

# Adult Services Regulation

## Guidance on the regulation and the use of restraint

## Purpose of this guidance

The purpose of this guidance is to highlight current legislation and best practice on the consideration and use of restraint in care services. It outlines the role of the Care Commission and service providers in relation to this.

### Definition of restraint

There are two definitions of restraint, which impact on the work of the Care Commission.

**The National Care Standards (NCS)** define restraint as:

‘Control to prevent a person from harming themselves or other people by the use of ...

- physical means (actual or threatened laying of hands on a person to stop them carrying out a particular action);
- mechanical means (for example, wrapping someone in a sleeping bag or strapping them to a chair);
- environmental means (for example, using cot sides to prevent someone getting out of bed);  
or
- medication (using sedative or tranquillising drugs for the symptomatic treatment of restlessness or agitated behaviour)’.

The Mental Welfare Commission defines restraint, in its broadest sense, within their best practice guidance document “Rights, Risks and Limits to Freedom (2006)

‘...restraint is taking place when the planned or unplanned, conscious or unconscious actions of care staff prevent a resident or patient from doing what he or she wishes to do and as a result is placing limits on his or her freedom’.

The Mental Welfare Commission further defines the following means of restraint:

- Direct physical restraint (holding someone)
- Direct mechanical restraint (lap belts or bedrails)
- Locking doors
- Video surveillance
- Passive alarms
- Medication.

There are also indirect limits to freedom such as:

- taking away walking aids;
- control by staff; and
- financial controls.

## Regulations

SSI 114 / 2002 Regulation 4(1) (b) and (c) state that providers shall:

- ‘...provide services in a manner which respects the privacy and dignity of service users...’
- ‘...ensure that no service user is subject to restraint unless it is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances ...’

## Principles of intervention

The principles behind the Adults with Incapacity (Scotland) Act 2000 must be considered when any form of restraint is being considered or used. These are, that any action taken will:

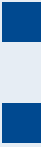
- benefit the person
- be the minimum intervention required.
- take account of the wishes of the person.
- involve consultation with relevant others.
- encourage the person to use existing skills or develop new skills.

The provider must demonstrate and record that these principles have been considered prior to using any form of restraint or safety measure for the health and well-being of the individual service user.

## Role of the provider

The service provider must:

- comply with the SSI 114/2002 Regulation 4(1) (c) and, take account of the relevant National Care Standards and best practice guidance
- try to understand any behaviour that might put a person, or other people using the service, at risk
- adopt the least restrictive way of managing those risks, using the intervention for the least amount of time required to deal with the risk
- have assessed whether the needs of the service user can be met by changing staff numbers or how they are deployed and whether changes to the environment could reduce the perceived risk. This may include the layout of furniture within the building, the use of clear signage, good lighting, the form of security currently in place etc.
- clearly document the full details of any instance of restraint and why this is being used as a safety measure
- regular review process
- make the full meaning of restraint clear in policies and procedures
- ensure that staff understand the use of restraint and use legislation and best practice to guide their practise
- Ensure staff know safe means of applying restraint.



In addition it may be useful to refer to “10 Questions to Consider” published by The Dementia Services Development Centre ([insert link here](#)).

The provider also has a responsibility for ensuring that staff are suitably qualified, trained and competent to meet the needs of service users, Regulation SSI 114/2002 13(a) (b) and (c).

### **Risk-benefit assessment\***

When a provider is using restraint either as a direct intervention or a safety measure, they will need to have undertaken a comprehensive risk-benefit assessment and documented outcomes and actions. Any actions should make clear that they are the only practicable means of securing welfare and detail the exceptional circumstances - SSI 114/2002 Regulation 4(1) (c).

The documented risk-benefit assessment should include details of the following in the care plan:

- the involvement of the person and/or their relative or main carer/representative
- the behaviour or situation that is seen as causing the risk. Assessment should include factors such as physical illness, pain, side effects of drugs, psychological issues and consideration of a medical assessment
- the potential and/or actual risks to the service user and others eg if bed rails were being considered as an option, was the person’s ability to climb up and fall from a greater height assessed
- the options that have been considered and the reasons why each has been discounted
- what action is being considered and/or implemented – this should start with the least intrusive response and should include the benefits to the individual, whose interests should be paramount
- What action is being considered and/or implemented where restraint is needed to safeguard other individuals
- what outcome is expected, including the costs/benefits to the service user as a result of the action being taken
- how all staff will be made aware of the action being taken
- the training that has been made available to staff to ensure that they can manage the intervention and take the any appropriate action needed
- the system for monitoring the appropriateness of the intervention, evaluating its effectiveness and taking any further action as required
- Recording when the response will be reviewed.

\*“Risk-benefit assessment” replaces the term “risk assessment” taking account of recommendations from the Nuffield Council. “Regulators should require care providers to consider risks not in isolation, but in the context of a risk-benefit assessment and should replace the term ‘risk assessment’ with the term ‘risk-benefit assessment’.”

### **Record Keeping**

SSI 114/2002 19 (3)(a) states that providers must:

- ‘keep a record of any occasion on which restraint or control has been applied to a user, with details of the form of restraint or control, the reason why it was necessary and the name of the person authorising it’

## Role of the Care Commission

Our role is to ensure that providers:

- know about all forms and examples of restraint being used in their service
- keep an accurate, up to date record of all instances when restraint has been considered or is being used
- are able to evidence that any intervention is the outcome of a comprehensive risk-benefit assessment and is being used as a safety measure
- are aware of relevant legislation and best practice guidance about the use of restraint.

## Points to be noted

- This guidance does not apply to Criminal Justice services where restraint using electronic tagging is a disposal made by a Court
- While the principles in this guidance apply to all services, reference should be made to guidance relating to children.

## Best practice guidance

- Rights, Risks and Limits to Freedom – Mental Welfare Commission.
- British Institute of Learning Disabilities – Physical Interventions
- Management of Patients with Dementia - Scottish Intercollegiate Guideline Network, SIGN 86 (2006)
- 10 Questions to Consider – A guide for General Practitioners to assist in managing patients with dementia – Dementia Services Development Centre (2009)
- Alzheimer's Society: Policy Positions: Electronic Tagging

## Useful websites:

[www.alzheimers.org.uk](http://www.alzheimers.org.uk)

[dementia.stir.ac.uk](http://dementia.stir.ac.uk)

[www.mwcscot.org.uk](http://www.mwcscot.org.uk)

**Adults with Incapacity (Scotland) Act 2000**

<http://www.hms.gov.uk> follow links for Scotland Legislation

[http://www.bild.org.uk/physical\\_interventions/summary\\_of\\_principles.htm](http://www.bild.org.uk/physical_interventions/summary_of_principles.htm)

<http://www.sign.ac.uk>

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