

# The Wharfedale Clinic

Training Presentation

## **Equality, Diversity and Human Rights**

# Learning Objectives

1. Principles of Equality, Diversity and Human Rights
2. Relevant legislation, Trust policies and processes
3. Promote a proactive inclusive approach to equality, diversity and human rights
4. Benefits of an effective approach to equality, diversity and human rights
5. The importance of valuing people as individuals and treating everyone with dignity, courtesy and respect
6. What to do if there are concerns about equality and diversity practices Accessing resources including legislation, local/national policies & guidelines

# Why is this important?

We all have an impact when putting Equality and Diversity in to practice and need to understand why this is important.

Everyone has the right to be treated fairly. We should be committed to removing barriers to opportunity and encouraging choice for all.

To make this happen, all staff need to demonstrate appropriate actions and behaviours.

# Why is this Important?

Equality and Diversity affects us all. At any point in our lives, any one of us could experience discrimination on the grounds of our age, race, gender, ability, sexual orientation, religion or belief.

**Equality does not mean treating everyone the same, but making sure people are treated fairly. It is about challenging the factors that limit opportunity and appropriately meeting individuals' needs.**

We all work in diverse teams, with people of different genders, ethnic origins, beliefs, values, sexual orientation, abilities, and working styles. Diversity is recognising and valuing these differences and ensuring many different types of people contribute to society.

# What is Equality and Diversity all about?

Over the past few years the law in the UK has changed to bring protection against discrimination to more groups of people, for example:

- Different ages
- Different genders
- Different cultural backgrounds
- Holding different religious beliefs
- Different sexual orientations
- With disabilities

# Equality & Diversity best practice contributes to:

- Personalised patient care
- Equal access to health care services for all
- Provide "reasonable adjustments" for people with disabilities e.g. removing physical barriers to accessing Services
- Interpreting services and accessible communication
- Equal access to jobs
- Equal access to promotion and training opportunities for existing staff

# Equality Act 2010

The Equality Act (2010) became law in October 2010. It replaces 9 pieces of legislation, including Race Relations Act 1976 and the Disability Discrimination Act 1995, and 100 statutory instruments.

It harmonises and simplifies equality and diversity law and ensures consistency in what employers need to have in place to make the workplace a fair environment and to comply with the law.

The Act covers the same groups that were protected by previous equality legislation and extends some protections to some of the groups not previously covered, and also strengthens particular aspects of equality law.

# General duties of the Equality Act

**In summary, organisations must, in the exercise of their functions, have due regard to the need to:**

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not



# Protected Characteristics

- **Age** Refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds)
- **Disability** A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities
- **Gender reassignment** The process of transitioning from one gender to another
- **Marriage and civil partnership** Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters

# Protected Characteristics (continued)

- **Pregnancy and maternity** Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding
- **Race** Refers to the protected characteristic of Race, a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins
- **Religion and belief** Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism)
- **Sex** A person's sex refers to the fact that they are male or female. In relation to a group of people, it refers to either men or women or to either boys or girls
- **Sexual orientation** Whether a person's sexual attraction is towards their own sex, the opposite

# Discrimination

It doesn't matter whether any of these characteristics apply to you, or the people in your life. If you are treated worse because someone thinks you belong to a group of people with protected characteristics, this is discrimination.

The Act now also protects you if people in your life, such as family members, friends or co-workers have a protected characteristic and you are treated less favourably because of that. For example, you are discriminated against because your son is gay.

# Fairness & Equality

**All members of staff need to take responsibility for promoting these fairness and quality.**

Staff need to take positive action to challenge prejudice at every opportunity and treat people according to their needs.

Fairness is underpinned by:

- Showing respect for all
- Providing equality of opportunity
- Treating people according to their needs
- Making reasonable adjustments
- Taking positive action to challenge prejudice and discrimination

# Reasonable Adjustments

**The most important part of the law against disability discrimination is the duty of employers to make reasonable adjustments;** basically this means when disabled workers are disadvantaged in the workplace due to their disability, employers must take reasonable steps to enable them to carry out their duties, for example by adjusting their working hours or by modifying equipment.

Therefore employers need to ascertain if adjustment will resolve the problem, how practical it will be and any financial and other costs. They must also consider their own financial and other resources; a small shop would not have the resources of a multi-national chain of shops, and the availability of financial or other assistance.

# How to get an inclusive approach

We can promote an inclusive approach by creating an environment and culture where everyone is treated with dignity and respect. The talents and skills of different groups are valued, and where patient care and safety improves because the workforce, patients and the public are engaged and consulted. Examples of how to approach this include:

- Patient and Public Involvement to engage with their community and understand their needs in order to tackle local health inequalities
- Develop an equality policy and action plan
- Review complaints
- Equality Data Collection and monitoring
- Improve services through consultation and involvement
- Equality Impact Assessments
- Promote equality and good employment practice

# Human Rights

**‘All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood’**  
***U.N. Declaration of Human Rights, 1948***

*The Human Rights Act 1998 (also known as the Act or the HRA) came into force in the United Kingdom in October 2000. The Act sets out the fundamental rights and freedoms that individuals in the UK have access to.*

*The rights in the Act mean that no one should treat you in an inhuman or degrading way. They give you the right to privacy and to enjoy your family life. They uphold the choices you make in many important areas.*

# Human Rights Act 1998

The Act sets out the fundamental rights and freedoms that individuals in the UK have access to. They include:

- ♣ To life
- ♣ Not to be tortured or treated in an inhuman or degrading way
- ♣ To be free from slavery or forced labour
- ♣ To liberty and security
- ♣ To a fair trial
- ♣ No punishment without law
- ♣ To respect for private and family life, home and correspondence
- ♣ To freedom of thought, conscience and religion



# Human Rights Act 1998

## *(Continued)*

- ♣ To freedom of expression
- ♣ To freedom of assembly and association
- ♣ To marry and have a family
- ♣ Not to be discriminated against
- ♣ The right to peaceful enjoyment of possessions
- ♣ To education
- ♣ To free elections.

# Absolute vs Non absolute rights

**All the rights in the Human Rights Act are divided into absolute and non-absolute (qualified and restricted) rights.**

**Absolute** rights cannot be infringed under any circumstances. These are the Right to Life, Prohibition of torture and degrading treatment, Prohibition of Slavery and Forced Labour and No Punishment without Law.

**Qualified** rights are rights that the state can lawfully interfere with in certain circumstances. Interference with these must be lawful, legitimate, necessary and proportionate.

An example of a qualified right is freedom of expression, which is acceptable to curtail if expression leads to incitement to hatred.

Right to liberty and security is an example of a restricted or limited right. This means that it will be unlawful to deprive an individual of liberty unless there are valid (legal) grounds to do so. Sectioning under the Mental Health Act to prevent harm to oneself or others is an example of this.

# Human Rights based approach

**The Human Rights Act is underpinned by the core values of Fairness, Respect, Equality, Dignity and Autonomy for all. These values are at the heart of high quality health service. This human rights based approach goes beyond the 9 protected characteristics to outlaw discrimination on all grounds.**

There are benefits that accrue from a human rights based approach. Firstly it improves the patient, service user and staff experiences through person-centred decision making. It improves compliance with the Human Rights Act and reduces the number of complaints/litigation it receives. This approach guarantees human rights are not an “add on”, they are an inherent part of care.

# F.R.E.D.A

**The FREDA principles roughly equate to various Articles of the HRA (1998) (these relationships though are not exclusive).**

- **Fairness Article 6: Right to a fair trial**
- **Respect Article 8: Right to private and family life**
- **Equality Article 14: Prohibition of discrimination**
- **Dignity Article 3: Freedom from torture, inhuman and degrading treatment**
- **Autonomy Article 8: The right to respect for private and family life**

# Forms of Discrimination

**Discrimination in its legal sense is categorised into direct and indirect discrimination.**

**Direct discrimination** is when someone is treated less favourably than another person because of a protected characteristic (Age, Disability, Gender reassignment, Marriage and civil partnership, Pregnancy and maternity, Religion and belief, Race, Sex, Sexual orientation).

**Indirect discrimination** occurs when the effect of conditions, practices or requirements imposed, has an unreasonably detrimental impact on one group over another. For example, your employer insisting all male colleagues must be clean shaven. This rule could be putting members of certain religious sects at a disadvantage.

# Forms of Discrimination (continued)

**Associative discrimination** is discrimination against an individual because of an association with another person who has a protected characteristic under the Equality Act 2010. An example of associative discrimination might be a non-disabled employee who is discriminated against because of action she needs to take to care for a disabled dependant.

**Perceived discrimination** is the unlawfully discrimination against someone on the mistaken assumption they hold a protected characteristic for example, a man who is not gay is discriminated against because of a belief that he is.

# Is it ever lawful to discriminate?

**In very limited circumstances, it is possible for an employer to discriminate during recruitment or promotion where a protected characteristic is a Genuine Occupational Requirement.**

If an employer can show that a job requires a person of a specific gender, race, religion or sexual orientation in order to effectively perform the role, and it is proportionate for the employer to apply the requirement they can discriminate against candidates who do not fulfil the specific criteria

Individuals may not agree that such a rule is appropriate or fair for a particular job. If so, they can still claim they have been unlawfully discriminated against. The employer would need to be able to explain and justify the rule.

# Bullying and Harrassment

Bullying and harassment is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act. The effect on the individual is more important than the intention of the bully / bullies.

Bullying or harassing behaviour could include:

- Verbal abuse, taunting, nasty comments or jokes
- Spreading malicious rumours
- Physical force
- Unfair treatment
- Deliberately isolating / ignoring someone
- Regularly undermining a competent worker
- Denying someone training or promotion opportunities
- Display or circulation of offensive materials
- Inappropriate sexual comments

It is an employer's responsibility to have procedures in place to prevent bullying and harassment. They will be liable for any harassment or offence



# Bullying and Harrassment

It is an employer's responsibility to have procedures in place to prevent bullying and harassment. They will be liable for any harassment suffered by their employees.

# The Basis of Discrimination

**Discrimination** occurs when people are treated differently than others who are similarly situated because of a particular characteristic. The basis for this is often due to stereotyping and prejudice. The defining characteristic is viewed and judged on pre and misconceptions rather than the individual.

A definition of a **stereotype** is „an overgeneralisation or fixed belief about a particular group of people“. We gain an advantage from using stereotyping because it enables us to quickly react to situations because we have had a similar experience before

# The Basis of Discrimination

The disadvantage is that it makes us ignore the differences between individuals therefore assuming things about people that may not be true. For example make assumptions about a person based on their age, sex, race, sexuality, etc.

Gordon Allport, a psychologist defined **prejudice** as a „feeling, favourable or unfavourable, toward a person or thing, prior to, or not based on, actual experience“. Therefore prejudicial behaviour is favouring or disfavouring an individual because of your preconceived ideas relating to their age, sex, race, sexuality and so on.

# Ladder of Prejudice



# Ladder of Prejudice

The psychologist Allport describes a ladder of negative actions that spring from prejudice.

- The first rung is **Speech**, this takes the form of talking, laughing and joking about a group as if they all share the same personality or traits. Actions include name calling, telling jokes, rumours and assigning evil motives and behaviour to the group.
- The next step on the ladder is **Avoidance**, at this stage people now avoid contact with the group that has been stereotyped. This lack of contact between the groups leads to a lack of knowledge and ignorance of the stereotyped group breeding fear and prejudice.

# Ladder of Prejudice

- The action now increases to **Discrimination**. The group are forced from most public spaces and are corralled in ghettos, shunned by the majority and laws are enacted to enforce this discrimination.
- This leads to step 4, which is **Physical Attack**. These attacks are made on people and property. It may take the shape of mob violence or gang warfare resulting from prejudice. Places of worship or buildings representing the group are seen as targets and may be defaced or destroyed as they are a public display of the differences.
- Finally step 5 is **Extermination**. This last step escalates to the murder and extermination of the unwanted group.

# How to challenge prejudice & discrimination

**The fight against discrimination, and combating underlying prejudices, are central to the human rights approach in the NHS. We all need to challenge prejudice and discrimination whenever and wherever we meet it.**

Think about the impact of your role and the relationships you have with the individuals. Are they a colleague, are you their manager or just a friend? If you challenge discriminatory behaviour it is probable that the offender will be unlikely to meet the challenge if they believe that you will fail to support them. It is always best to challenge immediately if you can rather than leaving it to a later time. If you don't the victim may suffer additional instances of discrimination.

# How to challenge prejudice & discrimination

If you don't feel confident challenging discriminatory behaviour seek confidential advice from your manager.

**Consider when and where is best to challenge. Remember the following points:**

- Avoid blame - say what would be better
- Think about the impact of your role and relationship with the individual
- Be clear about your position
- Consider when & where is best to challenge
- Think about the effect on others
- **Not challenging is not a neutral act, it can be seen as collusion**



# Reporting discrimination/harassment

- Take action as quickly as possible to try and stop it, and prevent it from escalating any further. Refer to specific policies and procedures, but the following steps are a good guideline:
- ♣ Tell your manager what is happening
- ♣ Get independent advice
- ♣ Collect evidence

# Summary: What we must aim for

The benefits of an effective approach to equality, diversity and human rights are far ranging for healthcare organisations, and include:

- Fair, moral and inclusive society
- Aids recruitment and retention of staff
- Less complaints
- High staff morale directly links to better patient care and service delivery, patient satisfaction is higher and mortality rates are lower
- Reduced bullying and harassment cases and associated sickness rates which result in improved productivity
- Enhances an organisation's reputation
- Ensures organisations are meeting their legal obligations
- Greater opportunities for patients / service users to access their local healthcare services which is directly linked to the long-term sustainability of those services and organisations

# Your Responsibilities

**You do not only have rights under equality laws but you also have responsibilities and must support your employer in putting equality legislation into practice.**

You must ensure you don't intentionally or unintentionally harass, bully or abuse others. Do not discriminate directly or indirectly against others nor encourage or support others to discriminate.

You must report any evidence or suspicions you may have of discrimination taking place. If someone makes a complaint or provides information relating to discrimination you must support them and help prevent them from being victimised.