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POLICY ON THE USE OF LOCKED DOORS OR OTHER MECHANISMS INTENDED TO RESTRICT THE FREEDOM OF A SERVICE USER TO LEAVE A DRH FACILITY.

INTRODUCTION

This policy is based on the 1983 Mental Health Act Code of Practice. Failure to adhere to the principles set out below could result in the false imprisonment of a service user.

We have a duty to promote the wellbeing and safety of our service users but only in extreme circumstances can we restrict the freedom of an informal service user to enter and leave a facility at will. However, the Code of Practice does recognise the need to ensure the well-being of informal service users who would be at risk of harm if they were allowed to *accidentally* wander from a DRH facility. Common law would not provide authority for the detention of informal service users who *persistently* and *purposefully* attempt to leave the facility. In these cases it would be proper to consider whether it would be appropriate to either seek an assessment with a view to detention under the MHA and if necessary a transfer to a more appropriate facility – or an application under the Deprivation of Liberty Safeguards.

(NB - the term “informal” refers to any service user who has not been formally detained under the provisions of the Mental Health Act)

This Policy refers to restricting egress from a DRH facility. It does not permit the locking of a service user’s door in order to seclude them within that room. DRH does not permit the use of locked rooms for the purpose of seclusion.

1. The safety of informal service users who would be at risk if allowed to wander out of a DRH Facility alone should usually be secured by means of adequate staffing and good surveillance. Service users should normally be able to enter and to leave the facility at will. However it may be necessary to place some restrictions on those informal service users who would be at significant personal risk if allowed to *accidentally* wander from the facility unaccompanied. It may also be necessary to place similar restrictions on the movements of any detained service user within an Independent Mental Health Hospital (i.e. Fairfield House or Elsadene). DRH recognise that these restrictions may, unintentionally, impede the freedom of informal Service users.

2. These restrictions - which may include double handles, or an electronic coded lock should be used as little as possible and only in those facilities where there is a regular and significant risk of service users wandering off *accidentally* and, as a result, being at risk of harm. In very exceptional circumstances and for short periods only, exit may also be restricted by use of a conventional lock. The use of any restriction to the freedom of informal service users must be reviewed frequently – and the outcome of these reviews must be documented. When these restrictions are no longer justified by the need to safeguard individual service users, they should be removed. Alternatives to this kind of restriction, such as a simple bell, which sounds when the door is opened and serves to alert staff, should be considered.

3. The purpose of any restriction should be explained as clearly as possible to all service users, any close relative or friend and to all staff. The restrictions which are in place (or which may occasionally be in place) should be described in the facility's' brochure together with a rationale for the use of these restrictions.

4. Every effort should be made to allow service users as much personal freedom as is considered compatible with individual safety. An appropriate risk assessment should be undertaken and recorded for each service user whose ability to freely leave the facility is deliberately limited by such restrictions. The chosen actions for dealing with any risk should also be clearly documented within the service user's care plan.

5. Staff should take every reasonable step to minimise the impact of any restrictions for those service users whose freedoms are limited by the restrictions intended for others. These steps will include frequent reassurance that the service user may leave at any time they wish and need only speak to a member of staff to open the door.

6 The care of any informal service user whose persistent and purposeful attempts to leave the facility are regularly frustrated by staff and/or mechanical door restrictions on the grounds of safety should be urgently reviewed. This review should consider whether detention may be necessary under the 1983 Mental Health Act or an application under the Deprivation of Liberty Safeguards.

7. On rare occasions it may be deemed necessary by the person in charge to lock a facility (which is not normally locked) for all or part of a shift when the behaviour of either a detained or (in extreme circumstances) an informal service user poses a significant and urgent risk to that service user or to others.

When such action is taken the shift leader must:

- a) Inform all staff why this action is being taken and for how long
- b) Inform the service user or service users whose behaviour has led to the facility being locked of the reason for taking such action
- c) Inform all other service users that they may leave on request at any time and ensure that someone is available to lock the door
- d) Inform the Chief Executive/Deputy Chief Executive of the action being taken

- e) Keep a record of this action and the reasons and complete an Adverse Incident Form.

When handing over to the person in charge of the next shift, a full account of the reasons for this decision and the actions taken should be given.

8. An informal service user can only be prevented from exercising their right to leave the facility when this would present an urgent and significant risk to the health and wellbeing of that service user or to others. The service user can be prevented from leaving by staff using common law powers. However, in an Independent Mental Health Hospital registered to take detained Service users the Nurses Holding Power should be applied, in such circumstances, by nurses holding the appropriate qualification.

It may be appropriate in certain cases to refer to the DRH Guidelines and Policy on the Use of Physical and Restrictive Interventions.

LOCAL POLICIES

Staff should ensure that they are conversant with any local policies regarding locked doors (etc.) and understand the provisions relating to these issues which may be contained within an individual service users risk assessment, health, safety & well-being plan and support plan.

MENTAL CAPACITY ACT 2005 – Deprivation of Liberty

New Deprivation of Liberty safeguards are to be introduced from April 2009 to protect people in care homes who lack mental capacity and who are subjected to *severe* restrictions on their personal liberty. The safeguards provide a framework for approving the deprivation of liberty for people who lack the capacity to consent to treatment or care in either a hospital or care home that, in their own best interests, can only be provided in circumstances that amount to a deprivation of liberty.

There are various ways in which the term “Deprivation of Liberty” has been defined but the following is a useful summary, referring to situations where:

“Staff exercise complete and effective control over the care and movement of a person for a significant period”

DRH do not support any service user that would require such high and intensive levels of control.

The Code states that:

“Preventing a person from leaving a care home or hospital unaccompanied because there is a risk that they would try to cross a road in a dangerous way, for example, is likely to be seen as a proportionate restriction or restraint to prevent the person from coming to harm. That would be unlikely, in itself, to constitute a deprivation of liberty. Similarly, locking a door to guard against immediate harm is unlikely, in itself, to amount to a deprivation of liberty.”

Restrictions currently in use within DRH Homes/Hospitals would fall into the category of proportionate restriction.

References:

Department of Health (2008) – *Code of Practice Mental Health Act 1983*, paragraphs 19.24-19.29, London, HMSO.

Department of Health (2004) – *Advice on the decision of the European Court of Human Rights in the case of HL v UK (The “Bournewood” case)*, London, HMSO.

Department of Health (2005) – *The Bournewood Case*, London, HMSO.

Ministry of Justice (2008) *Mental Capacity Act 2005: Deprivation of liberty safeguards - Code of Practice to supplement the main Mental Capacity Act 2005 Code of Practice*.

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