

Mental Capacity Policy

1 Purpose

At Metropolitan Thames Valley Housing (MTVH) we believe that customers should be able to make decisions for themselves wherever possible. Where we feel that a customer is not able to make decisions, we make sure customers are formally assessed. We follow the underlying philosophy of the Mental Capacity Act and ensure that those who lack capacity are empowered to make as many decisions for themselves as possible and that any decision made, or action taken, on their behalf is made in their best interests.

2 Scope

This policy sets out our approach to:

Customers who may lack the mental capacity to make particular decisions for themselves. The policy should be read in conjunction with the related procedures, guidance and training material.

The policy and accompanying procedures apply to:

- Customers who live in accommodation owned or managed by us
- Customers we deliver community-based services to or that we may encounter in our work
- All colleagues, including agency, bank workers, students, peer mentors and volunteers

Colleagues must adhere to this policy and relevant procedures. Colleagues not complying with the policy and relevant procedures may face disciplinary action under MTVH's Disciplinary Policy.

3 Our Approach

Our approach is based on the five principles central to the Mental Capacity Act:

- Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise.
- A person must be given all practicable help before anyone treats them as not being able to make their own decisions.
- Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision.
- Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests.
- Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.

3.1 Mental Capacity Assessment

We will ensure a Mental Capacity Assessment is carried out wherever we identify any customer who may lack capacity to make some decisions. Assessments will follow our own and Local Authority processes and be fully documented. We will involve all relevant authorities in the assessment to avoid the risk or allegation of conflict of interest. Where an assessment has been carried out and a customer confirmed as lacking in capacity, we will monitor future changes in capacity in line with the support plan and arrange re-assessment where necessary.

3.2 Advance Decisions

As part of our customer support planning process, we will always ask customers for information on any plans they have made for when their capacity might become lessened. If customers have not made plans, we will support them to do so. Any known plans will be recorded as part of our support planning process.

3.3 Best Interest Decisions

If people are not able to make decisions and have been assessed as not having Mental Capacity, they will be supported to take part in the decision-making process and any decisions taken on their behalf will be based on the customer's known wishes. Any Best Interest Decisions will involve all relevant agencies, professionals and family/friends and be clearly documented. We understand that such decisions may be reviewed as part of formal proceedings at any time and therefore will be comprehensive and accurate.

3.4 Deprivation of Liberty

We will provide support to customers who lack mental capacity in the least restrictive way. We will only consider depriving a customer of their liberty when this is in the customer's best interest and for their own safety. We will always apply for authorisation, using the Local Authority's process, prior to depriving a customer of their liberty.

3.5 Joint working

MTVH works in partnership with other agencies and key stakeholders who may be involved in supporting customers. In relation to mental capacity in particular, this may include local authorities, health professionals, partners and family, Court of Protection and advocacy services. We will always work with the local authority where we have a concern about a customer's ability to make decisions. Any actions we take regarding a customer's mental capacity will be in line with the local authority's processes.

3.6 Working Together in Partnership

We are committed to working in partnership with specialist services. We will work with the Police, Social Care teams, Health and Local Safeguarding Children or Adult Boards (LSCB and SAB) or their equivalent Strategic Partnership Boards in accordance with their local procedures, thresholds, and information-sharing protocols.

3.7 Third Party Organisations

We have several third-party contract arrangements with landlords, support providers, contractors, and suppliers. Our contract specifications will require our partners to comply with this policy and accompanying procedures and for this to be reflected in their own policies and procedures.

4 Background legislation

This policy has been written to ensure that MTVH complies with all the relevant Legal and Regulatory frameworks including:

- Mental Capacity Act 2005 (including Deprivation of Liberty Safeguards)
- Equality Act 2010
- Health and Social Care Act 2008
- The Human Rights Act 1998

5 Our commitment to Equality, Diversity, and Inclusion

In implementing this policy MTVH will not discriminate against any colleague, customer, or stakeholder on the grounds of their sex, sexual orientation, gender reassignment status, ethnic origin, age, religious belief, disability, marital status, and pregnancy/maternity.

An Equality Impact Assessment has been completed for this Policy and is retained by the Policy Team.

6 Key Policy Information

Policy Owner	Customer Services Directorate
Author	Head of Care and Support
Approved by	Customer Services SLT
Effective from	March 2023
Approach to review	This Policy & associated Procedures will be reviewed as required by the owner for changes in legislation, regulation, and operational need. Any amendments will be appropriately consulted on and signed off before being clearly communicated to customers and colleagues. Next expected review is 5 years from the 'Effective date' of this document.
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