	Liberty Protection Safeguards in Community Settings Policy and Procedure	Ref:	049
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The aim of this policy is to protect the rights of people who might lack mental capacity who are aged 16 and above, living in their own homes or community settings such as shared lives schemes, when they may be deprived of their liberty, in their best interests.

Its aim is to also comply with the requirements of the European Convention Article/Human Rights Act 1998, 5(1)(e): '...No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law' and Article 5(4) 'Everyone who is deprived of his liberty... shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.'

It is also to meet the legal requirements of the regulated activities that Serendipity Healthcare Ltd is registered to provide.

Before any Service User is deprived of their liberty, all practical efforts are made to avoid deprivation of liberty.

Service Users are not restrained except where this is necessary and proportionate and are not deprived of their liberty without lawful authority.

Authorisations by the Court of Protection to deprive Service Users of their liberty, including their duration and any conditions, are incorporated into Care Plans, and full information is given to the Service User and their relatives or friends who are interested in their welfare.

If a person might lack capacity to consent, all Care interventions are carried out in accordance with the wider Mental Capacity Act (MCA), using the least restrictive options that can be found.

Serendipity Healthcare Ltd and Serendipity Healthcare Ltd understand the MCA definition of restraint, minimise its use in a person-centred way, and record why it is in the person's best interests, as well as being both:

- Necessary to prevent harm to the person, and
- Proportionate to the likelihood of harm as well as the seriousness of that harm

Care Workers work within the framework of the Mental Capacity Act 2005, including around restraint and deprivation of liberty.

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In community services, such as supported living, shared lives schemes, extra-care housing and domiciliary care services, providing services to people aged 16 and over, who lack capacity to consent to arrangements for giving them necessary care or treatment, when those arrangements may amount to a deprivation of liberty:

- The service follows guidance about what amounts to deprivation of liberty given in the 'Cheshire West' Supreme Court judgement **P (by his litigation friend the Official Solicitor) v Cheshire West and Chester Council & Anor [2014] UKSC 19** (See Underpinning Knowledge)

In community services such as supported living, shared lives schemes, extra-care housing and domiciliary care, or in any service where Service Users are aged 16 or 17:

- The service follows Supreme Court guidance (see above) and understands how to support commissioners to seek lawful authority from the Court of Protection, for deprivation of liberty, where no less restrictive option can be found to deliver the required care and support

Serendipity Healthcare Ltd works within the Mental Capacity Act 2005 and its Code of Practice.

Serendipity Healthcare Ltd can demonstrate that it uses every practicable means to maximise the mental capacity of Service Users to make their own decisions in accordance with the Mental Capacity Act 2005 and its code of practice.


Serendipity Healthcare Ltd can demonstrate its commitment to the reduction of restraint and avoidance of deprivation of liberty wherever possible.

## Procedure

All service providers working with people aged 16 and above who might lack mental capacity to consent to health or care interventions, work within the Mental Capacity Act.

If deprivation of liberty is authorised by the Court of Protection:

- Ensure that the Service User and their relatives understand what restrictions have been authorised, and how they can challenge any aspect of the authorisation with the help of an IMCA (Independent Mental Capacity Advocate)
- As under DOLs, a deprivation can be for a maximum of one year

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initially – under LPS, this can be renewed initially for one year, but subsequent to that, up to three years.

- Serendipity Healthcare Ltd will notify the Care Quality Commission

If deprivation of liberty appears necessary and proportionate, and unavoidable, notify the Commissioners, and request them to amend the Care Plan to avoid deprivation of liberty if possible, and, where this is not possible, ask them to apply appropriately and in a timely way to the Court of Protection for authorisation.

Keep full records of assessments, applications, discussions with the Service User and their relatives or friends, about deprivation of liberty, and actions taken to minimise its use.

Under LIPS, the Court of Protection will oversee any disputes or appeals. Be prepared for Court of Protection Appointed Assessors to visit the service. They will interview the person, view records, and may interview staff.

Provide services within the framework of the MCA statutory principles (see the MCA Code of Practice).

- Know when and how to assess decision-specific and time-specific capacity, and who should carry out the assessment; record capacity assessments including efforts made to enable the Service User to make the decision for themselves.
- Know when and how to make best interests decisions on behalf of Service Users who lack mental capacity at the time a decision needs to be made. Record who was consulted and, in particular, the wishes and feelings of the person.
- Recognise, record, and minimise the use of restraint.

Reviewed  
14<sup>th</sup> October 2025  
S L Pickles  
Director