

Health, Social Care and Housing Committee

10.00 Tuesday 10 November 2015

Safe Caring and Restraint Policy for Social Care Staff

Item number 7.1
Report number
Executive/routine
Wards

Executive summary

This report seeks members' approval of a policy statement in respect of Safe Caring and Restraint. The proposed policy is attached at Appendix 1.

The reasons for the policy are outlined in the report, which sets out expectations on staff with regard to safe caring when this involves the use of some form of restraint. The purpose of the policy is to improve the awareness of staff on what constitutes restraint and to ensure that staff comply with the law and best practice on this issue.

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Safe Caring and Restraint Policy for Social Care Staff

Recommendations

- 1 Committee is asked to approve the policy statement in respect of Safe Caring and Restraint attached at Appendix 1.

Background

- 2 The provision of safe care for people with complex needs is both demanding and challenging. The Council has a duty of care and part of this duty includes not only minimising the risk of harm to individuals, but also promoting personal choice, dignity and the right to take risks. It is important that the use of restraint complies with the law; however, there is no single piece of legislation setting out when restraint is or is not lawful.

Restraint is only likely to be deemed lawful when it is used to:

- prevent significant risk of harm to self or others
- prevent serious damage to property.

Where force is used, it must be the minimum reasonably necessary and proportionate to the behaviour to be controlled.

Main report

- 3 Effective management by staff of aggressive and violent behaviours relies on the skill, competence and confidence of the staff members responding to incidents of this nature. Staff development and training, as part of a safe system of working, will provide skills in verbal de-escalation, appropriate communication styles, exploration of risks associated with challenging behaviours/violence and where necessary, skills and physical intervention techniques.

Measures of success

- 4 Implementation of appropriate training for staff and robust reporting measures in place that safeguard the rights of individuals and keep staff safe.

Financial impact

5 There are no financial impacts.

Risk, policy, compliance and governance impact

6 The Policy on Safe Care and Restraint meets the Council's requirement for having up to date policies describing agreed courses of action or sets of standards for this service area.

Equalities impact

7 The Equality Impact Assessment noted no adverse impacts.

Sustainability impact

8 N/A

Consultation and engagement

9 The policy was developed by consulting with staff. It updates the policy in line with changes to requirements set out by the Care Inspectorate, Mental Welfare Commission Guidance and the relevant legislative frame work.

Background reading / external references

[Lothian-wide Adult Support and Protection: Interagency Guidelines 2013](#)

[Rights Risks and Limits to Freedom Good Practice Guide - Mental Welfare Commission for Scotland 2013](#)

[Joint statement on the use of CCTV in care facilities - MWC for Scotland and SCSWIS and the Scottish Human Rights Commission](#)

[Relevant Care Commission Standards](#)

[Adults with Incapacity \(Scotland\) Act 2000](#)

[Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)

[Scottish Social Services Council – Codes of Practice for Workers](#)

[Safe Caring and Restraint Policy](#)

[The Human Rights Act \(1998\)](#)

[Policy on Violence to Employees at Work \(2003\)](#)

[Covert Medication - Mental Welfare Commission for Scotland 2006](#)

[Safe to Wander - Mental Welfare Commission for Scotland \(2007\)](#)

[Standards of Care for Dementia in Scotland 2011](#)

[Scotland's National Dementia Strategy 2010-13](#)

[Scotland's National Dementia Strategy 2013-16](#)

[Care Inspectorate "Records that all registered care services \(except childminding\) must keep and guidance on notification reporting V5" Publication Code OPS-0212-119, As Amended](#)

[Complaints Procedure – for Service Users](#)

[Guidance for Employees on the Free Expression of staff concerns about the safety and wellbeing of service users](#)

[Incident Report Form \(Form 0072\)](#)

[Restraint Record](#)

[Safe Caring and Restraint Register \(Planned Restraint Register\) Form 0481](#)

[Significant Occurrence Form \(Form 0480\)](#)

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Links

Coalition pledges

Council outcomes

**Single Outcome
Agreement**

Appendices

Policy: Safe Caring and Restraint

Implementation date:

Control schedule

Approved by	<i>(relevant committee)</i>
Approval date	<i>(date committee approval given)</i>
Senior Responsible Officer	Monica Boyle
Author	Gillian Crosby
Scheduled for review	<i>(one year from above date)</i>

Version control

Version	Date	Author	Comment
0.1		Bernadette Thornley	

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
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Safe Caring and Restraint

Policy statement

1. This policy sets out expectations on staff with regard to safe caring when this involves the use of some form of restraint. The purpose of the policy is to improve the awareness of staff on what constitutes restraint and to ensure that staff comply with the law and best practice on this issue in order to promote the rights and safety of service users and the safety of staff and others.

Scope

2. This policy applies to all managers and staff in Health and Social Care with responsibility for the care and/or implementation of care plans and personal plans of service users in care services. It must be read in conjunction with City of Edinburgh Council and Health and Social Care policies in relation to Violence at Work, Health and Safety and in particular, the Health and Social Care ['Safe Caring and Restraint Procedure'](#). Other best practice guidance on this issue is produced by the Mental Welfare Commission for Scotland.

Definitions

3. **Restraint:** for the purpose of this policy document and the accompanying procedure on Safe Caring and Restraint, restraint is broadly defined as – the planned or unplanned, conscious or unconscious actions of care staff, which prevent a service user from doing what s/he wishes to do and as a result places limits on his or her freedom.

Policy content

4.1 Best Practice

The Council acknowledges that the provision of safe care for service users with complex needs is both demanding and challenging. In conjunction with this, the Council has a duty of care to individuals using care services. Part of this duty includes not only minimising the risk of harm to individuals but also promoting personal choice, dignity and the right to take risks. Allowing service users to

take some risk can be an essential part of the individual's care plan and the caring task. Balancing the two responsibilities and deciding when to intervene to minimise risk of harm can therefore be difficult.

In line with best practice, this Council believes that intervention in the caring task by means of restraint must only ever be used as a last resort. It should be in the best interests of the service user, and must be appropriate and proportionate to the behaviour causing concern. To achieve this, staff must be able to recognise when actions constitute restraint, both to avoid inadvertent use of these, and to understand the circumstances in which they should be applied consciously, recorded, reviewed and monitored.

Staff must also use an identified process to determine what is an acceptable risk, what is unacceptable and who is at risk. The assessment and who should be involved are outlined in the accompanying Safe Caring and Restraint Procedure. When followed, this will evidence the decision-making process and the agreed methods of intervention.

The consent of the individual on use of restraint must always be sought and agreed. Restraint without consent should only be considered where the individual has impaired capacity to the extent that he or she does not understand the level of risk to which they are exposing themselves. This does not preclude the use of emergency restraint in unforeseen circumstances.

4.2 **Legal Framework**

It is important that the use of restraint complies with the law. There is, however, no single piece of legislation setting out what is and is not lawful restraint. The following provides limited context to the legal framework within which staff must work.

Under 'common law', restraint could be interpreted as 'assault,' where a physical act without lawful justification causes injury, affront or harm to the individual. Threatening or intimidating gestures could also be described as assaults.

Detention without consent is a crime and some forms of restraint could be described as detention. Legal authority to detain is available in the Mental Health (Care and Treatment) Act 2003 and Adults with Incapacity (Scotland) Act 2000, if someone needs to be detained in a hospital or community setting. These two Acts also make it an offence for anyone to ill-treat or wilfully neglect an individual in their care.

Unnecessary, excessive and degrading restraint is likely to be a breach of the person's human rights.

Care Inspectorate regulations under the [Public Services Reform \(Scotland\) Act 2010](#) state that:

“A Provider must – ensure that no service user is subject to restraint, unless it is the only practicable means of securing the welfare and safety of that or any other service user and there are exceptional circumstances.”

Common law does, however, allow a degree of restraint by an individual to prevent harm to him or herself and to prevent immediate harm to others or serious damage to property. The level of restraint must be reasonable and only applied as long as is necessary to control the situation.

If a learning disability, mental illness or personality disorder puts someone at risk, carers may have a legal duty to restrain in the person’s best interests. Within the caring role, the carer’s duty to the individual includes reasonable action to protect the person from reasonably foreseeable harm.

This is clearly a complex area and best practice is to seek the free consent of an individual with capacity to agreed methods of restraint in advance. No one can consent to the use of restraint on behalf of another person unless they have specific powers to make this decision under the [Adults with Incapacity \(Scotland\) Act 2000](#), e.g. Welfare Power of Attorney.

The National Care Standards provide helpful detail on the need for recording the justification, limits, use and reviewing of restraint.

In the use of restraint, staff must also comply with the terms of the Scottish Social Services’ Council Codes of Practice for workers.

To summarise, application of all forms of restraint can be interpreted as an illegal restriction of an individual’s freedom and a breach of their human rights. Restraint can only be justified legally if it is necessary for the well being and safety of the service user, other service users, staff, volunteers or members of the public.

Restraint is only likely to be deemed lawful when it is used to:

- prevent significant risk of harm to self or others
- prevent serious damage to property
- where force is used it is the minimum reasonably necessary and proportionate to the behaviour to be controlled.

4.3 **Staff Training**

It is Council policy that all managers and staff with responsibility for the care and/or implementation of care plans and the personal plans of service users undergo training appropriate to their role in respect of restraint.

Effective management by staff of aggressive and violent behaviours relies, in part, on the skill, competence and confidence of the staff members responding to incidents of this nature. Staff development and training as part of a safe system of working should equip staff with skills in verbal de-escalation, appropriate communication styles, exploration of risks associated with challenging behaviours/violence and where necessary, skills and physical intervention techniques.

As with all aspects of workforce development, staff will be offered the opportunity to review their development needs in relation to restraint through Induction, Supervision and Performance, Review and Development (PRD).

Staff will receive training to:

- increase awareness and knowledge of issues pertaining to challenging behaviours, aggression/violence and strategies for the management of such behaviour within their particular service
- where identified, staff requiring physical intervention/restraint training skills will be offered training appropriate to the service in which they are employed
- staff should not take any role in the application of physical restraint unless trained in techniques agreed by Health and Social Care and should attempt to use only techniques for which they have been trained.

Training in the use of restraint will be reviewed on an annual basis to ensure it remains fit for purpose.

4.4 **Contact with Police**

It is possible that staff will occasionally be confronted by situations where, following an immediate assessment of the risks involved, they will conclude that it is not possible to achieve physical intervention/restraint safely. These situations, whilst comparatively rare, may, if embarked upon, constitute a Breach of the Peace or possible assault. In these circumstances, the assistance of the police should be considered and action recorded appropriately.

4.5 **Complaints Procedure**

Service users, their carers and advocates must be made aware of their right to use the Social Work Complaints Procedure if they have any concerns about any aspect of the care provided to them, including any restraint applied.

Implementation

- 5.1 All Council employees where safe caring and restraint are part of their job role received appropriate training as described in 4.3.

Roles and responsibilities

- 6.1 Staff roles and responsibilities are described in the Safe Caring and Restraint procedure.

Related documents

- 7.1 [Policy on Public Interest Disclosure](#)
[Social Work Complaints Policy](#)
[Social Work Complaints Procedure](#)
[Safe Caring and Restraint Procedure](#)
[Staff: Concerns \(Reporting of\) Staff: Allegations of Abuse \(against\)](#)
[The Council Violence to Staff Policy \(2014\)](#)

Equalities and impact assessment

- 8.1 For details of the completed EIRA form, please access the relevant committee report.

Strategic environmental assessment

- 9.1 N/A

Risk assessment

- 10.1 Risk assessments and management are described in the Safe Caring and Restraint procedure.

Review

- 11.1 This policy will be reviewed on an annual basis.