registration with CQC, and upon employment of workers.

Signed:  (Chief Executive)

Date:..... 28TH MAY 2024

