

Royal College of Psychiatrists Consultation Response



DATE: 24th February 2010

RESPONSE OF: THE ROYAL COLLEGE OF PSYCHIATRISTS

RESPONSE TO: Care Quality Commission- Equality and Human Rights Scheme

The Royal College of Psychiatrists is the leading medical authority on mental health in the United Kingdom and is the professional and educational organisation for doctors specialising in psychiatry.

We are pleased to respond to this consultation. This consultation was prepared by the Special Committee on Human Rights.

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Response to the Care Quality Commission on the proposed Equality and Human Rights Scheme

Introduction

The Royal College of Psychiatrists considers it entirely proper for the Care Quality Commission to place such an emphasis on equality and human rights and indeed, as stated in the document, it has a legal responsibility to do so. The Royal College of Psychiatrists endorses such an approach and expresses its willingness to assist the CQC in developing the Scheme.

The College recalls the Department of Health's work on developing a human rights based approach to healthcare (DH, 2008) and views the CQC's proposals as helpful in promoting a 'human rights culture' in healthcare generally. The CQC echoes the Department of Health's work to promote the fundamental human rights principles of fairness, respect, equality, dignity and autonomy (See also Curtice & Exworthy (2010)).

1. Overall approach to embedding equality and human rights

It is important to distinguish between the quality of the treatment delivered and the quality of the delivery of that treatment. There is a tendency to conflate the two in the document and there is an assumption that treatment delivered 'well' is good quality care. This is not always true. The experience of the recipient might well be very positive but the treatment itself could be outmoded, excessive or inappropriate. It may be considered that 'care' is different from 'treatment' and that the former term conveys something of the experience of receiving the treatment.

In section 2.2, there is an emphasis on rights and entitlements rather than needs and requirements. This could lead to a distortion or tension in determining clinical priorities. Rights and entitlements are enduring whereas needs and requirements help distinguish between the competing rights and entitlements of individuals.

There seems to be an emphasis on discrimination in its various forms, at times almost to the exclusion of consideration of other aspects of a person's human rights – for example see the last paragraph of 2.4. At times diversity also creeps into the phrase 'Equality and human rights' see Section 4.1, page 17, or in section 4.2. Indeed it can be questioned whether 'equality' needs additional billing given that it is one of the five fundamental human rights (FREDA). It is suggested that greater clarity could be brought to bear on the scope of the Scheme and to adopt an agreed phrase or statement defining 'equality and human rights'.

2. Human Rights Based Approach

The monitoring functions of the legacy commission, the Mental Health Act Commission, have been taken over by the CQC but alongside that change is a distinct change of emphasis. Future inspections would seem to be far more patient centred in terms of understanding their experience of care and service delivery. By comparison the MHAC was established to examine the use of the powers and duties of the Mental Health Act. This is a significant difference in approach but which is not fully acknowledged in section 4.5.

In certain areas of psychiatry, for example, forensic psychiatry, the patients' interests are not the sole consideration. In many cases there are victims to be considered as well as a potential risk to the public in the future. In balancing the wishes of the patient against the competing rights of victims or in maintaining public safety, it may be the case that the patient's experience is less satisfactory because their rights have had to give ground.

The term 'human rights based approach' is not defined in the document and phrases such as "ensure that people's interests are protected" (page 19, section 4.5) needs to be clarified into a statement that can be operationalised.

3. Priorities for action

There is a need to be more explicit about the work of the legacy commission that is being fed into the current programme of work.

The consultation document states the CQC will work with people who use the services and that includes carers, as well as 'other stakeholders'. While CQC staff are specifically mentioned there is barely a mention of healthcare staff, except in relation to issues that might affect the workforce with a consequent effect on the quality of care delivered. In other words the workforce are only important inasmuch as they affect the care delivered. A recognition of the rights of healthcare is missing. This is particularly relevant in mental health with staff experiencing verbal abuse on a daily basis and occasionally being victims of physical assaults.

Healthcare staff need to be involved in the development of the Scheme, to have their 'voice' heard, otherwise the CQC risks imposing the new regime on them in a way that is reminiscent of the way treatment and care might have been imposed on patients in the past.

The last area of concern in 3.2 refers to a knowledge of rights preceding their application. If healthcare staff are not involved and trained appropriately then they cannot be expected to deliver services with sufficient regard to equality and human rights. The College would recommend that healthcare staff are involved in the various fora being set up, rather than the CQC interacting with different 'stakeholders' in parallel but separately.

The College was unable to comment on the appropriateness of Equality and Human Rights impact assessment toolkit, or the Judgment Framework (p17), neither of which were described.

As an example of the way in which the College has sought to develop relevant standards for in-patient care, including for members of BME groups, the newly published document *Improving in-patient mental health services for Black and minority ethnic patients* is commended to the CQC.

4. Action Plans

It was found there was insufficient information in the Action Plan relating to the Mental Health Act to make a judgement on its appropriateness or effectiveness in elucidating adherence to equality and human rights.

The Action Plan has the look of a generic plan focused on monitoring the implementation of the Mental Health Act generally (the 'process') rather than focused on equality and human rights (the 'outcome').

References

Curtice, M. & Exworthy, T. (2010) FREDa: principles for a human rights based approach to healthcare. In press: *The Psychiatrist*.

Department of Health (2008) *Human Rights in Healthcare – A framework for local action*. 2nd Edition. Gateway reference 10482. London: Department of Health.

Fitch, C., Wilson, M., and Worrall, A. (2010) *Improving in-patient mental health services for Black and minority ethnic patients*. The Royal College of Psychiatrists

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