Legal and ethical compliance summary

Spark Care fall detection, fall prevention and wellbeing sensing, powered by Vayyar

FOR PROVIDERS

How this sits alongside your legal and regulatory obligations

Spark Care fall detection, fall prevention and wellbeing sensing, powered by Vayyar is a privacy-first sensing system designed for regulated care environments. It supports earlier response and better oversight without cameras, microphones or wearables.

This summary sets out how it sits alongside the main frameworks care providers work within, and what providers need to do to use it well.

It's written to help you think clearly about implementation. It isn't legal advice, and it doesn't replace your own governance processes or the judgement of your registered manager, data protection officer or safeguarding lead.

Contents

The Mental Capacity Act 2005

What it is. The Act protects people who may lack capacity to make particular decisions. It promotes autonomy, person-centred care, and the least restrictive option.

It's among the least restrictive monitoring options available

There are no cameras, no microphones and nothing the person has to wear or remember. Nobody has to change their behaviour or consent to being recorded, because nothing is recorded. For someone who may lack capacity but retains every right to privacy and dignity, that matters.

It supports best interests decisions with something objective

Movement and routine data gives care teams a clearer picture when they're weighing up options, particularly for people with fluctuating capacity or where a care plan is under review. That's evidence to inform a decision, not a substitute for making one.

It supports genuinely person-centred care

Understanding an individual's actual routine, rather than working from generalised assumptions about risk based on diagnosis, is closer to what the Act asks for.

What providers need to do

Capacity is decision-specific. Assess it for this decision, not in general. Where someone lacks capacity, follow your best interests process and involve families, representatives and advocates properly. Record it.

Deprivation of Liberty Safeguards and Liberty Protection Safeguards

What it is. DoLS, and the Liberty Protection Safeguards intended to replace it, exist to make sure nobody is unlawfully deprived of their liberty in a care home or hospital, particularly where they can't consent.

It doesn't restrict liberty

It doesn't confine, restrain or lock anything. It senses natural movement within a room and alerts staff if something needs attention, such as a fall, someone getting out of bed, or walking with purpose at night. It doesn't limit where anyone can go or what they can do.

It can reduce the need for more restrictive measures

Bed rails, hourly door checks that break someone's sleep, and other interventions used to manage falls risk are all more restrictive than passive sensing. Where this reduces reliance on them, that supports the least restrictive principle directly.

What providers need to do

Document its use transparently in the care plan. State the purpose clearly, for example falls prevention or earlier response. Confirm it's non-restrictive and proportionate for that individual. Make sure families, advocates or legal representatives are informed, particularly where someone is subject to a DoLS authorisation.

Proportionality is the test. Using it across a home for every resident regardless of need is harder to justify than using it where there's an identified falls risk.

CQC and the Health and Social Care Act 2008

What it is. The fundamental standards set out in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 are the quality and safety requirements providers must meet. CQC assesses against these through its assessment framework.

Regulation	Where this is relevant
Regulation 9, person-centred care	Understanding individual routines, sleep patterns and how they change supports care that's shaped around the person.
Regulation 12, safe care and treatment	Earlier awareness of falls and faster response reduces the time someone spends on the floor, which is one of the clearest determinants of harm. Note the two week learning period at the start of each deployment, during which existing procedures must continue unchanged.
Regulation 13, safeguarding	Objective activity data can support safeguarding enquiries, and second person presence information can be relevant where concerns are raised.
Regulation 17, good governance	Alert logs, response records and activity history give you an audit trail supporting post-fall review, incident analysis and evidence-led governance.

What providers need to do

Having the data isn't the same as using it. What inspectors will want to see is that it changes something: care plans updated, patterns acted on, response times reviewed. Build it into your existing governance rhythm rather than treating it as a separate system.

UK GDPR and the Data Protection Act 2018

What it is. The law governing how personal data is collected, used, stored and shared. Care providers have particular obligations where data relates to health.

No images, video or audio

No cameras and no microphones. What's processed is movement, presence and occupancy data, not visual or audio identification.

Data minimisation

The system collects what's needed to support safety and care, rather than everything it could.

Secure access

Access is restricted to authorised users and controlled through the platform.

DPIA support

A Data Protection Impact Assessment is available for the Vayyar-powered product. Spark Care can provide the information you need for your own DPIA.

What providers need to do

You're the data controller. That means you decide the purpose and you carry the accountability.

Complete a DPIA before deployment. Radar-based activity data can support inferences about someone's health and mobility, so treat it as special category data and identify your Article 6 and Article 9 conditions.

Update your privacy notice and your record of processing activities. Be clear on your retention position, who has access, and how data subject rights are handled in practice.

Human Rights Act 1998, Article 8

What it is. Article 8 protects the right to respect for private and family life and the home. Any interference must be lawful, necessary and proportionate.

Privacy by design

No visual surveillance and no listening devices. Passive movement sensing in a private space, and nothing that identifies the person visually.

Less intrusive than the alternative

Physically opening someone's door through the night to check they're safe is an interference with private life too, and a more disruptive one. Being able to see someone's settled without waking them is a meaningful gain in both dignity and sleep quality.

What providers need to do. Proportionality has to be assessed individually. Ask whether this is necessary for this person, whether a less intrusive option would achieve the same thing, and whether the benefit justifies it. Record your reasoning.

NICE NG5, falls in older people

What it is. NICE guidance on assessing and preventing falls in older people, including those in care settings.

- **It detects falls that would otherwise go unwitnessed.** Fast falls, slow slides and slips from chairs, including where the person can't call for help.
- **It supports multifactorial assessment with real data.** Understanding night-time activity, routine changes and fall patterns over time gives you more to work with than incident forms alone.
- **It supports timely response.** Reducing time on the floor is directly relevant to injury severity and recovery.

A note on claims

Evidence for technology-assisted falls prevention in care settings is developing. Positioning this as supporting good falls practice is accurate. Claiming specific reductions in falls or hospital admissions isn't, unless you have your own data to show it.

Practical steps for providers

Before deployment

- Complete a DPIA
- Brief staff that fall alerts are not active during the two week learning period, and keep existing falls procedures running unchanged until each room is confirmed live
- Assess capacity and consent individually
- Follow your best interests process where someone lacks capacity
- Inform families, representatives and advocates
- Update your privacy notice and record of processing activities
- Agree who has access and why

During and after

- Document use in each care plan, with the purpose stated
- Record where a resident or representative has declined
- Build alert review into existing governance meetings
- Review proportionality when someone's needs change
- Use what you learn, and record what you changed as a result

Technology only helps if it changes what happens next. The evidence matters because of the decisions it improves, not because it exists.

Need support with implementation?

We help providers with DPIAs, care plan wording, staff training and adoption, not just installation.

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