# Safer Restrictive Physical Interventions including Seclusion and Segregation Policy and Procedure

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| Document No. | CL-30 |
| Version | 3 |
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| Reason for Policy Revisions | This policy was initially reviewed to reflect the implementation of the Mental Health Units (Use of Force) Act 2018 and also the Company affiliating with BILD ACT and complying with the Restraint Reduction Network training standards.<br>This additional review follows the decision to integrate seclusion and segregation into this policy rather than it being separate. |
| Full Equality Impact Assessment Required | No |
| Date Approved | January 2022 |
| Approved By | Andrew Shelton-Murray, Company Director |
| Review Date | January 2023 |

This policy is subject to review at any time to reflect current local and national policy, changes in legislation and any available best practice guidance.

## 1. PURPOSE OF POLICY

1.1 The purpose of this Policy is to set out a framework of good practice, recognising the need to ensure that all legal, ethical, and professional issues have been taken into consideration, when considering the inclusion of restrictive interventions in individual Care & Support Plans. This includes but is not exclusively physical interventions.

1.2 The Policy complies with the Mental Health Units (Use of Force) Act 2018 (also referred to as 'Seni's Law') and reflects the differences in approach required to ensure Malsis Hall is culturally appropriate, respectful, and responsive to the cultural differences, beliefs and practices of the Patient population being cared for.

1.3 Malsis Hall is committed to minimising the use of force, promoting positive cultures, relationships and approaches which will prevent escalation and any need to use force.

1.4 The Policy is intended to provide guidance for Managers and staff in relation to the nature, circumstances and use of approved restrictive physical intervention techniques currently adopted by Malsis Hall Limited.

1.5 This Policy and Procedure should be read and implemented in conjunction with the following Company Policies and Procedures: Promoting Positive Behaviour Support in Practice, Reducing Restrictive Interventions and Blanket Restrictions Duty of Candour and Complaints and Compliments.

1.6 This Policy has been developed following consultation with Patients/Service Users, their families and advocacy to ensure that they are fully informed about the Mental Health Units (Use of Force) Act 2018 and where appropriate, will be involved in care planning to set out the preventative strategies to the use of force and any other types of restrictive practices.

1.7 The Mental Health Units (Use of Force) Act 2018 applies to Independent Hospitals and is therefore applicable to Shelton House Hospital. However, the principles of the Act will be applied across all of the Services at Malsis Hall acknowledging it demonstrates best practice.

## 2. INTRODUCTION

2.1 Malsis Hall Limited works to empower the people it supports to take control of their own lives, make their own choices, build capacity, and reduce risk.

2.2 We acknowledge that the Patients/Service Users we support may be vulnerable because they are less able to safeguard their own interests.

2.3 Whilst we recognise that Patients/Service Users may have restrictions placed on them in order to receive care and treatment, when this happens, Malsis Hall Limited will ensure the support provided is legal, ethical and the least restrictive.

2.4 Malsis Hall Limited believe Patients/Service Users should be treated with the same respect in regard to their equality and human rights as all other citizens and they have the right to:

- 2.4.1 Be treated with dignity and respect.
- 2.4.2 Ethical and lawful treatment and to live free from abuse, neglect, or discrimination.
- 2.4.3 Care and treatment that best suits their needs.

2.4.4 Recovery from mental ill-health.

2.4.5 Lead as fulfilling a life as possible.

2.5 Under no circumstances should restraint or the use of any restrictive practice be used as a threat, to punish or for the sole intention of inflicting pain, suffering or humiliation to a Patient/Service User in order to control their behaviour. If any member of staff is found to use restraint or restrictions in this way, they may be subject to disciplinary action.

2.6 Where staff restrict a person's movement, or uses (or threatens to use) force, then that should:

- Be used for no longer than necessary to prevent harm to the person or to others.
- Be a proportionate response to that harm, and
- Be the least restrictive option.

2.7 There may be occasions when Police Officers are required to attend Malsis Hall to assist staff. If this does occur, the Police Officer going into the mental health unit must wear and operate a body camera at all times when reasonably practicable.

## 3. LEGAL FRAMEWORK

3.1 English law imposes on every individual a general duty not to cause unjustifiable harm to others. This duty is owed to all persons who could be harmed if the duty is not observed. The duty is imposed through the operation of statute or of common law, or a combination of both.

3.2 In practice this means that all staff owe a duty to Patients/Service Users they support and other persons in the Hospital and Care Home setting, either by taking positive action or by acts of omission.

3.3 In order for no harm to be caused, restraint may need to be considered. The nature and extent of the restraint used, whilst a matter for the judgement of the individual member of staff, should not result in unjustifiable harm to the Patient/Service User. If it does, compensation and/or prosecution may be pursued.

3.4 Staff who participate in restrictive physical interventions, must ensure that they are familiar with the relevant legislation and Policy documents, and ensure that any intervention applied is compliant with these.

3.5 A number of statutes are of relevance in the context of restraint:

3.5.1 *Health and Safety at Work etc. Act (1974)*

The basis for health and safety law in Great Britain which sets out, amongst other provisions, general duties for both employers and employees. The main general principles of the act are:

Employers must:

- provide and maintain safe systems of work (i.e. procedures and equipment);
- Provide information, instruction, training and supervision to ensure the health and safety at work of all employees; and
- Provide and maintain a safe working environment.

Employees must:

- Take care of their own health and safety and that of others who may be affected by their acts or omissions; and
- Cooperate with their employer in health and safety matters.

These duties are qualified by the term *'so far as is reasonably practicable'.*

3.5.2 *The Management of Health and Safety at Work Regulations 1999*
This introduced more explicit requirements, particularly the undertaking of risk assessment.

Employers are required to:

- make appropriate health and safety arrangements;
- employ competent health and safety assistance;
- lay down appropriate procedures for serious and imminent danger;
- provide information for employees; and
- have due consideration for individual capabilities and training with regard to health and safety.

3.5.3 *Human Rights Act (1998)*
All public authorities must ensure that their actions are compatible with the European Convention on Human Rights (ECHR). The articles of the act most relevant to restraint are:

*Article 2: Right to Life.*
A person has the right to have their life protected by law. Staff may use restraint and force to stop and prevent imminent threat to life or serious harm being caused.

*Article 3: Prohibition from torture including inhumane or degrading treatment.*
This right is referred to as an 'absolute right' and should never be contravened. It is therefore unlawful for any person to use force with the intention of causing inhumane or degrading treatment and/or punishment or for the purpose of torture.

*Article 5 Right to liberty and security.*
This right is referred to as a procedural right, which in some specific circumstances may be legitimately limited i.e. if a person is arrested on a criminal charge or detained because of mental disorder.

*Article 8 Right to respect for private and family life*
Everyone has the right to respect for his private and family life, his home and his correspondence.

*Article 14 – Prohibition of discrimination*
The enjoyment of rights and freedoms contained in the ECHR without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

3.5.4 *Equality Act (2010)*
This Act provides a uniform level of protection against discrimination in the provision of goods and services for people with one or more 'protected characteristics'. These protected characteristics are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex; sexual orientation.

3.5.5 *Care Act 2014*
The Care Act 2014 sets out in one place, local authorities' duties in relation to assessing people's needs and their eligibility for publicly funded care and support.

In order to protect vulnerable adults from mistreatment and improve their quality of life, caregivers must follow the principles of the Act. The principles aim to emphasise that everyone in care is a human being with wants and needs. They define how important it is to involve a Patient/Service User in the process of assessing their safeguarding needs. The six principles are:

- Empowerment
- Protection
- Prevention
- Proportionality
- Partnership
- Accountability

3.5.6 *Mental Health Act 1983*

This Act sets out powers and duties in relation to people with mental disorder. The law is based on a set of principles which must be taken into account by anyone involved in a person's care and treatment. These principles are as follows:

- **Least Restrictive Option and Maximising Independence** - Where it is possible to treat a patient safely and lawfully without detaining the, under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.
- **Empowerment and Involvement –** Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.
- **Respect and Dignity –** Patients, their families and carers should be treated with respect and dignity and listened to by professionals.
- **Purpose and effectiveness –** Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.
- **Efficiency and equity –** Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

3.5.7 *Mental Capacity Act 2005*

This Act empowers people to make decisions for themselves wherever possible and protects people who lack capacity by providing a flexible framework that places individuals at the very heart of the decision-making process. It ensures that they participate as much as possible in any decisions made on their behalf, and that these are made in their best interest. It also allows people to plan ahead for a time in the future when they might lack the capacity to make decisions themselves. The Act is underpinned by five Principles:

- **Principle 1 –** A person must be assumed to have capacity unless it is established that he lack capacity (Section 1(2)).
- **Principle 2 –** A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success (Section 1(3)).
- **Principle 3 –** A person is not to be treated as unable to make a decision merely because he makes an unwise decision (Section 1(4)).
- **Principle 4 –** An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests (Section 1(5)).

- **Principle 5 –** Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action (Section 1(6)).

3.5.8 *Mental Health Units (Use of Force) Act 2018*

The Act and statutory guidance clearly sets out the measures which are needed to both reduce the use of force and ensure accountability and transparency about the use of force in mental health units. The guidance promotes and encourages the use of a human rights-based approach to the use of force, working with Patients in a trauma-informed, person-centred way and developing therapeutic environments which ensure that force is used proportionally and only ever used as a last resort. The key requirements the Act sets out are:

- To appoint a Responsible Person.
- To have a specific policy on the use of force.
- To provide information about the use of force.
- To provide training in the appropriate use of force.
- To record the use of force.
- Further considerations when analysing the use of force data.

## 4. SCOPE

4.1 This policy applies to all Malsis Hall Limited employees, agency staff, contractors, volunteers, students and those on work experience and Service Users.

4.2 This policy and procedure are mandatory and any breach of it by staff may result in disciplinary procedures being followed.

4.3 This Policy will be available in hard copy format and will be published on Malsis Hall Limited's website to comply with the requirements of the Mental Health Units (Use of Force) Act 2018.

## 5. ROLES AND RESPONSIBILITIES

5.1 Directors

Directors have a responsibility to identify the policy framework and practical procedures required to ensure restrictive physical interventions are used as identified in this policy and that they are compliant with legislation.

Directors have a responsibility for ensuring robust monitoring of physical intervention is undertaken and actions are implemented to reduce the use of restrictive physical interventions. This is normally done via the monthly SMT/Directors Meetings.

5.2 Medical Director

The Medical Director is nominated as the Responsible Person at Malsis Hall. They are responsible for ensuring that Malsis Hall complies with the Mental Health Units (Use of Force) Act 2018.

5.3 Managers

Managers have a responsibility to ensure they are aware of the latest national and local guidance, underpinning legislation and the relevant policies and procedures in relation to restrictive physical interventions and should ensure:

- All employees are aware of and comply with the company Safer Restrictive Interventions Policy and Procedure (which includes seclusion and segregation).

- All employees undertake the required training in supporting people with distressed behaviours, which will include preventative strategies to the use of force and the use of restrictive physical interventions by health and social care staff.

- All training to be recorded on the service electronic training matrix.

5.4 Employees

All staff at Malsis Hall Limited are responsible for ensuring any restrictive physical interventions used in the course of their duties, complies with the guidance within this policy and procedure. They are responsible for reporting to a Manager/Nurse in Charge any deviations from this policy and procedure as soon as this occurs.

## 6. DEFINITIONS

6.1 Violence

Violence occurs when any person is abused, threatened, or assaulted by another person.

6.2 Restrictive Physical Intervention, Use of Force and Restraint

Please note, this policy and procedure uses the terms restraint, use of force and restrictive physical intervention interchangeable throughout, with the following meaning.

A restrictive physical intervention occurs when a member of staff uses physical force intentionally to restrict a Patient/Service User's movement against his or her own will.

Malsis Hall Limited adopt the definition of restraint provided the Department of Health, Positive and Proactive Care: reducing the need for restrictive interventions.

'Restrictive interventions' are defined in this guidance as: 'deliberate acts on the part of other person(s) that restrict an individual's movement, liberty and/or freedom to act independently in order to:

- take immediate control of a dangerous situation where there is a real possibility of harm to the person or others if no action is undertaken; and
- end or significantly reduce the danger to the person or others; and
- contain or limit the person's freedom for no longer than is necessary'.

6.3 Mechanical Restraint

Mechanical restraint occurs when any device is being used for the primary purpose of controlling the behaviour of a Patient/Service User, restricting his or her freedom of movement or preventing/reducing self-injurious behaviour. Mechanical restraint does not include the use of seatbelts or wheelchair harnesses during transport to maintain safety.

6.4 Chemical Restraint

The use of medication which is intended to prevent, restrict, or subdue movement of any part of the person's body.

6.5 Mental Disorder

"Any disorder or disability of the mind".

6.6 Mental Health Unit

An NHS hospital or independent hospital in England that provides treatment to in-patients for mental disorder. An independent hospital will only be a mental health unit if its purpose is to provide

treatment to inpatients for mental disorder, and at least some of that treatment is provided, or intended to be provided for the purposes of the NHS.

6.7 Use of Force

Use of Force includes physical, mechanical, or chemical restraint of a person, or the isolation of a person (which includes seclusion and segregation).

6.8 Seclusion

The supervised confinement and isolation of a person, away from other persons, in an area from which the person is prevented from leaving, where it is of immediate necessity for the purpose of containment of severe behavioural disturbance which is likely to cause harm to others.

6.9 (Long-term) Segregation

A situation where, in order to reduce a sustained risk of harm posed by a person to others, which is a constant feature of their presentation, a multi-disciplinary review and representative from the responsible commissioning authority determines that a person should not be allowed to mix freely with other persons on the ward on a long-term basis.

6.10 Responsible Person

A Responsible Person is a member of staff at an appropriate level of seniority, such as a Medical Director. They are responsible for ensuring that the organisation complies with the requirements of the Mental Health Units (Use of Force) Act 2018.

6.11 Relevant Person

The Responsible Person can delegate any of their duties to someone who works in the Service who is an appropriate level of seniority. This means that they should have the relevant skills and experience to carry out the task being delegated to them.

6.12 Care Staff

For the purpose of this policy, the term 'care staff' refers to all staff who provide direct interventions and support to Patients/Service Users at Malsis Hall, including Managers, Nurses, Therapists, and Recovery Workers.

## 7. SERVICE-LED RESTRAINT PRACTICE

7.1 Malsis Hall Limited acknowledge that many actions by care and support staff, whether deliberate or unintentional, can unnecessarily limit the freedom of the Patients/Service Users they support.

7.2 We recognise that, at times, such interventions may not be in the interests of the Patient/Service User but may be in the interest of the Service.

7.3 Whilst Malsis Hall Limited recognise that there are times when restraint is justified to reduce risk to the individual concerned or others, we will not tolerate service-led restraint practice and any staff advocating or participating in this may be subject to disciplinary action.

## 8. TYPES OF RESTRAINT

8.1 Malsis Hall Limited acknowledge there are many different types of restraint that can be used by care staff when supporting Patients/Service Users. This includes restrictive physical interventions that relate to direct interference with the bodily movement of a Patient/Service User by the direct action of care staff.

8.2 Restrictive physical interventions that involve the use of mechanical restraint and any physical or electronic barrier are unlikely to be considered at Malsis Hall. If such a restrictive physical intervention was considered necessary, a full multi-disciplinary review would be undertaken prior to implementation and consideration should be given to whether Malsis Hall is the suitable placement for the Patient/Service User.

8.3 Malsis Hall Limited recognise that at times, Patients/Service Users may be prescribed Pro Re Nata (PRN) medication in response to specific behaviours, to reduce their level of distress. However, we will not administer drug treatment aimed at limiting physical movement by sedation, such as rapid tranquilisation.

8.4 Malsis Hall Limited acknowledge there are other restrictive methods that can be used by staff to limit Patient/Service Users freedom, such as:

- verbal control.
- psychological pressure.
- social exclusion.
- unfriendly, brusque or bullying attitudes by staff.
- refusing assistance or walking aids to prevent movement.
- doors that are difficult to open.
- the use of furniture i.e. sloping seats or positioning of furniture to block access.

8.5 Malsis Hall Limited will not tolerate this type of practice and/or attitude and any staff participating in this may be subject to disciplinary action.

8.6 Malsis Hall Limited expect staff to be sensitive to the effects of their attitude and actions on Patients/Service Users and the training provided promotes staff awareness of Service values, expectations of behaviour and the restrictive physical intervention practice that can be used, to ensure:

- support is provided in a such a way as to recognise what are acceptable risks.
- restraint is minimised and proportionate; and
- restraint is used only when there is a clear and unequivocal benefit to the Patient/Service User.

8.7 Malsis Hall Limited acknowledge there are other practices that may be implemented to reduce risks to Patient/Service Users that may result in restricting their movement, such as the use of bed rails, lap straps in wheelchairs, seat belts in vehicles, etc. Such interventions will only be implemented following the completion of risk assessments that justifies their need and with guidance of a Care Plan.

8.8 Malsis Hall services have no areas designated and designed as appropriate for use as seclusion rooms. It must be remembered that any room could potentially be used to seclude a person where the definition of seclusion is met (see paragraph 6.8 above). **Malsis Hall services will not seclude any Patient/Service User in any area of the service at any point of their care and treatment.**

8.8.1 The term ‘open seclusion’ is a misnomer. If a room door is open or unlocked but staff are preventing the person from leaving by any means of a physical barrier, this still constitutes seclusion.

8.9 On rare occasions there are a very small number of Patients’ where it has been determined that the risk of harm to others may be reduced by the use of long-term segregation. Unless a crisis situation occurs, Patients will not be subject to segregation at Shelton House Hospital.

8.9.1 Long-term segregation will only be implemented following an MDT review which will include a representative of the responsible commissioning authority. The meeting will conclude that other methods of intervention have been unsuccessful, and the level of risk indicates that the Patient meets the criteria for segregation. This decision must be fully documented and the date and time that segregation commenced recorded.

8.9.2 A care plan specific to segregation must be developed, which, alongside therapeutic interventions, includes the environment that segregation will occur in, how segregation will be kept under review on a day to day basis and incorporates formal periods of review. The Patient must not be deprived of access to therapeutic interventions and care plans should aim to end segregation.

8.9.3 A member of the MDT should ensure the Patient is informed of the reason for the decision to segregate, the behaviour expected for segregation to be terminated and the process of review whilst segregation is used. This should be recorded in the care records.

8.9.4 The Nurse in Charge must complete an incident report. All decisions to segregate should be accompanied by a Safeguarding referral to the relevant Local Authority unless the Patient is already subject to a safeguarding plan which should be updated. A referral should also be made to the relevant Independent Mental Health Advocacy (IMHA) Service.

8.9.5 The Nurse in Charge must ensure there are suitably skilled professionals competent to carry out observations, interact and accompany the Patient at all times. The number, gender and designation of staff should be based on a risk and needs assessment and must take into account the gender of the Patient.

8.9.6 Facilities which are used to accommodate Patients in conditions of long-term segregation should be configured to allow the Patient to access a number of areas, as a minimum, bathroom facilities, a bedroom and relaxing lounge area. Patients should also be able to access secure outdoor areas and a range of activities of interest and relevance to the person. Meals and drinks must be provided as usual, with consideration given to the crockery and utensils used. The offering of meals and drinks and compliance/refusal must be recorded.

8.9.7 A minimum of an hourly record of the visual observations and interactions must be made in the daily care records, reporting the ongoing observational monitoring and interactions with those accompanying staff.

8.9.8 A Patient in long-term segregation must be kept under regular review to reflect the specific nature of their management plan. The purpose of the review is to determine whether the Patient continues to present the same level of risk as warranted the decision to segregate, to monitor their general mental and physical health and welfare and to make recommendations to the MDT.

8.9.9 Every 24 hours, the rational for continued segregation will be formally reviewed and documented by an approved clinician. Every 7 days, the rationale for continued segregation will be reviewed by the MDT. The responsible commissioner must also be informed of the outcome of the weekly MDT review. Every two weeks an approved clinician who is not involved in the care of the Patient will review the Patient and attend the MDT review to provide feedback.

8.9.10 Where successive MDT reviews determine that segregation continues to be required, more information should be available to demonstrate its necessity and why the Patient cannot be supported in a less restrictive environment.

8.9.11 Where segregation continues for 3 months or longer there should be a review by an external clinical team and will continue every 3 months until segregation has ended.

8.9.12 The outcome of all review will be recorded in the Patient's notes, detailing the outcome of the review, including the level of risk and mental and physical wellbeing and any recommendations.

8.9.13 The decision to return the Patient to the general unit community will be taken only by their MDT, including consultation with their IMHA where appropriate, and following a thorough risk assessment, observations from staff of the Patient's presentation during close monitoring and/or the recommendations of external reviewers. When segregation is terminated, the Nurse in Charge must ensure an appropriate number of staff are available to manage the Patient's initial potential risk. Following further risk assessment, management of the Patient must be clearly documented in their care plan. Levels of engagement and observation must be implemented and agreed. The aim must be to return the Patient to the usual unit environment at the earliest possible opportunity.

8.9.14 Following segregation the Patient must be offered the opportunity at an appropriate time, to discuss the situation and their perception of the situation. This should be conducted no later than 72 hours post segregation and the outcome of the de-brief must be recorded in the Patient's notes.

8.9.15 Once the final review has been recorded, the episode of segregation must be documented as closed in the Patient's records.

8.9.16 The use of segregation will be closely scrutinised by:

- Individual Patient MDT and CPA Meetings
- Analysis of incident reporting system data
- Case Note audit
- Governance Committee

## 9. AUTHORITY TO USE RESTRICTIVE PHYSICAL INTERVENTION

9.1 If it is likely that a Patient/Service User may need regular or repeated use of restraining, legal provisions should be considered to ensure the restrictive physical intervention is applied legally, with explicit authority to use the identified intervention.

9.2 These legal powers may include compulsory powers under the Mental Health Act 1983.

9.3 It is the responsibility of the Registered Manager to ensure the correct authority is obtained for any restrictive physical intervention that is included in a Care Plan. The Registered Manager should work in partnership with the Patient/Service User's Care Manager in considering this required legal authority.

9.4 The authority for the use of the identified physical intervention should be explicit in the type of intervention that can be used, in what circumstances and the review arrangements.

9.5 If there is any doubt regarding whether the right authority has been obtained for a restrictive physical intervention, it cannot be included in a Care Plan, until the authority is clearly expressed.

9.6 The Registered Manager and Registered Nurses should consult with the Care Quality Commission regarding Patient/Service Users with complex needs, to ensure Patient/Service Users rights are upheld at all times.

## 10. PROCEDURE FOR THE USE OF RESTRICTIVE PHYSICAL INTERVENTION

10.1 Use of Restrictive Physical Interventions

10.1.1 Restrictive physical interventions should always be a **'last resort'**, where there is absolutely no alternative and following a full consideration of all other reasonable control measures.

10.1.2 When restraint is being considered in a Care Plan the following questions should be considered:

- Is there an aim to the Patient/Service User's behaviour?
- What is the Patient/Service User's emotional/psychological condition?
- Are there any underlying medical conditions that may make restrictive physical intervention more dangerous than normal?
- Is the appropriate communication support in place?
- Is there an environmental impact on the behaviour, i.e. light or noise?
- What is the Patient/Service User's mental capacity?
- What risks are associated with restraining this Patient/Service User?

10.2 Role of Relatives and Carers

10.2.1 Family members and other carers should be involved in care planning as much as is practicable (if the Patient/Service User gives consent). They should be asked what triggers to behaviour they are aware of, how they have averted high risk situations in the past and how they deal with such situations if/when they occur.

10.2.2 If restraint is identified as part of the Care Plan, they should be informed of this (if the Patient/Service User gives consent).

10.2.3 If a Patient/Service User lacks capacity to give consent to sharing their information, then a best interest decision will need to be made under the Mental Capacity Act 2005.

10.3 Positive Behaviour Support

10.3.1 Within Malsis Hall Limited Positive Behaviour Support provides the model for understanding needs associated with distressed behaviour and providing support with the aim of enhancing quality of life and meeting needs.

10.3.2 Malsis Hall Limited aims to provide support to Patients/Service Users that enables the greatest possible reduction in the occurrence of distressed behaviour in the context of the possible quality of life.

10.3.3 Please refer to the Company Policy Promoting Positive Behaviour Support in practice, for further information on the implementation of Positive Behaviour Support.

10.4 Behaviour Assessments

10.4.1 Positive Behaviour Support provides a values-based framework for needs and risk assessment. It supports the development of an understanding of a Patient/Service User's distressed behaviour, which is then used to inform the Care & Support Plan.

10.4.2 Please refer to the Company Policy Promoting Positive Behaviour Support in practice, for further information and assessments required to support the implementation of Positive Behaviour Support in practice.

10.4.3 When Care & Support Plans include a restrictive physical intervention, the assessments undertaken will include a physical health assessment to identify if there are any health needs that need to be taken into consideration when using a restrictive physical intervention.

10.4.4 When restrictive physical interventions are considered, all interested parties should be consulted and informed about any intended restrictive physical interventions, including the Patient, Service User, their relatives, Social Workers, Care Managers, and any other member of the MDT involved.

10.4.5 A restrictive physical intervention should not be included in a Care Plan without the express authorisation from the Patient/Service User. If the Patient/Service user lacks capacity, the appropriate legal framework must be applied.

10.4.6 Patients/Service Users should be encouraged to set out their wishes in an Advance Statement. An Advance Statement is non-legally binding document, but it can be a helpful therapeutic tool to promote collaboration and trust between individuals and professionals. It is also a way in which effective use can be made of an individual's expertise in the management or crises in their own conditions. An Advance Statement can provide care staff with information about the Patient/Service Users preference for their care and treatment and this information can be considered to be included in the Patient/Service Users Care & Support Plan.

10.5 Care & Support Plans

10.5.1 All Care & Support Plans should include preventative strategies to avoid or minimise the need for the use of restrictive physical interventions.

10.5.2 It is widely recognised that people with mental ill-health and other complex needs may become aggressive when unwell or in response to new situations or experiences that they do not understand or may struggle with. This may be complicated further if the Patient/Service User has impairments that impact on communication.

10.5.3 Therefore, supporting Patients/Service Users who can become distressed, involves implementing a multi-component care and support plan, that involves the implementation of individualised proactive and reactive strategies, aimed at helping the Patient/Service User to remain calm, manage their distress and reduce the need for a restrictive physical intervention to be implemented.

10.5.4 Care and Support Plans are filed within the Patient/Service User's Care Files. Care staff should familiarise themselves with the Care Plans for each Patient/Service User they work with.

10.5.5 Please refer to the Company Policy Promoting Positive Behaviour Support in practice, for further information on incorporating Positive Behaviour Support into Care & Support Plans.

10.6 Tertiary Reactive Strategies

10.6.1 The tertiary reactive strategies are the actions taken when the Patient/Service User's distressed behaviour has escalated to a level which places him/herself or others at risk of harm.

10.6.2 It is at this stage that breakaway interventions, exit procedures or as a last resort, a restrictive physical intervention may be required.

10.6.3 When restrictive physical interventions are required to maintain safety, staff must:

- Only use a restrictive physical intervention as a last resort measure and in accordance with the Patient/Service User's Care & Support Plan regarding the technique used and the time to use it.
- Only use CPI Safety Intervention techniques they have been taught to use.
- Release holds as soon as it is safe to do so, ensuring the restrictive physical intervention is only used for the minimum of time required. This may require staff to release and re-hold, on a number of occasions to assess when it is time to discontinue the intervention.
- Throughout restrictive physical intervention, the Leader should constantly monitor the Patient/Service User's physical health and discontinue the intervention if the Patient/Service User is experiencing any adverse physical symptoms as a result of the holding technique.
- A careful explanation on what is happening should be given to the Patient/Service User, in terms that he/she can understand. This should include the reasons for the restraint, the way it will be applied, the likely duration, and which staff will be available during the period of restraint. Wherever practicable and appropriate, explanations should be given verbally or with augmented communication aids i.e. symbols.

10.7 Restrictive Physical Interventions (CPI Safety Intervention Holding Techniques)

10.7.1 Physical restraint is the actual or threatened laying of hands on a Patient/Service User, by one or more members of staff.

10.7.2 The criterion for a restrictive physical intervention is that the Patient/Service User's action is likely to lead to hurt or harm to self or others.

10.7.3 Physical restraint can range in intensity from physically guiding someone away from an area to actual bodily restraint, depending on the circumstances.

10.7.4 The level of force applied must be **necessary, reasonable, and proportionate** to a specific situation, and be applied for the minimum possible amount of time, with continual review and monitoring of the physical wellbeing of the person being restrained.

10.7.5 It may be appropriate to use restraint or holding to facilitate treatment or investigation where a Patient/Service User lacks capacity to make a decision regarding a planned intervention and when the intervention has been assessed as being in their best interests.

10.7.6 Any staff using physical restraint should:

- Be appropriately trained in CPI Safety Intervention techniques.
- Continue to use de-escalation techniques irrespective of the stage of the restraint.
- Be aware of any factors of the Patient/Service User's physical condition which may increase the risks from physical restraint, including any medication, drugs or alcohol taken prior to restraint.
- Use the minimum level of restraint required, and reduce to a lower level as soon as possible
- Continuously review the level of restraint being applied.

10.7.7 When considering the use of a restrictive physical intervention as part of a Care & Support Plan, consideration should be given to factors such as:

- physical health indicators that may increase risk to the Patient/Service User if a physical intervention is implemented.
- the Patient/Service User's known history of sexual or other gender-based violence.
- cultural and religious factors.

10.8 Risks Associated with Physical Restraint

10.8.1 There are risks associated with physical restraint, primarily positional asphyxia, which is preventing the restrained person from maintaining a clear airway rendering him/her unable to breathe properly, or other injury.

10.8.2 **Physical restraint can lead to harm and even death.** Over the last thirty years there have been more than 15 restraint related deaths in health and social care settings in the UK.

10.8.3 For safety reasons, during restraint it is only permissible to hold/apply pressure to the Patient/Service User's limbs. Under no circumstances must direct pressure be applied to the neck, thorax, abdomen, back or pelvic area.

10.8.4 If there are multiple staff participating and applying poor technique that cause pressure to the neck and back of the Patient/Service User, this can cause serious injury or even death.

10.8.5 Restraining Patient/Service Users on the floor is not a technique that is taught at Malsis Hall Limited and under no circumstances should staff hold a Patient/Service User on the floor, or another flat surface, such as their bed.

10.8.6 If a Patient/Service User takes him/herself to the floor during an incident, staff should withdraw from the Patient/Service User, until they have got up from the floor and only re-engage when it is safe to do so.

10.8.7 Restraining a Patient/Service User in a prone position (face down) is not a technique that is taught to Malsis Hall staff and under no circumstances should such a hold be used on a Patient/Service User.

10.8.8 Positional asphyxia is not limited to restraint in a face down position. Restraining a person in a seated position may also reduce their ability to breathe if the person is pushed forwards with the chest on/close to the knees. The risk of positional asphyxia is higher in cases where the restrained person has a high Body Mass Index and/or a large waist.

10.8.9 The number of staff involved in any physical restraint will depend on the level of restraint required. It is recommended that for any holding techniques, a minimum of two staff are required.

10.8.10 It is important in all restraints that there is an identified staff member maintaining overall control of the situation and checking the Patient/Service User's physical condition throughout the incident, particularly ensuring their airway and breathing are not compromised.

10.9 Care of the Patient/Service User Post Physical Restraint

10.9.1 A Patient/Service User who has been physically restrained to a significant degree (higher level restraint) should be monitored for a period of up to 12 hours following the restraint

10.9.2 This monitoring should involve the completion of a body map as soon as possible after the incident, then again 12 hours later, to determine if the Patient/Service User has sustained any injuries or bruising as a result of the intervention.

10.9.3 The general condition of the Patient/Service User should be assessed by the Registered Nurse, taking their observations (pulse, respiration, and blood pressure) at least once in the period, if the Patient/Service User is agreeable to this.

10.9.4 If there are any concerns regarding the Patient/Service User's health following a period of restraint, they should attend their GP for a physical examination. For a more urgent health needs, the Registered Nurse should access support from NHS 111 or via the local hospital Accident and Emergency department.

10.9.5 The process of re-engagement with the Patient/Service User must commence again quickly, but at a pace suitable to the Patient/Service User, in order to rebuild the therapeutic relationship.

10.9.6 Staff should be aware of the high risk of re-igniting distressed behaviour during this recovery phase.

10.9.7 Following a period of restraint, and with the Patient/Service User's consent, their relatives should be informed, unless a decision has been reached and agreed to the contrary. The Mental Health Law Facilitator will review the incident log on a regular basis and if consent from the Patient/Service user is obtained, will notify the relative.

10.10 Recovery and Recording

10.10.1 Following restrictive physical interventions it is essential that everyone involved or affected by the incident should receive a debriefing to provide support and to gather information to support accurate recording and required changes to assessments and support plans. Please refer to Malsis Hall's Debriefing Post Incident Policy.

10.10.2 It is the responsibility of the Registered Nurse to provide debriefing to staff, witnesses and Patient/Service Users involved in the incident and maintain a record of this.

10.10.3 It is the responsibility of the Registered Nurse, with the support of the incident Leader and other staff involved in the incident, to record the incident accurately and comprehensively on the incident & accident log and in the Patient/Service User care records. The information

recorded should include protected characteristics (if known) as identified under the Equality Act 2010, including age, race, status regarding marriage or civil partnership, if pregnant, religion or belief, sex, sexual orientation, and gender reassignment.

10.10.4 Patient/Service Risk Assessments and Care & Support Plan should be dynamic documents, that are updated as required following an incident, to ensure learning from incidents informs interventions.

10.10.5 When a Patient/Service User's Care & Support Plan is amended following an incident, this must be brought to the attention of all staff at handovers and other meetings, to ensure staff are conversant with the latest version of the Care & Support Plan.

10.11 Negligible Use of Force Guidance

10.11.1 The duty to keep a record of the use of force does not apply if the use of force is **negligible**. The inclusion of this distinction within the Mental Health Units (Use of Force) Act 2018 is to ensure that the recording of the use of force remains proportionate within the aims of the Act, which are to:

- Introduce transparency and accountability about the use of force, and
- Require mental health units to take steps to reduce their use of force.

10.11.2 Only activities which are considered to be part of daily therapeutic or caring activities could possibly be considered as a negligible use of force. Any negligible use of force must also meet the following criteria:

- It is the minimum necessary to carry out therapeutic or caring activities (for example personal care or for reassurance).
- It forms part of the Patient's/Service User's care plan.
- Valid consent to the act in connection with care and treatment (which may include the use of force) as part of the delivery of care and treatment has been obtained from the Patient/Service User. Where the person lacks capacity to consent to the relevant act, a Best Interest Decision would need to be made and Section 5 and Section 6 of the Mental Capacity Act 2005 should be complied with to the extent applicable.
- And only if they are outside of the circumstances in which the use of force can never be considered negligible.

10.11.3 If the same routine negligible force is used on the same person on a regular basis then it must be subject to a restraint reduction plan which will include the justification and the proportionality of the measure taken. This information will be included in the Patient's/Service User's Care Plan.

10.11.4 Negligible does not mean irrelevant to a person's experience of care or treatment, but it is necessary to distinguish a 'negligible' use of force from any other use of force under the Act for the specific purpose of providing guidance as to when the duty to record use of force applies. If a member of staff contact or touch with a Patient/Service User goes beyond the minimum necessary in order to carry out daily therapeutic or caring activities then it is not a negligible use of force and must be recorded. Whenever a member of staff makes a Patient/Service User do something against their will, the use of force must be recorded.

10.11.5 **One example of a negligible use of force is:** the use of a flat (not gripping) guiding hand by one member of staff to provide redirection or support to prevent potential harm to a person. It is important to note that the contact is so slight that the person can at any time over-ride or reject the direction of the guiding hand and exercise their autonomy. It is essential that the guiding hand does not cause distress to the person.

10.11.6 The following circumstances of use of force can never be considered as negligible and must be recorded.:

- Any form of chemical or mechanical restraint
- The Patient/Service User verbally or physically resists the contact of a staff member
- A Patient/Service User complains about the use of force either during or following the use of force
- Someone else complains about the use of force
- The use of force causes an injury to the Patient/Service User of a member of staff
- More than one member of staff carried out the use of force

10.12 Unplanned Restraint

10.12.1 In order to prevent harm in an emergency, restraint may be applied to a Patient/Service User who lacks capacity to consent. This is authorised under Section 6 of the Mental Capacity Act 2005 or Common Law.

10.12.2 The type of incident that may require unplanned emergency restraint are those incidents when the Patient/Service User behaves in an unexpected way and places him/herself or others at risk of harm and there is no alternative option available to maintain the safety of those involved.

10.12.3 The type and duration of emergency, unplanned restrictive physical interventions should be proportionate to the likelihood and seriousness of harm.

10.12.4 Should this occur; a full explanation and support should be provided to the Patient/Service User as soon as reasonably possible after the event.

10.12.5 Following any emergency restraint, there should be a review of the circumstances which led to the restraint, and where appropriate, a review of the Patient/Service User's Care & Support Plan.

10.12.6 All episodes of unplanned 'emergency' restraint must be recorded in the Patient/Service User's care records and the incident and accident log completed.

10.13 Monitoring the Use of Restraint

10.13.1 It is the responsibility of the Registered Managers to ensure all episodes of restrictive physical intervention are monitored regularly, for all Patients/Service Users who have a restrictive physical intervention in their Care and Support Plan. This should include:

- Internal monitoring by the Malsis Hall team;
- At least quarterly monitoring involving the Patient/Service User, their family and multi-agency members of the clinical team; and
- For Patient/Service Users who are subject to regular physical interventions, consideration should be given to more frequent monitoring.

10.13.2 Patient/Service Users who have a restrictive physical intervention identified in their Care & Support Plan, should also have an aim within this plan to reduce the frequency and/or level of physical intervention used, and this plan should be evaluated by the Named Nurse at least quarterly.

10.13.3 The Malsis Hall Management Team will undertake regular monitoring of the frequency, type and pattern of the implementation of restrictive physical interventions within the Service at SMT/Director's meetings and also at bi-monthly Governance Meetings. Actions will be identified and implemented within the Service to reduce the frequency and/or level of restrictive physical interventions via a Restraint Reduction Plan.

10.14 Principles of Staffing for Safe and Effective Care

10.14.1 Malsis Hall is committed to the safe and supportive delivery of care and support to Patients/Service Users and the safe support of staff in enabling care and support delivery. We recognise the importance of having the appropriate number of staff with the appropriate skills, knowledge and experience and the impact this can have on reducing the use of force. For further information on appropriate staffing please refer to Malsis Hall's Staffing Level and Enhanced Support Policy.

10.15 Healthcare staff and the Police working together to manage incidents of use of force if Police are called to assist in the management of a Patient

10.15.1 As Malsis Hall is a mental health rehabilitation and recovery service, it would only be in exceptional circumstances, and as a last resort, that staff may have to call the Police to assist in the management of a Patient/Service User. In referring to the College of Policing 'Memorandum of Understanding' – The Police Use of Restraint in Mental Health and Learning Disability Setting, examples of when the Police may be called are: if there is an immediate risk to life and limb, there is an immediate risk of serious harm, serious damage of property, offensive weapons and hostages.

10.15.2 Staff at Malsis Hall have a good knowledge of each Patient/Service User and would refer to the care and support in the individual's relevant care plan to de-escalate and manage a situation.

## 11. TECHNOLOGICAL MONITORING (WANDERING TECHNOLOGY)

11.1 This involves using 'wandering technology', i.e. electronic tagging, pressure pads and door alarms, to alert staff that a Patient/Service User is moving or trying to leave the area to help staff to maintain their safety.

11.2 A wide range of types of technological monitoring are available but use of these must always be the least restrictive option.

11.3 Such technology will only be implemented following a multi-disciplinary risk assessment, the inclusion in their Care & Support Plan and with the express authorisation to use it, either from the Patient/Service User if they has capacity, or if they do not have capacity, in their best interests under the Mental Capacity Act 2005 or by their authorised representative (Attorney or Deputy).

11.4 Should such an intervention be implemented; staff will receive training in the use and maintenance of the devices.

## 12. MECHANICAL RESTRAINT

12.1 This involves using the direct or indirect use of equipment to restrict a Patient/Service User from moving.

12.2 Typical examples of this are chairs, bed rails, lap straps or strategically placed pieces of furniture.

12.3 Malsis Hall Limited would not expect mechanical restraint to be used for a Patient/Service User.

12.4 However, if a multi-disciplinary decision was taken to use mechanical restraint to promote the Patient/Service User's safety, it should only be implemented following a multi-disciplinary risk assessment, the inclusion in their Care & Support Plan and with the express authorisation to use it, either from the Patient/Service User if they have capacity, or if they do not have capacity, in their best interests under the Mental Capacity Act 2005 or by their authorised representative (Attorney or Deputy).

12.5 If this form of restraint was agreed and implemented, under no circumstances should the Patient/Service User be left unattended for any length of time, no matter how safe they appear to be, as significant risks remain, particularly if the Patient/Service User is active and strong.

## 13 RAISING A COMPLAINT

13.1 There may be occasions when a Patient/Service User is unhappy with how the use of force has been done and will wish to make a formal complaint. A complaint can be made to Malsis Hall by telephone, in person, or in writing by letter, email or text.

13.2 Malsis Hall recognises that some complaints will be made by a third party such as family members, advocates, and professionals such as solicitors. Where this happens, Malsis Hall will require written consent to that effect.

13.3 The complaint will be fully investigated, and a formal response will be sent by the organisations' Responsible Person.

13.4 For further information on making a complaint, please refer to the Complaints and Compliments Management Policy and Procedure.

## 14. INFORMATION FOR PATIENTS/SERVICE USERS, FAMILIES, CARERS AND ADVOCATES

14.1 Information about Malsis Hall's commitment to comply with the Mental Health Units (Use of Force) Act 2018 will be provided to all Patients/Service Users and families in the admission information pack. The information will be available in Easy Read format in addition to an explanatory leaflet and a copy of this Policy.

14.2 Information about Advocacy Services who can support the Patient/Service User will also be made available in the information pack.

## 15. TRAINING AND AWARENESS

15.1 All care staff will undertake a 5-day training programme focused on Safety Interventions during their induction programme and then complete annual refresher training. The course is provided by CPI and they are accredited with the Restraint Reduction Network. CPI Safety Intervention incorporates trauma-informed and person-centred approaches. The programme provides training for staff who

need to prevent and/or intervene in crisis situations. With a focus on prevention, it also teaches staff de-escalation skills as well as non-restrictive and restrictive interventions. The 5-day training programme includes:

15.1.1 The Prevention and Safer Management of Challenging Behaviour in Services

This programme is designed to provide an evaluation/assessment framework for managing behaviour that challenges. It provides participants with a more in depth understanding of the concepts that underpin attachment based, trauma informed positive behaviour support. The programme emphasises the importance of proactive risk assessment processes and enables staff to apply positive risk management thinking to care and support plans.

15.1.2 Physical Interventions

This Module provides participants with a range of physical techniques that allow appropriate staff intervention in situations in which there is an emergent risk of physical harm. It also gives the participant an understanding of the legal and policy parameters that define acceptable practice including the physical risks attached to specific intervention techniques.

15.2 Support Services staff, i.e. Housekeeping & Maintenance staff, complete a Breakaway programme by CPI Safety Interventions during their induction programme and an annual refresher.

## 16. INVESTIGATION OF DEATHS AND SERIOUS INJURIES

16.1 The Mental Health Units (Use of Force) Act 2018 places a duty of the organisations Responsible Person to investigate deaths and serious injuries in the mental health unit for which they are responsible. In the event that a death or serious injury occurs, Malsis Hall will undertake a full investigation and have regard to guidance relating to the investigation of death and serious injuries that is published by the following organisations:

- Care Quality Commission
- Monitor
- NHS Commissioning Board
- NHS Development Authority
- A person prescribed by regulations made by the Secretary of State.

16.2 Following any death or serious injury the Patient/Service User themselves, or Patients/Service Users families or carers will be communicated with in an open, honest and compassionate manner and be informed of how they can be involved in any investigation process and kept informed of progress at each stage.

16.3 Malsis Hall have a legal duty to comply with the Duty of Candour which is set out in Regulation 20 of the Health and Social Care Act 2008. Please refer to the Duty of Candour Policy and Procedure for further guidance and information.

## 17. MONITORING

17.1 Monitoring of the implementation of restrictive physical interventions on an individual basis, and for the Service, will be undertaken as identified at Section 10.13 of this policy.

17.2 Lessons learnt from monitoring, will be used to reduce the type and level of restrictive physical interventions for individuals and across the Service and will be including in the Restraint Reduction Plan.

17.3 This Policy will be kept under review by the Responsible Person at Malsis Hall (or a relevant person) and can be subject to change at any time to reflect current local and national policy, legislation or guidelines. The Policy will be reviewed at least annually to ensure it is up to date with current practice and evidence. If any substantial changes are to be made to the Policy, consultation will again take place with Patients/Services Users, families and advocacy and the Policy will be re-published.

## 18. REFERENCES

18.1 Health & Safety at Work Act 1974

18.2 The Management of Health & Safety at Work Regulations 1999

18.3 Human Rights Act 1998

18.4 The Equality Act 2010

18.5 The Care Act 2014

18.6 The Mental Health Act 1983

18.7 The Mental Capacity Act 2005

18.8 The Mental Health Units (Use of Force) Act 2018

18.9 National Guidance on Learning from Deaths; National Quality Board – March 2017

18.10 Learning from Deaths: Guidance for NHS trusts on working with bereaved families and carers; NHS Improvement – July 2018

18.11 Serious Incident Framework; NHS England – updated March 2015

18.12 Article 2 of the European Convention on Human Rights and the investigation of serious incidents in mental health services – November 2015

## 19. EQUALITY IMPACT ASSESSMENT (EIA)

19.1 The EIA screening tool has been completed on this policy and procedure. The outcome indicates that it is not likely to impact on the Company's duties under its equalities schemes and a full EIA is not required.

**THIS POLICY CAN BE MADE AVAILABLE IN OTHER LANGUAGES IF REQUIRED**