Basildon and Thurrock University Hospitals NHS
NHS Foundation Trust

Document Title:	Use of Restraint When Working With Adult Patients Policy
Document Purpose:	To understand what restraint is, when it can be used and the ethical and legal implications for patients and staff
Document Statement:	To provide a framework for staff to consider the ethical and legal implications for the patient and for staff in using restraint to modify patient behaviour
Document Application:	All clinical areas
Responsible for Implementation:	All Directorates

Main imperatives of this document are:

- A single approach to restraint is not appropriate and can present significant risks to patients and staff, each situation is different and must be individually thought through and risk assessed.
- Understanding the legal requirements of healthcare practice is essential to protect patients from unjustifiable restraint and staff from the implications of potential improper conduct.
- Restraint should be considered as a last resort and practitioners should consider alternative interventions to promote safety and respect the dignity of the person
- The policy should always be used in conjunction with the BTUH Mental Capacity Act 2005 policy and Deprivation of Liberty policy
- In all situations staff should only ever act within their competence and according to their delegated responsibility. In reaching a decision to use restraint BTUH staff must select the method that is the most appropriate least restrictive option for the patient.

Document Classification:	Corporate	**Document Reference:**	CO/PO/00131
Version Number:	1.1	**Secondary Reference:**	
Issued by:	Director of Nursing	**Effective Date:**	May 2011
Author:	Associate Director of Quality	**Review Date:**	Extension to 30 September 2021
Sponsor:	Deputy Director of Nursing	**Expiry Date:**	May 2021

Associated Documents

1. BTUH Mental Capacity Act 2005 policy
2. Consent to treatment and examination policy
3. BTUH Deprivation of Liberty Safeguards policy
4. Policy and Procedure for Care of Individuals whose behaviour is unacceptable, violent, aggressive or abusive
5. Safeguarding Adults Policy

APPROVAL RECORD

Validated by Facilitator:	Document Control Group	**Date:** May 2011
Agreed by Specialist Group:	Board of Clinical Directors	**Date:** May 2011
Approved:	Board of Clinical Directors	**Date:** May 2011

The full document can be accessed through the Document Management System

DOCUMENT HISTORY

Revision History

Revision Date	Previous Revision Date	Summary of Changes	Changes marked
May 2011		New policy.	
Version No.	**Summary of Changes**		**Issue date:**
1.1	6 month extension due to MSE standardisation		08 March 2021

Policy for the Use of Restraint when working with Adult Patients

CONTENTS

1. INTRODUCTION

1.1 Restraint is the use or threat of force to help do an act which the person resists, or the restriction of the person's liberty of movement, whether or not they resist. Restraint may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm. (Mental Capacity Act 2005: Code of Practice).

1.2 According to established international definitions restraint is defined as 'the intentional restriction of a person's voluntary movement or behaviour.' In this context, 'behaviour' means planned or purposeful actions, rather than unconscious, accidental or reflex actions. An alternative plain English definition is 'stopping a person doing something they appear to want to do.' (RCN 2008)

1.3 The purpose of this policy is to provide staff working at Basildon and Thurrock University Hospitals NHS Trust (the Trust) with a conceptual framework for considering the ethical and legal implications of using restraint as a method of modifying a patient's behaviour.

The policy should always be used in conjunction with the Trust's Mental Capacity Act 2005 Policy and Deprivation of Liberty Policy

2. DEFINITIONS

2.1 Types of restraint

2.1.1 Physical restraint

Physical restraint could involve holding a patient down or physically intervening to stop them from leaving an area.

2.1.2 Mechanical restraint

This involves the use of equipment. Examples include specially designed mittens in care settings; everyday equipment, such as using a heavy table or belt to stop the person getting out of their chair; or using bedrails to stop a patient from getting out of bed. Controls on freedom of movement – such as keys, baffle locks and keypads – can also be a form of mechanical restraint.

2.1.3 Technological surveillance

This could include techniques such as tagging, pressure pads, closed circuit television, or door alarms – is often used to alert staff that the person is trying to leave or to monitor their movement. Whilst not restraint in themselves, they could be used to trigger restraint, for example through physically restraining a person who is trying to leave when the door alarm sounds.

2.1.4 Chemical restraint

This method involves using medication to modify behaviour such as through sedation. Consideration must be given to the patients rights under the Deprivation of Liberty Safeguards and consideration given to whether an application to deprive them of their liberty should be made in accordance with Trust policy.

2.1.5 Psychological restraint

Psychological restraint can include constantly telling the person not to do something, or that doing what they want to do is not allowed, or is too dangerous. It may include depriving a person of lifestyle choices by, for example, telling them what time to go to bed or get up. Psychological restraint might also include depriving individuals of equipment or possessions they consider necessary to do what they want to do, for example taking away walking aids, glasses, outdoor clothing or keeping the person in nightwear with the intention of stopping them from leaving.

2.2 If an action fits the definition of restraint, it is not automatically unacceptable or wrong although malicious and abusive use of restraint can occur, however it is important to accept that the majority of decisions about restraint are not always easy or straightforward.

2.3 It is not possible within this policy to give a list of what kind of equipment, physical holding, or medication constitutes restraint, as it depends upon the circumstances. A piece of equipment, physical hold, or medication may equal restraint in some circumstances, but not others.

2.4 Other definitions

2.4.1 Abuse: the improper usage or treatment for a bad purpose, often to unfairly or improperly gain benefit, physical or verbal maltreatment, injury, sexual assault, violation, rape, unjust practices; wrongful practice or custom; offence; crime, or otherwise verbal aggression. Abuse can come in many forms.

2.4.2 Best Interests: Any decisions made, or anything done for a person who lacks capacity to make specific decisions, must be in the person's best interests. There are standard minimum steps to follow when working out someone's best interests of the Mental Capacity Act 2005 Code of Practice.

2.4.3 Deprivation of Liberty: Deprivation of liberty is a term used in the European Convention on Human Rights about circumstances when a person's freedom is taken away. Its meaning in practice is being defined through case law.

2.4.4 Deprivation of Liberty Safeguards: The framework of safeguards under the Mental Capacity Act 2005 for people who need to be deprived of their liberty in a hospital or care home in their best interests for care or treatment and who lack the capacity to consent to the arrangements made for their care or treatment.

2.4.5 Managing authority: this is the person or body with management responsibility for the hospital or care home in which a person is being, or may be, deprived of liberty for the purposes of this policy this is Basildon and Thurrock University Hospital NHS Foundation Trust (BTUH).

2.4.6 Mental Capacity: The ability to make a decision about a particular matter at the time the decision needs to be made. The legal definition of a person who lacks capacity is set out in section 2 of the Mental Capacity Act (2005).

2.4.7 Restraint: The use or threat of force to help do an act which the person resists, or the restriction of the person's liberty of movement, whether or not they

resist. Restraint may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm.

2.4.8 Supervisory body: this refers to PCTs (or commissioners) and local authorities and for the purposes of this policy refers to NHS South West Essex.

3. ROLES AND RESPONSIBILITIES

3.1. **Chief Executive** is responsible for ensuring that all care and interventions provided by staff in BTUH are within the law and respects the Human Rights of each individual. The named person on BTUH Board with responsibility for this policy is the Director of Nursing supported by the Medical Director.

3.2. **Director of Nursing/Medical Director** are corporately responsible for the implementation of this policy. This includes: (a) the identification of when the policy is reviewed and updated and the time frame for the process to be undertaken (b) the identification of the responsible Governance Group to which monitoring reports are sent (c) ensuring that the Trust provides/supports the training required for staff to undertake the task and that there is an appropriate competency framework to support this.

3.3. **General Managers/HoN** are responsible for ensuring staff are aware of and have access to this policy, that staff are released for training and are appropriately supported to implement the policy

3.4. **Safeguarding Named Nurse** – Adults is responsible for ensuring staff are adequately supported to implement this policy

3.5. **Senior clinical healthcare professionals** are responsible for recognising any instance of possible Deprivation of Liberty Safeguards (DOLS) in the ward/departmental areas and ensuring that adequate care planning takes place to avoid a request under DOLS or when appropriate apply for a DOLS authorisation.

3.6. **All Nursing and Medical staff and AHPs** have a responsibility to provide safe and effective care, while working within the law and respecting the human rights of individuals. Each person is accountable for the decisions they make and the consequences of those decisions.

4. GUIDANCE ON THE USE OF RESTRAINT.

4.1 When might restraint be used?

Adults who may be at risk can be justifiably restrained in some cases, in the following circumstances:

- Displaying behaviour that is putting themselves at risk of harm
- Displaying behaviour that is putting others at risk of harm
- Requiring treatment by a legal order, for example, under the Mental Health Act 2007

- Requiring urgent life-saving treatment
- Needing to be maintained in secure settings.

Staff should note the following key points:

- A single approach to restraint is not appropriate and can present significant risks to patients, each situation is different and must be individually thought through and risk assessed
- Understanding the legal requirements of healthcare practice is necessary to protect patients from unjustifiable restraint
- Restraint should be considered as a last resort and practitioners should consider alternative interventions to promote safety and respect the dignity of the person

4.2 Restraint as a last resort

In most circumstances restraint can be avoided by positive changes to the provision of care and support for the patient.

When a patient cannot give informed consent, staff should always explain what they are doing, seeking their understanding and agreement. Clear plans of care and evaluation records must always be kept outlining how decisions to restrain were reached, the type of restraint chosen and how patients and their relatives were kept informed about decisions.

4.3 Ethical principles

This policy applies to all staff working at the Trust, regardless of professional background. The RCN (2008) has developed a number of principles to help nurses make decisions, however these are equally applicable to any professional member of Trust staff working and should be considered before taking a decision to restrain or restrict a patient's activities.

- Obligations and duties identifying our moral obligations to other people can help us determine what we should do in a given situation
- Avoiding harm – perhaps the most essential ethical concept and the basis for good practice
- Assessing the consequences of action – the ethically appropriate action may be determined by calculating its potential benefits and harm
- Autonomy and rights – respect for the individual's rights to make their own decisions and respect for the rights of others
- Best interests – identifying and acting in the best interests of others is a commonly applied means of ethically justifying an action or decision
- Values and beliefs – from which we may formulate ethical principles.

4.4 Conceptual framework

Making ethical decisions can often be complex and difficult and involve a process of balancing beliefs, values and physical needs of individuals. Staff working at the Trust should base decisions by analysing their implications for the patient using a framework such as the Four Quadrant Approach outlined below.

- **Indications for medical intervention:**

What is the diagnosis?
What are the treatment or intervention options?
What is the prognosis for each of the options?

- **Preferences of the patient:**

Is the patient competent?
Does he/she have capacity to make a decision about their care?
If so what does he/she want?
If not what is in his/her best interests?

- **Quality of life:**

Will the proposed treatment or intervention improve the patient's quality of life?
Will the burdens or risks of the intervention outweigh the benefits?

- **Contextual features:**

What cultural, religious, contextual or legal factors affect the decision?

(UK Clinical Ethics Network 2011)

4.5 Using restraint when working with patients.

In all situations staff should only ever act within their competence and according to their delegated responsibility. In reaching a decision to use restraint BTUH staff must select the method that is the most appropriate least restrictive option for the patient.

In assessing as to whether restraint should be used, the member of staff should assess the situation in relation to the risks to the individual, the risks to the member of staff and the risks to other people. These risks should be balanced against the identified benefits of using the restraint.

5. THE MENTAL CAPACITY ACT (2005)

Decisions to use restraint must be taken into consideration with the Mental Capacity Act (2005) (MCA). The underlying philosophy of the MCA is to ensure that individuals who lack capacity are the focus of any decisions being made or actions taken on their behalf.

The MCA sets out the statutory framework for the protection of people who may lack capacity to make some decisions themselves, based on current best practice and common law principles. It also makes it clear who can take decisions in which situations and enables people to plan ahead (Advance Decisions) for a time when they may lack capacity.

Staff should be mindful that from April 2007, the MCA introduced a new criminal offence of ill treatment or wilful neglect of a person who lacks capacity. A person found guilty of such an offence may be liable to imprisonment for a term of up to five years.

Staff should refer to the Trust **Mental Capacity Act 2005 Policy** for full guidance and note that when dealing with issues of restraint staff will be expected to demonstrate

that they have taken proper action when taking 'best interest' decisions for various levels of decision-making.

Under the Mental Capacity Act (2005) (MCA) restraint can be used if the following conditions are met:

- The member of staff reasonably believes that the person lacks mental capacity (this should be documented in line with the MCA using the two stage test and the four step functional test).
- The restraint is in the person's best interest (this assessment is completed using the best interests checklist) [Mental Capacity Act (2005) policy].
- The restraint implemented is a proportionate response to the risks identified and the seriousness of the possible consequences.
- The restraint implemented is the least restrictive option that meets the identified need.
- The restraint is in place for the minimum time appropriate to meet the needs of the patient.

The staff member should consider the options available which may include:

- using the risk assessment processes in place to manage the clinical situation (e.g. care planning for the risk identified)
- ending the interaction
- informing the person how they might complain
- asking a colleague to witness the interaction
- asking a colleague to take over the situation
- using the process and principles set out in the Mental Capacity Act (2005)
- using the process and principles set out in the Deprivation of Liberty Safeguards Code of Practice (2008)
- assessment of a person's mental health with the support of the mental health services
- calling the police for assistance

The use and type of restraint **must** be documented, including the completed risk assessment. If the use of restraint is on-going then the restraint should be reviewed daily to ensure it continues to meet the conditions above.

The use of restraint should be reported to your manager (or out of hours the manager supervising your area) in all cases. An incident should be reported as necessary.

6. DEPRIVATION OF LIBERTY SAFEGUARDS

The Deprivation of Liberty Safeguards (DOLS) are applicable where it is possible that the level of restraint required for a patient in hospital goes beyond the restraint authorised in section 6 of the Mental Capacity Act 2005. That is it goes beyond the following two conditions:

- First, the person taking action must reasonably believe that it is necessary to use restraint in order to prevent harm to the person lacking capacity (section 6.2).

- Second, the act of restraint has to be a proportionate response, in terms of both degree and duration, to the likelihood of the person who lacks capacity suffering harm and the seriousness of that harm (section 6.3).

The DOLS have been developed to protect people's human rights. They are a transparent process that enables individuals (or their representative) to challenge the restraint put in place. Having a DOLS authorisation in place is a reflection of careful assessment of the patient's needs and subsequent care planning to manage those needs.

Staff should refer to the Trust's Deprivation of Liberty Safeguards Policy.

It is the responsibility of the staff on the ward to recognise that they may be depriving someone of their liberty and to instigate an application.

If you have a query relating to the Mental Capacity Act (2005), Deprivation of Liberty Safeguards or Safeguarding Adults please call Safeguarding Adults Advisor Bleep 6508, for advice.

6.1 Applying for a DOLS Authorisation

(Please refer to the Trust's Deprivation of Liberty Safeguards Policy)

This is the responsibility of the senior clinician (e.g. Senior Sister) responsible for the ward or department. The Trust is known as the Managing Authority. The senior clinician should contact the Supervisory Body which is currently NHS South West Essex:

If the senior clinician believes the ward is depriving someone of their liberty, then they should complete an **Urgent Authorisation** form and following consultation with the Deputy Director of Nursing send this to the Supervisory Body Office immediately. The Urgent Authorisation will sanction the restraint being implemented for 7 days.

The senior clinician should then complete a **Standard Authorisation** application form and following consultation with the Deputy Director of Nursing send this to the Supervisory Body Office as soon as possible. The application will result in the Supervisory Body commissioning an objective assessment of the care in place, assessing that it is in the person's best interests, is proportionate and is the least restrictive option.

Authorisation forms are available via the Trust's intranet, under the title Deprivation of Liberty Safeguards (Adult Safeguarding)

The process for a DOLS application is shown diagrammatically in appendix 1.

The DOLS application must be notified to the Care Quality Commission. The Deputy Director of Nursing does this and must therefore be notified by the Senior Sister at the time of the application (urgent or standard) being made

6.2 Sending and receiving applications to the supervisory body

How to send Applications and Methods of Communication in Office hours Monday to Friday 9.00am to 5.00pm

All applications made to NHS SW Essex will be managed in the Integrated Governance Department by Head of Integrated Governance and MCA/DOLS Administrator and deputies in absence

By Email:

Managing Authorities will be expected to send any applications to the Supervisory Body of NHS South West Essex via the dedicated email address - swe.dol@nhs.net. All Managing Authorities have been informed of this email address

By Post:

Applications to be addressed to:
Head of Integrated Governance
NHS South West Essex
Phoenix Court
Christopher Martin Rd
Basildon SS14 3HG

Telephone Calls:

Note that telephone calls cannot be used made to make an application, but can be used to confirm receipt

Weekend Applications

Any application made out of hours weekend and bank holidays will be actioned the next working day. This will be kept under review in the light of applications received.

The MCA/DOLS Administrator will ascertain whether any applications have been made to the Supervisory Body on a daily basis. Where applications have been received, the MCA/DOLS Administrator will inform the Head of Integrated Governance

7 TRAINING REQUIREMENTS

All clinical staff will have access to Mental Capacity Act training at least every three years; uptake will be monitored within Directorates and reported to the Clinical Governance Committee.

The Trust will revise the MCA training programme to include types of restraint and the use of DOLS

8 MONITORING AND AUDIT

Compliance with this Policy will be subject to an annual audit, as part of the corporate audit programme and will reported to Vulnerable Adults Steering Group. Every application for a DOL Safeguards will be quality assured and reported monthly to the Clinical Governance Management Group.

9 APPROVAL AND IMPLEMENTATION

9.1 Approval

Approval of the document will be through the Board of Clinical Directors and will be sent to the Clinical Governance Committee for information.

9.2 Implementation

This document will be available electronically on the Trust intranet and staff will be informed of any updates via the Trust Core Brief. Hard copies of the policy will be available via designated hard copy libraries in accordance with the Controlled Documents policy. Implementation and training will be via the Trust Safeguarding Adults Group. When restraint results in an incident form this will be monitored through the Risk Management Steering Group

10 AUTHOR AND CONTENT CONTRIBUTORS

Associate Director of Quality (interim)
Adult Safeguarding Lead

11 REFERENCES

Mental Capacity Act 2005 Code of Practice (2007). TOS. London

Mental Capacity Act 2005: Deprivation of Liberty Safeguards: Code of Practice to supplement the main Mental Capacity Act 2005 Code of Practice (2008). TOS. London

RCN (2008) Let's talk about restraint RCN (London)

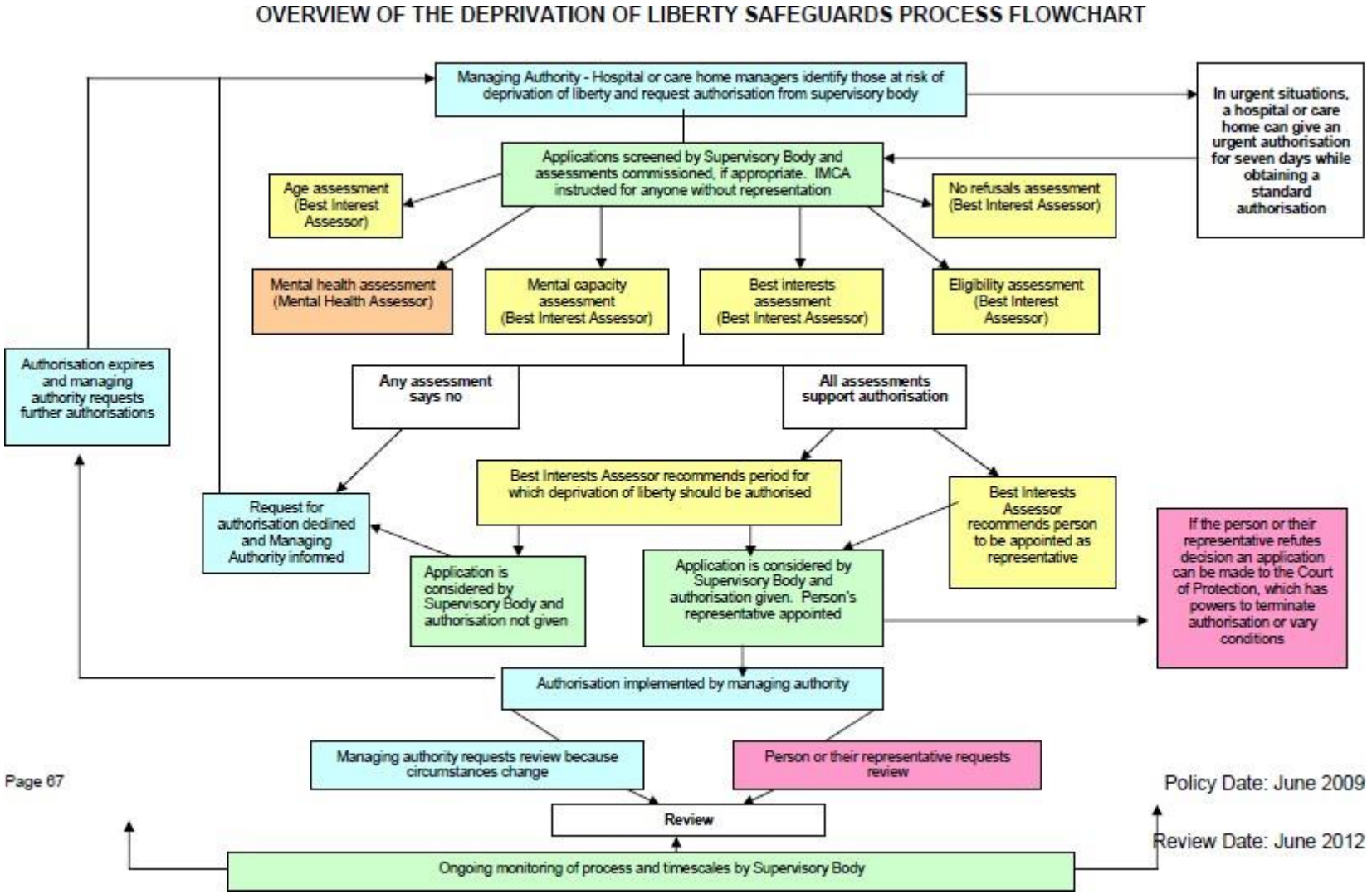
UK Clinical Ethics Network 2011 The four quadrant approach
Jonsen, Siegler and Winslade; Clinical Ethics: A Practical Approach to Ethical Decisions in Clinical Medicine; 3rd edition McGraw-Hill 1992

South West Essex Deprivation of Liberty Policy

12 APPENDICES (if applicable)

Appendix 1 Overview of the Deprivation of Liberty Safeguards process flowchart

Appendix 1 (Source SW Essex PCT DOLS policy)



Policy Date: June 2009

Review Date: June 2012

The full document can be accessed through the Document Management System