



Advocacy & the Duty to Consult

1. Background

This policy has been developed to promote the role of independent advocacy services and Abbeyfield The Dales Ltd. (ATD) duty to consult with older people, and their representatives, as appropriate, in their care and support.

ATD has a duty to consult with the older people accessing our services, and their representatives, as appropriate, always and wherever possible.

ATD will always seek to extend consultation to all formal and informal representatives of the older person, where appropriate. In situations where an older person lacks capacity and has no formal representatives, ATD will ensure that the services of an independent Advocate are utilised.

Through full and open consultation, ATD seeks to ensure the older person is aware of their rights, able to exercise those rights, and are involved in and can influence any decisions that are being made about their future, wherever possible.

All staff and volunteers at ATD seek to promote the interests of older people and understand that their role involves ensuring those using our services are supported and encouraged to access the information, services and community groups they need.

Some staff and volunteers are required to respond to the needs of individuals who lack capacity on a day-to-day basis. ATD recognises this service as crucial to the lives of vulnerable people while recognising the demands such an important role places on staff and volunteers to respond and effectively represent the views of older people.

2. Objectives

ATD is committed to providing services that enhance the quality of life for older people and developing services that will meet the needs of future generations. This commitment is based on the Mission and Values of ATD. ATD will also comply with all relevant and current legislation.

The aim of this policy is to:

- Ensure ATD residents are supported and encouraged to access the information and services they need always to maintain their independence and are involved in decisions about their support.
- Enable residents, staff and volunteers to understand the concept of Advocacy and its role within the duty of consultation, how it works and how it can benefit service users.
- Outline the expectations of staff and volunteers in responding to and representing the views of older people, including when independent advocacy services should be brought in.

This policy details ATD's commitments to consult with older people always and extend consultation to the representatives of older people or an external advocate, when appropriate and as required.

3. Scope

Service users, visitors, all staff and volunteers working for and with ATD.

Note: In the policy 'Manager' refers to the Registered Manager in Care Homes and the relevant House Manager or Senior House Manager in Houses.

4. Policy

4.1. Definitions

4.1.1. Advocacy

Process of speaking up for people whose voice might otherwise be overlooked. Advocacy can be performed by any person or group, for themselves or by an independent representative on behalf of someone else but does not extend to include decision-making.

4.1.2. Lasting Power of Attorney (LPA)

A person or persons appointed by the donor (i.e. the service user who has lost, or may lose, capacity) to make decisions on their behalf. These can be property and financial decisions, or welfare decisions (but welfare decisions can only be made if the donor has lost capacity). The LPA must be registered with the Office of the Public Guardian (OPG) before it can be used.

4.1.3. Enduring Power of Attorney (EPA)

The old form of power of attorney. Can only make decisions in relation to property and financial affairs.

4.1.4. Court Appointed Deputy (Deputy)

Effectively the same as an LPA but appointed by the Court of Protection after the person has lost capacity. Can make the decisions specified by the Court which can be property/financial decisions, and/or welfare decisions. The deputy will have a court order stating what decisions they are entitled to make.

4.1.5. Independent Mental Capacity Advocate (IMCA)

IMCAs are provided by local authorities and some charities. An IMCA helps a person who lacks capacity make important decisions about serious medical treatment and changes of accommodation where they have no family or friends to consult about the decisions. An IMCA can be consulted for care reviews.

4.1.6. Relevant Person's Representative (RPR)

The person appointed by the supervisory body that has granted a standard authorisation for a person to be deprived of their liberty. They must be independent of the provider of the service they are in receipt of, and the commissioners of that service (e.g. the local authority). The RPR represents the person's interests in relation to the Deprivation of Liberty Safeguards (DoLS).

For further information please refer to the Mental Capacity Act 2005 Code of Practice, and the Deprivation of Liberty Safeguards Code of Practice.

4.2. The Duty to Consult

ATD has a duty to consult with all older people accessing our services and their representatives, as appropriate. ATD always aims to empower older people to speak up and have their opinions heard.

ATD's duty to consult ensures the older people accessing our services can:

- Express their views and wishes;
- Secure their rights;
- Have their interests represented;
- Access information and services; and

- Explore choices and options.

ATD believes a culture of consultation promotes equality, social justice and social inclusion.

ATD will consult with older people, and their representatives, as appropriate, regarding their individual care and support always and wherever possible. All consultations will be appropriately documented (see Section 4.3 Care and Support Plans / My Life Plans).

ATD also seeks to actively listen and respond to the views of older people using our services, their representatives and any Advocates on an ongoing basis. Each ATD house, home and society will develop appropriate forums to enable residents, staff, families and volunteers to be heard.

4.3. Care & Support Plans

ATD will seek to record as much information as possible about the individual preferences and wishes of those accessing our services on admission and on an ongoing basis, as necessary.

All information will be recorded and documented within the older person's Care and Support Plan, as appropriate. By documenting all individual preferences and wishes within a Care and Support Plan, ATD aims to enhance the quality of life of the older person by ensuring continuity of care and support.

4.4. Consultation with Representatives

With resident agreement or where appropriate, ATD will extend consultation to the representatives of the older person, including friends, family and others involved in the individual's care and support.

Where the service user requests that they want certain individuals (i.e. friends, family and other representatives) to be consulted, ATD will seek to involve them in a full and open consultation when creating an individualised Care and Support Plan for those accessing our services.

The involvement of representatives is particularly vital when an older person does not have the capacity to make certain decisions themselves (see Mental Capacity & Advocacy section). To ensure any day-to-day decisions made by staff and volunteers are informed by the older person's lifestyle preferences and choices, ATD will consult with any chosen representatives of the older person and record their information in their Care and Support.

While ATD aims to collate as much information as possible about individual wishes and preferences to inform day-to-day support, it is recognised that this is not a substitute for advocacy or independent representation.

4.5. Independent Consultation

When an older person lacks capacity and does not have chosen and valued involvement of family and friends in their care and support (i.e. individuals independent from and not connected to ATD) an independent advocate should be involved to ensure the rights and views of the older person are protected (see Section Mental Capacity & Advocacy below).

ATD also recognises that other individuals accessing our services may find it difficult to speak out or be heard or could benefit from independent Advocacy to enable them to make their personal choices. ATD will promote and support all individuals to access independent advocacy services as and when required. Any individuals who may benefit from the services of someone independent of ATD representing their interests will be supported to access a service appropriate to them.

Each ATD service will develop local links with appropriate agencies, advocacy services and schemes that could provide advocacy for older people, (e.g. Age UK, Alzheimer's Society or Citizens Advice Bureau). All individuals using ATD services, and any relevant representatives, will be made aware of independent advocacy services that may be available.

4.6. Mental Capacity & Advocacy

The Mental Capacity Act (MCA) 2005 provides a framework to empower and protect people who may lack capacity to make some decisions for themselves.

ATD is obliged to abide by the terms of the Act and the Mental Capacity Act 2005 Code of Practice. Further detailed guidance is provided in the **Mental Capacity Act Policy**.

The MCA was developed to provide consistency in decision-making about the care and support of people who lack capacity to decide. The MCA provides for individuals who wish to appoint a person to make decisions on their behalf, known as a Lasting Power of Attorney (LPA). An older person who lacks capacity may have asked a family member or close friend to act as a decision-maker for them in the form of LPA. The scope of an LPA can include deciding matters in relation to health and welfare as well as finances.

When the MCA came into force, the old form of power of attorney, Enduring Power of Attorney (EPA) was no longer available. However, an EPA made prior to October 2007, either registered or unregistered with the Office of the Public Guardian, can continue to be used.

The Mental Capacity Act also makes provision for an Independent Mental Capacity Advocate (IMCA) service for those without family or friends to ensure their rights and views are protected. An IMCA is appointed by the local authority.

4.7. Making Decisions on Behalf of Older People who Lack Capacity

Staff and volunteers at ATD may need to assist some individuals using our services to make day-to-day decisions if they do not have the capacity to make those decisions themselves. For example, this may involve deciding what the older person may like for breakfast or what they would like to wear.

Staff and volunteers will always seek to empower those who lack capacity to make as many decisions for themselves as possible and, where this is not possible, staff and volunteers will still aim to involve the older person in all decision-making processes.

Any day-to-day decisions made by staff on behalf of an older person who lacks capacity will be made in the individual's best interests, in line with the Mental Capacity Act and individual preferences detailed in their Care and Support Plan. These decisions and the reasons for them will be recorded in the resident's Care and Support Plan and will be discussed at review meetings.

All chosen individuals involved in an older person's care and support must be consulted about any significant changes in the older person's Care and Support Plan, including medication and hospital treatment. These individuals will have been specified by the older person before they lost capacity that they should be consulted or whose roles are now key to the provision of a quality service.

Representatives of the older person may also make independent decisions about current and future aspects of the older person's life if they are unable to participate. This will be limited to the decisions they can make by law (see Mental Capacity & Advocacy). Staff and volunteers will not make any decisions concerning the medical treatment or financial affairs of an older person. The handling or safekeeping of an older person's money by staff and volunteers will be undertaken in accordance with the express direction of the manager, in line with the **Residents' Personal Finances and Valuables Policy**.

4.8. The Role of Staff & Volunteers

All staff and volunteers will be trained to ensure they understand their duty to consult, their role in helping residents to make decisions and the legal roles of both formal and informal representatives.

4.9. On Taking up the Service

During the joining process, the relevant ATD service Manager will establish and record whether the older person has a formal representative, such as:

- A Lasting Power of Attorney (LPA) or Enduring Power of Attorney (EPA);
- An Independent Mental Capacity Advocate (IMCA);
- A court-appointed Deputy; or
- A Relevant Persons Representative (RPR) (see 'Definitions').

See appendix 1 – Confirmation of Verification of POA Form. This will ask service managers to confirm that they have seen original proof of identity and address e.g. a utility bill dated within the last three months, driving licence, together with proof of bank account and POA documentation.

Where an older person has a formal representative, documentary evidence of this will be retained within the individual's Care and Support Plan.

Where an older person has informal personally chosen representatives (e.g. family or friends), the details will be recorded in the individual's Care and Support plan.

Where an older person has no family or friends and may require the support of an IMCA to access suitable services or to make certain decisions, ATD will ensure the individual has access to the services of an IMCA.

4.10. Supporting Individuals who Lack Capacity

If a situation arises where there is potential for a conflict of interest or there are differences of opinion about what is in the best interests of an older person who lacks capacity, staff and volunteers will inform the Manager who will seek advice from their Line Manager.

In situations in which the formal or informal representatives of an older person become involved in serious and / or ongoing issues of concern, the manager will notify their Line Manager.

5. Finance, Value for Money & Social Value

N/A

6. Supported Appendices

APPENDIX 1: Confirmation of Verification of POA Form A

7. Linked Policies

Advance Decisions to Refuse Treatment (C003P)

Autonomy and Choice (R003P)

Consent to Treatment and Personal Care (C009P)

Deprivation of Liberty Safeguards (DoLs) (C010P)

Mental Capacity Act (C015P)

Personal Finances and Valuables (C025P – Care) & (R016P Supported & Independent Living)

8. Legislation/Regulation

Section 20 regulations of the Health & Social Care Act 2008

Essential Standards of Quality and Safety

Outcome 1: Respecting and involving people who use services
Mental Capacity Act 2005
Deprivation of Liberty Safeguards Code of Practice

9. Review

Every 3 years, subject to any regulatory or legislative updates.

10. Procedure/Guidance

www.ageuk.org.uk

www.carers.org

www.alzheimers.org.uk

www.opaal.org.uk

www.independentage.org



Before we can accept a completed direct debit mandate, Abbeyfield the Dales need to confirm the Residents identity using information from the list below.

- Please present **one** of the following originals from category 1 & 2.
- If you have Power of Attorney (PoA), **one** from each category 1, 2 & 3, a copy of the POA needs to be given to the Housing and Care Services Manager or the Senior/House Manager of the site.
- All documents must be originals, photocopies will not be accepted;
- At least one document must confirm your current name; and
- At least one document must confirm your current address.

Accepted Documentation:

Category	Accepted Documentation
1. Confirmation of name & address	Utility bill dated within the last 3 months Passport Driving licence
2. Confirmation of bank details In order to confirm the bank account name, number and sort code;	Bank statement Cheque book Bank card
3. Power of attorney (POA)	POA documentation to include all that you have in place: Health & Welfare and or Property & Financial Affairs (a copy needs to be made for the Resident's file)

Please also ensure that the direct debit mandate has been signed in accordance with the bank mandate i.e. by two signatories if required.

Identity and Bank Verification:

Name:

Address:

Please list documents presented & copied for resident's file:

Confirmation of current name:

Confirmation of address:

Confirmation of bank details:

Agreement:

I/we confirm that I/we have authority to set up a Direct Debit against the account shown on the Direct Debit mandate and can authorise direct debits to be taken from this account.

Name:

Signed:

Power of attorney documents copied:

Yes

No

Verified by staff:

Name:

Position:

Signed:

Date:

Please submit the completed form to the Housing and Care Services Manager or the Senior/House Manager. They will ensure a copy is sent to the finance department together with the original direct debit mandate form. Thank you.