



RELATIONSHIPS AND SEXUALITY POLICY

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Statement of principles

JRH Support is committed to the provision of high standards of care and services to people with a learning disability. We recognise the need to provide opportunities for social development and the growth of personal relationships. We will seek to ensure that our practices respect the right of people with a learning disability, within the confines of the law, to develop and express their sexuality in the same way as others. We are committed to the following principles, that people with a learning disability:-

1. Will be respected as individuals.
2. Will be afforded the same civil liberties and human rights as other citizens, recognising the normal constraints placed on all individuals.
3. Be entitled to the same range and quality of services as are available to others and in addition are entitled to services designed to meet their specific needs.

People with a learning disability have a right to the following to assist and support them to live as normal a life as possible in the realm of personal and sexual relationships.

These rights may be tempered by the conflict between "protection" and "choice" in an individual's life or by restraints arising from their environment.

- The right to feel safe and be free from abuse.
- The right to be accepted as valued members of their community.
- The right to protection from exploitation
- The right to grow up and to be treated with the dignity and respect accorded to others.
- The right to choice and self-determination about the type of service and support they require and to participate in decisions affecting their lives.
- The right not to have the beliefs and attitudes of others imposed upon them.
- The right to privacy and confidentiality in all aspects of their life including personal relationships, within legal confines.
- The right to knowledge of or access to as much information about their body, their emotions, sexuality and responsible and appropriate social behaviour, commensurate with their understanding and life stage
- The right to express their sexuality appropriately and not be discriminated against or segregated because of age, gender, sexual orientation or severity of disability

Some people may need a great deal of help to exercise these rights and we recognise that it is important to provide education, information and support to service

users, families and carers and staff. It is accepted that some difficult ethical, moral, religious, cultural, practical and legal issues may arise and that there is a need for expert advice. At the same time the importance of confidentiality concerning an individual's personal affairs will be respected. It is hoped this policy will encourage a healthy and open attitude towards personal relationships and sexuality for individuals with a learning disability within their families, friends and the wider community.

STAFF

We all have our own value and moral belief system by which we live our lives. Some people with a learning disability may not have had the opportunity to develop their own ethical, moral, social and religious codes and this can mean they may be more open to complying with the value system of others. While staff are not expected to change their personal views or moral standards, neither would it be proper for them to seek to impose those standards or views on others. Staff must be aware that the values inherent in this policy statement must be the one they work to in their daily interactions with service users and their families and carers.

Staff/Service User Relationships

Relationships between service users and staff need to be established and maintained within clear boundaries. If clear boundaries around touch, for example, hugging, holding hands, delivering intimate personal care are not understood and implemented, then people with a learning disability may receive varied and confusing messages.

Some people with a learning disability may develop a special attachment to a particular member of staff. Those involved may need support to resolve these kinds of situations in a sensitive and professional manner and staff should discuss with their manager the best way forward.

It is a disciplinary offence for a staff member to have any type of sexual relationship with a service user regardless of their level of understanding or ability, or whether they welcome a sexual relationship or not. It is essential that staff work to agreed standards of care and support, in recognizing the power imbalance that exists in staff and service user relationships. Any sexual touch or expression between staff and service user is inappropriate and may constitute breaking the law.

THE LAW AND LEARNING DISABILITY

In common with others, people with a learning disability have rights and obligations under the law. The particular vulnerability of people with a learning disability is recognised in legislation, which has sought to provide specific statutory protection against sexual abuse and exploitation. However, this very protection may infringe on their civil liberties and human rights, thus creating dilemmas for staff, who must respect and act within the law. It is important that staff obtain legal advice in a case where there is doubt surrounding any aspect of a relationship involving a person with a learning disability. People with a learning disability should also receive information about the particular position they have within the law and as far as possible be made aware of the constraints therein.

- A woman is considered able to give consent to a sexual relationship from 16 years of age.
- It is an offence for a man to have unlawful sexual intercourse with a woman who is "severely mentally handicapped".
- Indecent Assault - for an act to be an "indecent assault", there has to be actual or apprehended physical contact in "circumstances of indecency" to which one or other party does not consent. This offence can be committed by either a man or a woman. Since a "severely mentally handicapped person" cannot in law give consent, this means that any sexual contact between someone who has a severe learning disability and someone who is not, may be construed as being an indecent assault.

Consent

People with a learning disability have the right to participate in decisions that affect their lives. However, their ability to exercise choice and give consent is often impaired by lack of information, knowledge, understanding, confidence and skills. In addition, for consent to be valid the law requires that the person with a learning disability demonstrates a broad basic understanding of what is involved AND has the ability to understand the consequences of their actions. Further more, in law, a person is legally incapable of consenting to sexual acts if he or she is assessed as having "a severe mental handicap or impairment". Since it is unlawful to have sexual intercourse with any person who is severely mentally handicapped, clinical assessment of their degree of disability is therefore very important when considering issues concerned with sexual activity either potential or actual. The term "severely mentally handicapped" is legal terminology and it is important that each person's ability to consent to a sexual relationship is assessed in his or her own right. It is important to note that although a person may be severely mentally handicapped in the legal sense, this does not necessarily mean that the person is unable to make other decisions in their social environment.

There is a clear need for the issue of consent to be explored in-depth in the area of personal and sexual relationships. Inherent in this policy is the belief that before a person with a learning disability's right to consent is restricted, everything possible will be done to ensure that the person has had the opportunity to benefit from any learning and support that may enhance their ability to give informed consent.

The Need for Judgement

It is important for people with a learning disability to develop a range of relationships. They may span simple everyday contact and friendships as well as other more complex relationships. Many will need support and advice to establish and maintain these whether a sexual component exists or not. Where a sexual relationship exists, judgments will have to be made regarding the rights of the individual to such a relationship along side the protection of the vulnerable.

It is acknowledged that an environment that allows personal choice and privacy can never be totally risk free. However, assessment of the individual's awareness of their rights and responsibilities within a relationship and their potential vulnerability should allow for those acceptable risks to be managed. This may entail making judgments

about each partner's vulnerability and level of acceptable risk as often the individuals concerned both have a learning disability.

Where there is concern about exploitation in a relationship referral to the team for Adults with a Learning Disability should be made. This policy cannot therefore be prescriptive but seeks to give a framework for staff in situations where absolutes are invariably difficult.

RELATIONSHIPS FOR PEOPLE WITH A LEARNING DISABILITY.

It is essential for people with a learning disability to have the same opportunities to develop the range and variety of relationships, including social and sexual relationships, which are available to the rest of society. Just as people with a learning disability may be helped to make decisions about many other aspects of day-to-day living, all reasonable efforts should be made to assist them to make informed decisions about personal and sexual matters. It is recognised that there are often particular problems faced by people with a learning disability in acquiring knowledge about themselves and their feelings. This deficit may leave them more vulnerable to abuse and exploitation. There is little legislation relating directly to providing sex education for adults. It is important that staff exercise care when offering sex education and should not be seen to be encouraging sexual behaviour. A ruling in the House of Lords in the 'Jeanette Case' stated it was the responsibility of carers to 'educate...warn...and protect as they would any vulnerable child'. Staff are therefore enabled to provide sex education which has been considered necessary and appropriate by a responsible body of opinion, and which is designed to enhance and promote the welfare of the man/woman concerned. It will also be monitored and evaluated to ensure effectiveness. Any such education must be discussed at a multi-disciplinary level, and no staff should take it upon themselves to embark on such a programme without first consulting the manager

Appropriate Social Behaviour

The emphasis for people with a learning disability should be on encouraging appropriate social behaviour which will allow them to lead as normal a life as possible whilst helping them guard against abuse and exploitation. It is the responsibility of staff, to help people with a learning disability to understand what behaviour is socially acceptable.

Staff should not ignore or tolerate inappropriate behaviour as this can have a detrimental effect on that person's status. It is not possible to create a "value system" which measures when behaviour is acceptable or not. If situations arise where this is not self-evident then other relevant professionals should be consulted. The following provides some guidance on some aspects of social behaviour and personal relationships.

Marriage/Long-Term Relationships and Living Together

People with a learning disability have the same rights as others to marry and co-habit. Their relationship can be expected to have the same harmonies and conflicts as others and it is to be accepted that their relationship will not be perfect, completely risk free or "better" than anyone else's.

The primary focus for staff is to help the couple understand the implications of their decision to marry or co-habit and support them in the practicalities of such a decision. It is acknowledged that for this relationship to occur whilst resident in a supported living environment may cause some difficult management issues. However, every effort will be made to accommodate the couple concerned and they will be treated with the dignity and respect that we would anticipate for ourselves

Consideration should be given to the legal restrictions governing marriage. Where evidence exists that a relationship is detrimental to the person with a learning disability, evaluation of the risks will be required, and in exceptional circumstances, action to ensure the individual's protection will be necessary.

All people are entitled to marry (a right also enshrined by Article 12 of the Human Rights Act 1998) and their marriage will be regarded as valid so long as it can be shown that they understood the nature and responsibilities of the contract into which they were entering. If either person did not give valid consent the marriage is voidable, meaning it may be ended at the wish of either party.

Sexual Relationships

Where a person with a learning disability becomes involved in a relationship which includes sexual intercourse, then staff have a responsibility to ensure, as far as possible, that the person has given informed consent to this. They should assist the couple in understanding the potential consequences - physical, emotional and legal. Information, advice, guidance and in some cases, counseling may be required. Relationships of an intimate sexual nature will require carefully considered support and consultation from the multi-disciplinary team. This will ensure that issues of privacy, appropriate behaviour and consideration for other service users are clearly understood and implemented. Similarly, help and support will be offered to those service users who seek a more private living environment.

Masturbation

Masturbation is a normal part of human sexual expression. Lack of privacy and training in appropriate behaviours can result in masturbation being a highly "visible" problem. In dealing with it, the person with a learning disability must be treated with dignity, respect and care. Staff should never prevent service users from exploring their own bodies in this way, often it is the only form of sexual expression available to them and no one should be made feel guilty about masturbation. However, the stipulation being that the activity should take place in private. Consideration should be given as to why it is taking place e.g. boredom, release of tension or lack of instruction in socially acceptable behaviour could all be contributing factors. Essentially the message that needs to be conveyed is that masturbation, when it occurs, should only take place in private.

Sexually Transmitted Infections

People with a learning disability run the same degree of risk of contracting an STI or HIV as the rest of the population. A person with a learning disability who is or may be at risk of contracting an infection, should be offered preventative counselling and

access to treatment, if required, using the ordinary services. They may need information about safer sex practices and of the services available to them, and support in using ordinary services.

Staff should be responsive to service user's request for information, however, no one member of staff should, without prior consultation with relevant professionals, provide counselling about HIV and Aids and safer sex practices.

Sexual Preference

In society there is a diversity of sexual needs and expression. This is no different for people with a learning disability. A person's sexual orientation and behaviour must be respected as long as they operate within the law and do not impinge adversely on the rights of others.

People with a learning disability may need help to learn and understand about their sexuality. Sexual preference can at times be influenced by lack of opportunity to mix with the opposite sex and experience other ways of sexual expression. Staff need to be aware that homosexual and lesbian behaviour may be a stage in the persons sexual development and they need to distinguish between this and mature same gender relationships. The presence of a homosexual or lesbian relationship should not prevent on-going support and advice by staff with a clear commitment to the prevention of abuse.

Sexual Abuse

There is increasing evidence that people with a learning disability are vulnerable to sexual exploitation and abuse. The department of Health and Social Services in its guidance on abuse of vulnerable adults define abuse as:-

"The physical, psychological, emotional, financial or sexual maltreatment or neglect of a vulnerable adult by another person. The abuse may be a single act or repeated over a period of time. It may take one form or a multiple of forms. The lack of appropriate action can also be a form of abuse. Abuse can occur in a relationship where there is an expectation of trust and can be perpetrated by a person/s, in breach of the trust, who have influence over the life of a dependant, whether they be formal or informal carers, staff or family members or others. It can also occur outside a relationship"

Sexual abuse includes rape, sexual assault or the involvement of a vulnerable person in sexual activities to which they have not consented to, or could not consent or was pressured into consenting. It should be noted that sexual abuse could also involve exposure and molestation. This includes sexual advances which may not involve direct contact with the client, e.g. exposure to pornographic material or being made to witness sexual activity.

It is the duty of staff to prevent sexual abuse of people with a learning disability. Where this is discovered or strongly suspected, staff must act to prevent the individual's further exploitation. The incident should be responded to without delay in line with the Safeguarding Adults Policy and Procedures.

Sexual Offences

Where there is a suspicion that someone with a learning disability has committed a sexual offence, staff have a duty to report this to the manager whose responsibility it is to liaise with the police and formally report if required.

Pornography

Pornography can be interpreted as exploitative and something that de-values the individual. This Policy recognises that people with a learning disability have the same right as others to obtain and view pornographic materials (excluding those which are against the law and are prohibited under the Obscene Publications Act) provided they do so in private. However, there is a responsibility on staff to ensure that service users are aware of the potential to cause offence. It is therefore vital that individuals are aware of the legal issues and the rules around storage, use and display of pornographic materials within various environments.

Staff should not at any time bring pornographic material into the work place, nor should they buy or access pornographic material via the internet and/or satellite T.V on behalf of service users.