Brief guide: Substance misuse services – use of blanket restrictions

Please note there are mental health services brief guides on related topics that may also be useful.

Context

Providers may expect people to follow blanket restrictions for their safety or as part of their recovery plan. If people do not comply, the provider can take action, such as discharging them from the service. Providers should use few blanket restrictions overall. They should regularly review their use, so they do not restrict people unnecessarily or breach their human rights.

Blanket restrictions\(^1\) will vary depending on service type, but examples include:

<table>
<thead>
<tr>
<th>Community</th>
<th>Inpatient wards and residential units</th>
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<tr>
<td>Supervising people taking prescribed medicines</td>
<td>No or limited access to mobile phones or internet, or both</td>
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<tr>
<td>Mandatory supervised urine testing</td>
<td>Restricted access to money</td>
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<tr>
<td>No alcohol or non-prescription drugs on the premises</td>
<td>No alcohol or non-prescription drugs, and no alcohol-based aftershave on the premises</td>
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<tr>
<td>No mobile phones in therapy sessions or group work</td>
<td>Mandatory supervised urine testing</td>
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<td>No access to certain books or films</td>
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<td>Visiting arrangements restricted to approved visitors, specific times and/or supervision</td>
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<td></td>
<td>No access to bedrooms outside set hours or no access to kitchens</td>
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<td></td>
<td>Mandatory wake up and bed times</td>
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<td></td>
<td>No or escorted community leave, usually for a settling in period</td>
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<td></td>
<td>Mandatory searches - searches on returning from community leave and room searches</td>
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</tbody>
</table>

People cannot leave if the service has detained them under the Mental Health Act 1983 or Deprivation of Liberty Safeguards\(^2\). People receiving treatment on a voluntary basis can leave if they cannot comply with restrictions (or for other reasons). Staff may discourage this but cannot prevent it.

Evidence

A good service will have the following evidence in documents, records, staff interviews and patient or client interviews.

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\(^1\) The High Court ruled that smoking bans do not breach human rights principles so they are not recognised as a blanket restriction: [R (G) v Nottinghamshire Healthcare NHS Trust (2008) EWHC 1096 (Admin)](http://www.bailii.org/ew/cases/EWHC/2008/1096.html).

\(^2\) Staff in hospitals or care homes may use Deprivation of Liberty Safeguards (DoLS) under the Mental Capacity Act 2005 if they assess someone as not having capacity to make their own decisions.
• **Human rights-based policy** such as one based on the five ‘PANEL’ principles – participation, accountability, non-discrimination, empowerment and legality. It should include guidance on appealing against restrictions.

• **Justified restrictions** with a clear basis for each.

• **Staff who can identify and justify** blanket restrictions and act correctly when people breach them.

• **Staff who can explain restrictions and sanctions** on admission, with people signing to say they understand and accept them.

• **Consistent and proportionate actions** when people breach restrictions.

• **Regular reviews of restrictions**, including person-specific restrictions and for the whole service.

• **Involvement of patient or client user groups or individuals** in reviewing restrictions (unless evidence shows this would increase risk).

• **Staff who follow the Mental Capacity Act 2005** if people lack capacity.

• **Multidisciplinary or multi-agency (or both) procedures to manage risks** to those who cannot comply with restrictions and leave care and treatment.

**Reporting**

In **equality and human rights** section of **effective** or, if appropriate, **good practice in applying the Mental Capacity Act** sections mention informed consent to blanket restrictions and associated sanctions. Say how the service applies the PANEL principles – participation, accountability, non-discrimination, empowerment, legality – to restrictions and sanctions.

In the **involvement of people in the care they receive** section of **caring**, say whether the service involved people in reviewing blanket restrictions, or personal restrictions or sanctions.

**Policy position**

The Department of Health’s guidance on working towards less restrictive practice across health and social care states:³

‘**Oppressive environments and the use of blanket restrictions such as locked doors, lack of access to outdoor space or refreshments can have a negative impact on how people behave, their care and recovery. They are inconsistent with a human rights-based approach. Providers should ensure that they abide by the Human Rights Act and, where possible, do not have blanket restrictions in place. Where these are considered necessary, providers should have a clear policy in place and ensure that the reasons are communicated and justified to people who use services, family members and carers. Providers may be challenged to justify the use of such restrictions under the Human Rights Act.’

**Our human rights approach** – helps us apply human rights principles, and equality, to our work.

**Link to regulations**

CQC seeks to be consistent in its application of the regulations, so please refer to appendix 1 for a breakdown of how they should be applied if unjustifiable blanket restrictions are in place.

³ Positive and Proactive Care: reducing the need for restrictive interventions, 2014, paragraph 39.
Appendix 1 Deciding which regulation applies

During admission to substance misuse services people may sign an agreement to the use of blanket restrictions. However, the provider is still required to keep any blanket restrictions to the absolute minimum.

**Regulation 13 safeguarding from abuse and improper treatment**

This regulation may be breached when a blanket restriction includes an act which is:

- intended to control or restrain the service user 4 and
- is not necessary to prevent, nor a proportionate response to, the risk of harm to the service user or another individual.

**Regulation 9 person centred care**

This regulation may be breached when a blanket restriction is not accompanied by:

- individual risk assessments or
- involvement of service users in relation to the restriction.

The distinction between this and regulation 13 is that with regulation 9 the blanket restrictions would impact on individual care planning and would not be used to control or restrain service users.

**Regulation 10 dignity and respect**

This regulation requires service users to be treated with dignity and respect and requires a provider to ensure the privacy of the service user and to support the services user’s autonomy, independence and involvement in the community.

**Regulation 11 need for consent**

Care and treatment must only be given with the consent of the relevant person. If the service user lacks capacity the provider must act in accordance with the Mental Capacity Act 2005 or the Mental Health Act 1983 if the service user is detained.

4 Service user is the term used in the regulations.
There may be a breach of regulation 11 if there is evidence that there is a blanket policy in relation to service users who lack capacity and there is evidence that best interests decision making has not taken place.

**Regulation 12 safe care and treatment**

This regulation may be relevant where the impact of the blanket restrictive practice raises issues relating to the safety of services users. This may require a consideration as to whether the breach is regulation 13 or regulation 12 as the evidence may be relevant to each.

The distinction between regulation 12 and regulation 13 is likely to be that the blanket restriction will link to safety and relate to the matters in regulation 12 (a) to (i). Regulation 13 is solely about restraint and control.