**Upholding People’s Human Rights – Policy and Guidance Notes**

This policy and guidance notes have been developed with reference to:

* CQC’s ‘Equally outstanding Equality and human rights; good practice resource’ - <https://www.cqc.org.uk/sites/default/files/20170913_equally_outstanding_ehr_resource_1.pdf>
* Human rights approach for our regulation of health and social care services - <http://www.cqc.org.uk/sites/default/files/20150416_our_human_rights_approach.pdf>

**Policy Statement**

At [service name] we recognise the innate value of all people including the innate value of the people we support and our staff. As a Company we are committed to respecting and accommodating diversity and promoting the human rights of both the people we support and our staff in the work that we do.

This policy should be read in conjunction with our Ensuring Equality, Respecting Diversity and Preventing Discrimination Policy and Guidance Notes.

**Guidance Notes**

***A brief overview of human rights***

Human Rights are part of what it means to be a human being. A good way to understand human rights is to see them as a vehicle for making principles such as dignity, equality, respect, fairness and autonomy central to our lived experience as human beings.

Everyone working for [service name] should be aware that human rights:

* belong to everyone, all of the time – not only certain groups at certain times
* give expression to a set of core principles that should be available to all people including **dignity, equality, respect, fairness and autonomy**
* cannot be ‘given’ to people (they are ‘innate’ rights). They can only be claimed or fulfilled
* cannot be ‘taken away’ from people, although they can be limited or abused and in certain circumstances they can be legitimately restricted (such as sending someone to prison if they have been found guilty through a proper legal process).

Given that people have these innate Human Rights, organisations have responsibilities to both promote and protect them.

**Areas where the rights of people with disabilities are enshrined in law**

*The Human Rights Act*

The Human Rights Act is a UK law passed in 1998. It lets you defend your rights in UK courts and compels public organisations (including the Government, police and local councils) to treat everyone equally, with fairness, dignity and respect.

The Act sets out your human rights in a series of ‘Articles’. Each Article deals with a different right. These are all taken from the European Convention on Human Rights and are commonly known as ‘the Convention Rights’:

* Article 2 Right to life
* Article 3 Freedom from torture and inhuman or degrading treatment
* Article 4 Freedom from slavery and forced labour
* Article 5 Right to liberty and security
* Article 6 Right to a fair trial
* Article 7 No punishment without law
* Article 8 Respect for your private and family life, home and correspondence
* Article 9 Freedom of thought, belief and religion
* Article 10 Freedom of expression
* Article 11 Freedom of assembly and association
* Article 12 Right to marry and start a family
* Article 14 Protection from discrimination in respect of these rights and freedoms
* Protocol 1, Article 1 Right to peaceful enjoyment of your property
* Protocol 1, Article 2 Right to education
* Protocol 1, Article 3 Right to participate in free elections
* Protocol 13, Article 1 Abolition of the death penalty

*The UN Convention on the rights of people with disabilities*

The UN Convention on the rights of people with disabilities includes rights to:

* Equality and non-discrimination
* Accessibility
* Life
* Freedom from torture or cruel, inhuman or degrading treatment, exploitation, violence or abuse
* Live independently and being included in the community
* Personal mobility
* Freedom of expression and opinion, and access to information
* Respect for privacy, for home and the family
* Equal access to health services and rehabilitation.

*The Equalities Act 2010*

Equality for disabled people is included in the Equality Act 2010. This provides better protection for disabled people from discrimination, exclusion and poor treatment.

The Equality Act makes the law on reasonable adjustments clearer.

Reasonable adjustments are changes an employer or someone providing a service has to make so that disabled people can do something. These might include things like:

* making sure a building and its facilities are accessible to people with reduced mobility
* providing extra time at doctor or dentist appointments or these professionals coming to treat the person within their home
* providing people with information in a way that they can understand it. This could include using audio or video, braille or Easy Read versions of documents.

The Equality Act says that most of the time they can’t expect the disabled person to pay them that extra money back.

***Our core human rights principles***

The principles of Fairness, Respect, Equality, Dignity, and Autonomy are commonly agreed ‘human rights principles’ and are considered to underpin all international human rights treaties. These are sometimes called the FREDA principles. The ‘right to life’ and ‘staff rights and empowerment’ have also been added to these.

The principles we use to promote and uphold people’s human rights are therefore:

*Fairness*

It is fair that people who use services and people acting on their behalf have access to clear and fair processes for getting their views heard, for decision-making about care and treatment and to enable them to raise and resolve concerns or complaints.

*Respect*

People who use services should be valued as individuals and are listened to. What is important to them should be viewed as important by the service. People acting on behalf of others, such as family and friends should also be valued and listened to.

*Equality*

Amy person who uses services should not experience discrimination and should have their needs met. This includes any needs they have associated with their age, disability, gender, race, religion and belief, sexual orientation, gender reassignment and pregnancy and maternity status. This includes looking at the needs of people who may experience multiple discrimination or disadvantage as a consequence of having more than one of the above protective characteristics.

*Dignity*

People who use services should always be treated in a humanitarian way. This means with compassion and in a way that values them as a human being and supports their self-respect, even if their wishes are not known at the time.

*Autonomy*

People who use services should be able to exercise the maximum amount of choice and control possible whether this be in care planning, in their individual care and treatment, in service development, in their relationships with others such as family and friends and as citizens beyond the health and social care services that they are using.

*Right to life*

People who use services must have their right to life protected and respected by the health and social care services that they use.

*Staff rights and empowerment*

Staff working in health and social care should also have their human rights protected and respected. This includes being encouraged to freely speak up about concerns and have these considered, being free from unlawful workplace discrimination, harassment, bullying or violence and being supported and empowered to promote the human rights of people using their service.

***CQC and human rights***

As a public sector body CQC has a duty to have due regard to the need to:

* Eliminate discrimination
* Advance equality of opportunity
* Foster good relations between groups of people who share a protected characteristic under the Act and those who do not.

CQC are making the promotion and upholding of people’s human rights central to their regulation and inspection process. The reasons for this are that:

1. Care and support services are often provided to the most vulnerable members of our society who are potentially at risk of not having their human rights respected and in addition not being in a position to challenge this if it was to occur.
2. Inquires such as the Francis report into Mid Staffordshire Hospital have found that the human rights of patients were not being upheld and the NHS was not applying ‘core humanitarian values’.

CQC are not inspecting for compliance with the Human Rights Act. Instead they are inspecting to see how providers perform in relation to their five Key Lines of Enquiry and to ensure that within these providers are practicing and delivering services in ways that uphold people’s human rights. CQC’s five Key Lines of Enquiry are:

* Is the service **safe**?
* Is the service **effective**?
* Is the service **caring**?
* Is the service **responsive**?
* Is the service **well-led**?

How providers are implementing human rights principles in relation to these five Key Lines of Enquiry is outlined in the following table.

**Key Line of Enquiry – Is the service safe?**

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Fairness |  | The people we support and / or their chosen representatives are involved in assessing risks that affect them and their own safeguarding if they choose to be and have the mental capacity to do so. |
|  |  |
|  | That the Deprivation of Liberty safeguards are applied when necessary and used correctly. |
|  |  |
|  | The people we support and / or their chosen representatives are made aware of how to raise concerns or make complaints and that they are encouraged to if they feel they need to. |
|  |  |  |
| Respect |  | Where risk assessments take place in relation to levels of harm, people we support and their chosen representatives are consulted and their experiences included. |
|  |  |  |
| Equality |  | That discriminatory abuse is clearly discouraged and if it is found to have taken place it is dealt with and addressed directly. |
|  |  |  |
| Dignity |  | Taking all steps to ensure that abuse that impacts on dignity (e.g. neglect) does not take place and if it is found to have taken place that it is raised as a Safeguarding concern and dealt with through the safeguarding process. |
|  |  |
|  | That the environment is habitable. It is warm, comfortable and safe as well as clean and hygienic. |
|  |  |  |
| Autonomy |  | The people we support and / or their chosen representatives are made aware of what abuse is, what to do if they encounter it and can be involved in the safeguarding process if they choose to be. |
|  |  |
|  | Restrictive practices, including restraint, are minimised through the use of person-centred approaches. |

*Key Line of Enquiry – Is the service safe? cont’d*

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Right to life |  | People are protected from avoidable death through the safe management of the environment and equipment and through referral to appropriate healthcare services as and when they need to be. |

**Key Line of Enquiry – Is the service effective?**

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Fairness |  | There is a clear process in place for obtaining ‘valid’ consent to care and treatment which is in line with the requirements of the Mental Capacity Act. |
|  |  |
|  | People are provided with the information and support to enable them to make decisions about their care, support and any treatment. |
|  |  |
|  | When relevant, people’s rights are protected through practice which complies with the Mental Health Act 1983. |
|  |  |  |
| Respect |  | People are consulted about and involved in the process of their own care, support and any treatment. |
|  |  |  |
| Equality |  | There are guidelines and measures in place to prevent people being subject to unlawful discrimination in relation to decisions about their care, support and any treatment. |
|  |  |
|  | Where necessary, reasonable adjustments are made to enable people to provide ‘valid’ consent. |
|  |  |  |
| Dignity |  | The environment and service is designed to promote people’s dignity. e.g. there are measures in place to ensure that people receive the nutrition and hydration and / or the pain management they need. |

*Key Line of Enquiry – Is the service effective? cont’d*

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Autonomy |  | There are measures in place to maximise a person’s control over the delivery of their care, support and any treatment. e.g. supporting people to manage and administer their own medication if they wish to and have the mental capacity to do so. |
|  |  |  |
| Right to life |  | Any care and treatment decisions that might affect a person’s right to life and properly authorised and implemented. This might include Do Not Attempt Resuscitation forms or procedures for the withdrawal of treatment or nutrition / hydration. |

**Key Line of Enquiry – Is the service caring?**

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Fairness |  | Staff ensure that people have access to advocacy as and when they need it. |
|  |  |
|  | Staff ensure that people’s personal information remain confidential and is held securely. |
|  |  |
|  | There is a clear procedure by which the service can exercise its ‘duty of candour’ and honesty share bad news with relevant parties if something goes wrong. |
|  |  |
|  | Staff gather and use the views of people using the service and their chosen representatives in order to make improvements to the service. |
|  |  |  |
| Respect |  | Staff include the people we support and (with their permission) their chosen representatives as partners in the provision of the service. |
|  |  |
|  | Staff build relationships of trust through openness and honesty in communication with people using the service and their chosen representatives. |
|  |  |  |
| Equality |  | Staff avoid discrimination. |

*Key Line of Enquiry – Is the service caring? cont’d*

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Equality |  | Staff and the service are willing and able respond to respond to the diversity of people’s needs whatever they are. This might include their cultural needs including the community they wish to be in contact with, the relationships they wish to maintain and their communication needs. |
|  |  |  |
| Dignity |  | Staff provide consistently compassionate care. |
|  |  |
|  | When required, staff meet people’s needs in relation to pain relief. |
|  |  |
|  | Staff meet people’s needs in relation to eating and drinking. |
|  |  |
|  | Staff meet people’s needs in relation to going to the toilet. |
|  |  |
|  | Staff meet people’s needs in relation to privacy. |
|  |  |  |
| Autonomy |  | Staff work with people to maximise their independence. |
|  |  |
|  | Staff support people who use services to maintain the friendships and relationships that are important to them. |
|  |  |
|  | Staff minimise the use of restrictive practices. |
|  |  |
|  | Staff use good practice in restraint. |
|  |  |  |
| Right to life |  | That the people we support are never subject to neglect by staff both in relation to their day to day needs and longer term needs which may require them to have timely and effective access to healthcare services. |

**Key Line of Enquiry – Is the service responsive?**

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Fairness |  | There is a clear complaints process in place and effective action on individual complaints. |
|  |  |
|  | People using the services (and where appropriate their chosen representatives) are involved in decision-making when there are major changes to their care or support. |
|  |  |  |
| Respect |  | People are listened to and their needs and wishes are at the centre of the care, support and any treatment they receive. |
|  |  |  |
| Equality |  | When planning services, due regard is given to the needs of protected groups who are at risk of exclusion and discrimination. |
|  |  |
|  | Potential barriers to accessing the service that might be experienced by protected groups are identified and removed. |
|  |  |
|  | People’s cultural, ethnic and spiritual needs are identified, assessed and provided for as part of our service provision. |
|  |  |
|  | The care and support people receive is appropriate for them in relation to their age, disability, gender, race, religion, sexual orientation or gender reassignment. This should include providing information in languages that people understand, enabling access to interpreting / translation services if required, providing people with food and drink which reflects their culture and enabling people to meet their spiritual and religious needs. |
|  |  |
|  | This should include ensuring that reasonable adjustments are made if and when required by anyone using the service who has a disability. |
|  |  |
|  | The service has an appropriate focus on finding out and meeting the needs and wishes of people with a learning disability or those lacking capacity. |

*Key Line of Enquiry – Is the service responsive? cont’d*

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Equality |  | People we support are provided with personal care by staff members of their gender. |
|  |  |  |
| Dignity |  | We work together with other services to respond to the changing needs of individuals where these are impacting on their dignity. |
|  |  |
|  | Arrangements are in place to ensure people’s dignity is maintained if they leave Innovations or they are supported by ourselves and another service. |
|  |  |  |
| Autonomy |  | The service arrangements we have in place for people maximise and promote their independence in line with their needs and wishes. |
|  |  |
|  | We support people to access their communities, utilise its facilities, to exercise their right to vote if they wish to and engage as active citizens within their community. |

**Key Line of Enquiry – Is the service well led?**

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Fairness |  | The leadership of the service involves the people we support and their chosen representatives in decisions about the service and how it can be improved in lines with their needs and wishes. |
|  |  |
|  | The vision and values of the service include the commitment to upholding people’s human rights. |
|  |  |
|  | Where relevant, the rights of the people we support are protected under the Mental Health Act. |
|  |  |  |
| Respect |  | Service Managers, Registered Managers and leaders within the organisation model respect in their dealings with the people we support, their chosen representatives, staff and external professionals. |
|  |  |
|  | The views of people using the service inform the way the service is delivered. |
|  |  |  |
| Equality |  | Service Managers, Registered Managers and leaders within the organisation model respecting diversity and the promotion of equal opportunity in their dealings with the people we support, their chosen representatives, staff and external professionals. |
|  |  |
|  | A respect for diversity and the promotion of equality of opportunity are inherent to the values and culture of the organisation. |
|  |  |  |
| Dignity |  | Service Managers, Registered Managers and leaders within the organisation model dignity and compassion in their dealings with the people we support, their chosen representatives, staff and external professionals. |
|  |  |
|  | Dignity and compassion are inherent to the values and culture of the organisation. |

*Key Line of Enquiry – Is the service well led? cont’d*

|  |  |  |
| --- | --- | --- |
| **Human rights principle** |  | **What we need to ensure**  **(and CQC will be looking at)** |
|  |  |  |
| Autonomy |  | There is clear leadership oversight within the organisation in relation to promoting peoples ability to make their own decisions and their choice and control in relation to the service they receive. |
|  |  |
|  | There is clear leadership oversight within the organisation in relation to restrictive practices with the intention of keeping these to a minimum and only being used when absolutely necessary. |
|  |  |
|  | Where possible people we support are involved in decisions about how the service can be improved in line with their needs and expectations. |
|  |  |  |
| Right to life |  | Within the organisation there is leadership oversight in order to avoid preventable deaths and to ensure that any decisions not to provide treatment are made for the right reasons and involve all the relevant stakeholders. |
|  |  |  |
| Staff rights / empowerment |  | The views of frontline staff are sought and are helped to inform the development of and improvements to the service and their workplace. |
|  |  |
|  | Within the organisation there are measures in place and leadership oversight in order to ensure that staff are kept safe and are not subject to bullying or harassment. |
|  |  |
|  | There is a commitment from the leadership of the organisation to ensure equality of opportunity for all staff. |
|  |  |
|  | Staff are made aware of the Working Time Directive and their right to only work over 48 hours a week if and when they choose to do so. |
|  |  |
|  | Staff are made aware of our complaints and grievance procedures and their right to raise concerns and have these listened to and acted upon if they feel they have been unfairly treated. |

**[Service name] – our response**

*Aligning our service provision with CQC the human rights principles identified within CQC’s Key Lines of Enquiry*

As an organisation [Name of organisation] will look to align the way we deliver services in line with the framework identified above. We believe that this is not only the way services should be developed and delivered but also that it will help us evidence to CQC that we take the issue of upholding people’s human rights seriously and that in doing so it will promote our regulatory compliance.

*Staff training*

We have developed a workbook which provides staff with information that they need to know in relation to both this ‘Upholding People’s Human Rights’ policy and our ‘Ensuring Equality, Respecting Diversity and Preventing Discrimination’ policy.

All our staff will be asked to read this and answer the questions as part of their Care Certificate aligned induction programme.