

Managing the



Challenge

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Equally outstanding

Equality and human rights – good practice resource

How can a focus on equality and human rights improve
the quality of care in times of financial constraint?



Often people see equality and human rights as a problem – not a solution. Especially in times of financial constraint. Yet, there is an:

- ethical case
- business case
- legal case

for providers to pay attention to equality and human rights.

Legal requirements of equality & human rights

- **Equality Act 2010**
- **Public Sector Equality Duty.**
- **Human Rights Act 1998**
- **Health and Social Care Act regulations** used by the Care Quality Commission
- **Mental Health Act 1983** and its Code of Practice
- **Mental Capacity Act 2005** and its Code of Practice.

The Equality Act 2010

- equality in service delivery / equality in employment
- protects people from discrimination on the basis of 'protected characteristics' :
 - Age
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race (including ethnic or national origins, colour and nationality)
 - Religion or belief
 - Sex (gender)
 - Sexual orientation
 - Marriage and civil partnership

Person-centred model



Wider factors leading to health inequalities and inequality in life chances

Success factors

Nine common factors have helped success in using equality and human rights approaches. But more than that, these factors have been crucial in developing outstanding care. None of these factors take large resources – they take shifts in thinking and in behaviours.

These nine factors are closely linked to six elements for cultures of inclusion in the Kings Fund report **Making the Difference**.

- 1. Committed leadership:** The key role of leaders who are enthusiastic and committed to equality and human rights. We need to move away from “heroes and heroines” to making this the business of all leaders.
- 2. Equality and human rights principles into action:** These principles run through as a thread from organisational values, through leadership behaviours and actions to frontline staff and their work.

- 3. Culture of staff equality:** They developed a culture of equality and human rights for their staff as a basis for quality improvement. This is likely to include both broad work to develop an open and inclusive culture and, particularly in larger organisations, work to tackle specific workforce inequalities.
- 4. Apply equality and human rights thinking to improvement issues:** They started with the quality improvement issue, created some space to innovate and then applied “equality and human rights thinking” to the issue – rather than thinking “we must do something about equality and/ or human rights”.

- 5. Staff as improvement partners:** All staff were involved as partners in the thinking about, planning and delivery of the equality and human rights interventions to improve the quality of care. This was done within a “no blame” culture of learning and is aligned to collective leadership approaches.
- 6. People who use services at the centre:** The rule was “how do we serve this person?” They listened carefully to people who used the service and viewed them as people with a life beyond their immediate need for a service – including their future aspirations.

- 7. Use external help:** They linked to the outside – reaching out to others for help and being prepared to have a mirror shone on their work.
- 8. Courage:** They were courageous and bold in their approaches – including positive risk-taking, being honest about issues and tackling difficult problems.
- 9. Continuous learning and curiosity:** They were curious and humble – they started somewhere, learned from mistakes and were always looking for the next thing that they could improve – whether that was how to best meet the needs of the next person admitted, or what project to focus on next or service to develop.

NHS

East London
NHS Foundation Trust

70
YEARS
OF THE NHS
1948 - 2018

OUTSTANDING



Enthusiastic leadership: The Trust Board changed the way it viewed performance. There was shift from performance matrixes to looking at the culture of the organisation and creating an environment which is supports staff to provide the best care. Enthusiastic leaders are open to having conversations about how the Trust works. They have brought together quality improvement (QI) approaches and commitments to equality and human rights.

Bold with culture change and quality improvement to improve rights: QI methods were introduced, so that improvement became everyday business for all staff. The principle is that the people who know the problem are pivotal to creating the solution.

A frontline focus on equality and human rights for staff and patients: Engaging frontline staff in equality and human rights related QI work is promoted through a clear equality, diversity and human rights strategy with a programme of specific projects.

The Trust has embraced values-based recruitment. Trust values include respect and ensuring care is inclusive. In the recruitment process, candidates are asked questions to make sure potential staff share the Trust's values.

The Trust has started to address race inequality in the workforce by looking at ethnicity variation in promotion and disciplinary cases.

The Trust engaged an external human rights expert to find out PICU inpatients' experience of **ward restrictions** from a human rights perspective. So, staff heard anonymously but directly from service users. They had to ask difficult questions and have outsiders shine a light on their service. This project is now developing training on human rights in PICU. The Trust is also using data to look at experiences of people in different equality groups and restrictive interventions.

“Our biggest success is having people talking about equality and human rights in their day to day work while reviewing what they do. Naming the elephant in the room. Allow everyone to contribute to solutions. But we are not complacent – we need to continue to improve.”

(Lorraine Sunduza, Director of Nursing)



- Overrepresentation of black males being detained in locality
- Trust approaching problem from lots of different lenses
 - Collecting information & data, driving change through data
 - Making sure services are accessible to all, all about early intervention ...
 - Working with people, family & carers in designing services...
 - Working group to focus on BAME detention rates – link to 136 & police



South West London and
St George's Mental Health
NHS Trust

- Having open conversations about race.
- Introducing BAME nurse leadership programme.
- Recovery & peer-support model – Trust employ *Canerows & Plaits* to lead peer activities in their forensic services.

Canerows
for BAME mental health

charity reg 1079521



CQC's *Race Equality Network*

...to support its members in their personal and professional development, in partnership with CQC leaders;... to work with CQC to promote equality and human rights for all staff, particularly those from BME groups.

- a) Promoting equality and human rights of its membership (for example) by identifying and dealing with barriers to career progression for BME staff
- b) Providing development opportunities for members by facilitating training programmes, mentoring and coaching schemes
- c) Working with senior management and other groups within the Commission to embed equalities and human rights in all work streams and products, ensuring compliance with the Commission's legal obligations with regards to equalities and human rights.
- d) Providing a forum, through its meetings and other events, for its members to support each other, share experiences, best practice, concerns and aspirations ...
- g) Acting, where appropriate, as a consultative group to influence decision-making and to feed into Equality and Diversity issues / policies. This will include attending and participating on the Diversity Leadership Group (DLG), the Equality Schemes Monitoring Group (ESMG) and the Staff Forum...
- i) Acting as a monitoring group to assess and report on progress on matters of racial equality and diversity within CQC....

The Gender Recognition Act 2004

- This law enables trans people to apply for a Gender Recognition Certificate (GRC).
- This is legal recognition of a person's preferred gender. Not all trans people apply for a GRC and a GRC is not required for protection against discrimination.

Guidance on supporting adult transgender service users

Trans people have equal rights to access single sex wards as any other man or woman and therefore should be admitted to a ward in accordance with their preferred gender.

There may be some circumstances where it is lawful to provide a different service or exclude a trans person from single sex ward of their preferred gender but only if this a proportionate means of achieving a legitimate aim. Any decision to do this must therefore be based on:

- an objective and evidence-based assessment of the circumstances and relevant information.
- balancing the need of the trans person and the detriment to them if they are denied access, against the needs of other service users and any detriment to them if the trans person is admitted.

(South London & Maudsley NHS Foundation Trust)

R (YZ) v Oxleas Foundation Trust and another
[2017] EWCA Civ 203

- Claimant alleged that his health needs (his gender dysphoria) were not met; and that this had propelled him into a spiral of non-compliance, increasingly unstable mental health, aggression and escalating restrictions (transfer from MSU to Broadmoor).
- Court rejected claim on the facts:
 - the claimant’s condition was not attributable to failure to treat gender dysphoria;
 - In general appropriate attempts had been made to treat gender dysphoria – some delay due to ‘diary and administrative errors’; “but a mistake of that kind does not call for a declaration of the kind suggested”.

Homophobia, Bi-phobia, Transphobia is...

Showing hatred and intolerance towards you as a lesbian, gay, bisexual or trans (LGBT) person purely on the basis of who you are: Calling you 'fag', 'queer', 'dyke', 'it', 'batty man'. Hitting, biting, punching or spitting at you. Asking you intrusive questions about being LGBT. Falsely accusing you of making unwelcome sexual advances. Saying you have mental health problems because you are LGBT. Suggesting you need God to 'turn you straight' or you are unfit to be a parent.

What can I do about it?

Recognise what is happening to you

Recognising that you are experiencing homophobia, bi-phobia or transphobia can be hard, especially when you are vulnerable.

Accept you are not to blame

When you are targeted with negative comments and harassment because you are LGBT, the people doing this are wrong.

Get help to deal with the issue

The best way to deal with the issue is to talk to a member of staff involved in your care.

Speak to the Four in Ten LGBT worker

If you prefer to talk anonymously and in confidence, you can speak to the Four in Ten LGBT worker who can advise and support you on the best course of action. Call 07711 376 258 for more information.

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