



Review Sheet	
Last Reviewed 08 Jan '20	 Last Amended 08 Jan '20  Next Planned Review in 12 months, or sooner as required.
Business impact	 Minimal action required circulate information amongst relevant parties.
Reason for this review	Scheduled review
Were changes made?	Yes
Summary:	Policy reviewed with no significant changes and references checked and updated.
Relevant legislation:	<ul style="list-style-type: none"> <li>  The Care Act 2014</li> <li>  Human Rights Act 1998</li> <li>  Mental Capacity Act 2005</li> <li>  Mental Capacity Act Code of Practice</li> <li>  Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)</li> </ul>
Underpinning knowledge - What have we used to ensure that the policy is current:	<p>Author: UK Government, (2007), <i>Mental Capacity Act 2005</i>. [Online] Available from: <a href="https://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf">https://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf</a> [Accessed: 8/1/2020]</p> <p>Author: UK Government, (2007), <i>Mental Capacity Act code of practice</i>. [Online] Available from: <a href="https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice">https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice</a> [Accessed: 8/1/2020]</p> <p>Author: UK Government, (2014), <i>Care Act 2014</i>. [Online] Available from: <a href="http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted">http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted</a> [Accessed: 8/1/2020]</p>
Suggested action:	<ul style="list-style-type: none"> <li>  Encourage sharing the policy through the use of the QCS App</li> <li>  Use existing, planned methods for sharing information</li> </ul>



## 1. Purpose

**1.1** To support and promote the ability of Service Users to make their own decisions about taking positive risks in their lives, wherever possible.

**1.2** To maximise the mental capacity of Service Users where necessary, to enable them to make their own decisions about positive risk-taking.

**1.3** To ensure that HWCGS Care works within human rights, mental capacity and adult safeguarding law to balance the right of Service Users who may lack capacity to exercise as much autonomy as possible, with their right to be protected from harm when they cannot properly assess risk because of an impairment or disturbance in their mind or brain.

**1.4** To support HWCGS Care (T/A Segal Gardens) in meeting the following Key Lines of Enquiry:

Key Question	Key Lines of Enquiry
CARING	C3: How are people's privacy, dignity and independence respected and promoted?
SAFE	S2: How are risks to people assessed and their safety monitored and managed so they are supported to stay safe and their freedom is respected?
WELL-LED	W1: Is there a clear vision and credible strategy to deliver high-quality care and support, and promote a positive culture that is person-centred, open, inclusive and empowering, which achieves good outcomes for people?

**1.5** To meet the legal requirements of the regulated activities that HWCGS Care (T/A Segal Gardens) is registered to provide:

- ┆ The Care Act 2014
- ┆ Human Rights Act 1998
- ┆ Mental Capacity Act 2005
- ┆ Mental Capacity Act Code of Practice
- ┆ Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)



## 2. Scope

**2.1** The following roles may be affected by this policy:

- ┆ Registered Manager
- ┆ Other management
- ┆ Nurse
- ┆ Care staff
- ┆ Activities

**2.2** The following Service Users may be affected by this policy:

- ┆ Service Users

**2.3** The following stakeholders may be affected by this policy:

- ┆ Family
- ┆ Advocates
- ┆ Representatives
- ┆ Commissioners



### 3. Objectives

- 3.1 For HWCGR Care and relevant staff to ensure that they know an individual Service User's approach to risk and how that Service User balances the right to live as they choose against protection from avoidable harm.
- 3.2 For Service Users to be enabled to choose and enjoy varied activities.
- 3.3 For HWCGR Care to enable Service Users to maintain their hobbies, friendships and community links.
- 3.4 For HWCGR Care to ensure that staff understand how to balance the benefits of positive risk-taking by a Service User against the need to protect both the Service User and others from avoidable harm.
- 3.5 When Service Users lack capacity to decide their own Care Plan, records show the importance of their wishes and feelings, culture and beliefs when making decisions in their best interests that might carry risk to the Service User or others.



### 4. Policy

- 4.1 HWCGR Care supports and enables Service Users to live as they choose in as many respects as can be achieved.
- 4.2 HWCGR Care engages with Service Users and their relatives or friends to create an individual Care Plan that balances positive risk-taking with keeping them and others safe.
- 4.3 Records show that HWCGR Care acknowledges the benefits of positive risk-taking whilst doing everything possible to lessen the possibility of harm to the individual Service User.



### 5. Procedure

- 5.1 Initial assessments are person-centred and explore the Service User's attitude to risk, and what is important to them.
- 5.2 Records show clearly how decisions are made about enabling positive risk-taking, how risks of harm are identified, and what steps are taken to reduce the likelihood and severity of harm to the Service User or others.
- 5.3 HWCGR Care ensures that all relevant staff receive training on human rights and the Mental Capacity Act 2005 and Code of Practice so that they understand how to maximise capacity and recognise lack of capacity to make specific decisions about risk.
- 5.4 Restraint and restriction on liberty are fully recorded with evidence of the search for a less restrictive option to meet an identified need to keep the person healthy and safe.
- 5.5 Where a Service User may be restricted or even deprived of their liberty in their best interests, every attempt must continue to find ways for them to exercise decision-making and enjoy activities that are important to them, including positive risk-taking where the benefits outweigh possible harm.



### 6. Definitions

#### 6.1 Positive Risk-Taking

- ┆ This is defined as balancing the positive benefits gained from taking risks against the negative effects of attempting to avoid risk altogether

#### 6.2 Autonomy

- ┆ The right to make our own decisions, about our own lives, as long as we have the capacity to do so and do not cause harm to others. This right has been described as 'making life worth living', so should be respected wherever possible. Autonomy must sometimes be restricted in the best interests of a person, e.g. when they refuse essential personal care and lack capacity to understand why it is necessary, or when someone lacks capacity to act safely on busy roads



## Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | It is impossible to remove all risk from life, and not advisable to try to do so in care settings, due to the unhappiness that results from 'being wrapped in cotton wool'
- | Judges say, 'What is the use of keeping someone completely safe, if by doing so you are making them completely miserable?'
- | Mental capacity and safeguarding law provides a framework for balancing the right to autonomy with the right for people who lack capacity to be protected from harm
- | Relevant staff must know how to maximise and assess mental capacity when someone might lack capacity for a decision that would foreseeably lead to harm
- | The aim of best interests decision-making must be to find the option that meets a need while restricting the person's freedom of action as little as possible
- | Care planning records must show what attempts have been made to find ways to promote positive risk-taking whilst preventing avoidable harm



## Key Facts - People affected by the service

People affected by this service should be aware of the following:

- | We all have the right to make our own decisions about how we live, as long as we have capacity to do so, and our decisions or actions do not harm other people
- | Staff supporting you must do all they can to enable you to make as many of your own decisions as possible
- | The law says that you can take risks as long as you have the capacity to understand what you are doing and where the risk may lie
- | Staff supporting you must do all they can to lessen risks, and may have to restrict your freedom if they can see that you don't understand when you are risking serious harm to yourselves or other people
- | Your relatives and friends can help you to carry on doing things you enjoy, even if there is some risk attached, by explaining to staff what is most important to you



## Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

**Social Care Institute for Excellence - Safeguarding materials:**

<https://www.scie.org.uk/adults/safeguarding/>

**National Mental Capacity Forum:**

<https://www.scie.org.uk/mca-directory/forum/video.asp>

**Supported decision-making video (linked to Principle 2 of the MCA):**

<https://www.scie.org.uk/mca-directory/forum/video3>

**Joseph Rowntree Foundation - How can 'positive risk-taking' help build dementia-friendly communities?**

<https://www.jrf.org.uk/report/how-can-positive-risk-taking-help-build-dementia-friendly-communities>



## Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- | HWCGS Care (T/A Segal Gardens) can demonstrate that Care Plans are all different, tailored to the wishes of each person
- | Staff understand how to balance protection from harm with as much freedom of choice and action as possible
- | Staff are proud of the amount of individuality and creativity in Care Plans
- | Ways are found to lessen the effect on the Service User when their freedom of choice has to be restricted in their best interests
- | The wide understanding of the policy is enabled by proactive use of the QCS App



## Forms

Currently there is no form accompanied to this policy.