

**DRAFT PERSONAL  
RELATIONSHIPS POLICY  
PRINCIPLES AND OUTCOMES**

## 1. Introduction

- 1.1 NHS Peterborough is committed to ensuring that adults using adult social care services, in receipt of services provided by, or on behalf of, the PCT, should be free to develop and maintain appropriate intimate personal and/or consensual sexual relationships with people of their choice. This can mean long term relationships as well as relationships that are developing or can be seen to be of a casual nature.
- 1.2 We recognise that meaningful relationships, including sexual relationships, are important in supporting the health and well-being of service users. Implicit in this is the right of people to make informed choices including the choice not to have a relationship with someone else.
- 1.3 Whilst wishing to support individual choice it is also important to recognise the duty on the PCT to ensure that anyone who is vulnerable is protected from abuse and exploitation. We also believe that fundamental to people being able to develop and maintain consensual and legal personal and sexual relationships is the role that all commissioners and providers have in the promotion of safer sex and positive sexual health.
- 1.4 This policy sets out the values and principles that underpin our approach to ensuring that adults receiving social care services are able to develop and maintain intimate and consensual personal and sexual relationships of their choice.
- 1.5 Adults who wish to, and are capable of, expressing choice, should be supported to develop or maintain close relationships. The individual's rights and wishes are central to all decision-making. Their personal preferences in their relationships and sexual behaviour may bring them into conflict with family members and others involved in their care. They may need to be offered support to enable them to resolve such conflict.
- 1.6 The need to update and revise policy has been informed by a number of changes in national social care policy and new legislation. The rights of service users, including adults with learning disabilities to have personal and sexual relationships has been implicit for many years, but more recent legislation makes this explicit. The legislation includes:
  - the right to private and family life enshrined in the Human Rights Act (Article 8);
  - person centred and self directed planning, highlighted in Valuing People Now, the White Paper 'Our Health, Our Care, Our Say' and Putting People First;
  - the right of the individual to have capacity to make decisions unless deemed otherwise, recognised in the Mental Capacity Act 2005
  - expanded protection from the Sexual Offences Act 2003
  - protection from discrimination on grounds of sexual orientation set out in the Equality Act Sexual Orientation Regulations 2007

- 1.8 This policy is written within the context of this new legislation and with a clear understanding that the service user is the prime recipient of support and advice, even if the expression of their sexuality may be difficult for others. Both individual service users and their family or carers will under this policy be offered sensitive support and information. However, the policy acknowledges that some of our interactions regarding personal and sexual relationships, have in the past been influenced so strongly by others, that the views of users of our services haven't always been adequately heard, or given due regard.
- 1.9 The service user's family, parent(s) partner, personal assistant or support workers may have their own anxieties or concerns that need to be addressed. Partners, support workers, family or carers may also have the power to control the person's access to sexual health services. This can have the effect of limiting the person's autonomy to make their own decisions and increase their dependency.
- 1.10 It is therefore important to work with carers, partners, families and support workers to develop their awareness and understanding of sexual health and wellbeing and the rights of users, which may involve signposting or facilitating access to guidance, gaining resources and information.
- 1.11 The views of those people close to the service user should be listened to and any concerns about the personal safety of the person addressed. However it is important to accord primary importance to the wishes and views of the service user. The service user's right to confidentiality also extends to their family – normally information cannot be shared without the individual's consent.
- 1.12 If it is necessary to disclose information about a person to a third party in order to provide support, this should first be discussed with the service user. Staff should be able to explain to the person how the information is necessary to provide support and how their confidentiality will be assured. The person's consent to share personal details should be sought and documented. (People's rights to confidentiality and to have their personal data protected are set out in Data Protection legislation.)
- 1.13 There are several aspects to promoting sexual health and well-being, including:
- Supporting people to develop positive sexual relationships, free of coercion, discrimination or violence
  - Supporting people to overcome obstacles to their sexual well-being
  - Promoting respect for sexual diversity
  - Dealing with sexual abuse, violence or coercion
  - Preventing sexually transmitted infections (STIs) and HIV infection
  - Avoiding unintended pregnancy and supporting people to deal with unwanted pregnancy.

- 1.14 Adult Social Care and other NHS staff are responsible for assessing and reviewing people's social care needs; supporting them to develop a plan for meeting their eligible, assessed needs; providing people with information, advice and guidance; supporting people to develop independent living skills and commissioning, organising or managing support services. In the course of many of these activities, staff may be asked for information, advice or support in relation to sexual health or well-being matters. Additionally, they may identify situations where a person appears to require such support, or there appear to be risks to that person or to others.
- 1.15 Many people are apprehensive about asking for help or support in relation to their sexual health and well-being or about accessing services for fear of embarrassment or of being judged or discriminated against. It is therefore important to develop staff skills, knowledge and attitudes in order to promote a supportive environment and also to develop the knowledge and understanding of users, carers and partners.
- 1.16 It is also important that staff recognise the limits of their responsibility and know how to respond appropriately to requests for advice, information or support. Staff must also know what action to take if they identify risks to the individual or to others. If staff get this wrong, the sexual health and well-being of the service user could be compromised and there could be legal or professional consequences for the practitioner and their employer.

### **Consent and capacity – What the Mental Health Act covers**

- 1.17 Consent is crucial in determining whether a particular sexual act or relationship is abusive. What must be clear is first, whether the person is **able** to consent and second, whether they **did** consent. For consent to be valid the person must know what they are consenting to and have a real option of saying yes or no.
- 1.18 There are certain situations in which any consent given would be considered invalid, including:
- the person does not really understand what is being asked
  - the person does not know they have the right to refuse sex
  - the person does not know how to refuse sex
  - the person is afraid to refuse sex
  - the person does not know that he or she is being exploited when a reward, incentive or payment for sex is used
  - the person does not know that the relationship is illegal.
- 1.19 Some people may be considered to lack the capacity (the ability to make an informed choice) to give consent. A person's capacity to take decisions may be affected by:
- a stroke or brain injury
  - a mental health problem
  - dementia
  - a learning disability

- confusion or drowsiness because of an illness or treatment
- unconsciousness
- substance misuse (drugs or alcohol).

1.20 A person must be presumed to have capacity unless it is established that they lack capacity. Capacity must be assessed in relation to **a particular decision**. It must not be assumed that a person who lacks capacity in one area of their life lacks capacity to take *all* decisions. Capacity must be determined in line with the requirements of the Mental Capacity Act 2005.

1.21 The Mental Capacity Act 2005 sets out the following five key principles in relation to decision making and capacity:

- Assume capacity unless it is proved otherwise
- Give all appropriate help before concluding someone cannot make their own decisions
- Accept the right for individuals to make what might be seen as eccentric or unwise decisions
- Always act in the best interests of people without capacity
- Decisions made should be the least restrictive of their basic rights and freedoms

1.22 An individual who has the mental capacity to take a decision, and chooses voluntarily to pursue a course of action of which others may disapprove or that involves some risk, is entitled to do so. People should be supported to assess the risks and consequences of their actions or behavior and to understand the implications of professional advice.

## 2. Policy

2.1 NHS Peterborough is committed to working practices that encourage service users to lead a healthy life and lifestyles that are meaningful to the individual. This includes the development of the whole spectrum of relationships including their personal and sexual development.

2.2 Valuing people now sets out the Government's strategy for people with learning disabilities for the next three years following consultation. It states: *“This strategy emphasises the importance of enabling people with learning disabilities to meet new people, form all kinds of relationships, and to lead a fulfilling life with access to a diverse range of social and leisure activities. It also emphasises their right to become parents and the need for adequate support to sustain the family unit. There is evidence that people with learning disabilities have limited opportunities to build and maintain social networks and friendships”.*

2.3 We accept and follow the World Health Organisation’s definition of sexual health which is:

*“Sexual health is a state of physical, emotional, mental and social well-being related to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled.”*

2.4 We recognize that people who use services have the same personal and sexual needs and rights as other people. Sexuality is a natural and expected part of an individual's life experiences, and staff should support service users to explore and understand their sexuality and should support gay and lesbian or bisexual relationships in the same way as they would heterosexual relationships. This also applies to service users who have changed or wish to change their sex (transsexual) and those who dress as members of the opposite sex (transvestites).

2.5 We will exercise our legal responsibilities to ensure that personal sexual expression is within the law and does not devalue, stigmatise or exploit individuals.

2.6 We will ensure that our staff are appropriately selected, supported, trained and supervised to enable them to work with individuals to express their personal choices and preferences in respect of personal relationships and sexuality.

2.7 We will work in collaboration with the service user, their families,

carers and advocates, service providers and other relevant professionals to ensure maximum support and protection of the service user at all times.

- 2.8 Service users and carers will be provided with appropriate and adequate access to information to promote understanding, choice and independence.
- 2.9 Staff will work to support service users in maintaining a wide range of relationships with partners, family, friends and acquaintances.
- 2.10 It is the responsibility of all staff to ensure that their relationships with service users remain of a professional nature only, whether within or outside of their work place. Intimate or sexual relationships between staff and service users are **NOT** permissible and will usually result in disciplinary action. In some circumstances such relationships are a criminal offence and may also result in prosecution. (In the very rare case where a member of staff is involved in a pre-existing relationship with a service user, this must be declared and guidance sought. Staff who feel themselves to be in a vulnerable situation in relation to someone they care for should inform their manager immediately.)

### **3. Principles**

The following principles are implicit within the work of NHS Peterborough and must be followed by all staff and also by contracted organisations.

#### **3.1 People who use services have rights which include:**

- The right to have opportunities to love and be loved and to engage in consenting relationships, whether sexual or not.
- The right to education and information about their own bodies.
- The right to education and information about personal relationships and sexuality (including responsibility to others), presented in a manner appropriate to their individual needs.
- The right not to be sexually exploited.
- The right to opportunities to develop legally acceptable relationships.
- The right to information and help with contraception and the maintenance of sexual health, including the right to be included in all national sexual screening programmes within mainstream services.
- The right to marry, enter into a civil partnership or cohabit and to receive support in maintaining such partnerships.
- The right to information and advice about the responsibilities of parenthood, and support when deciding whether to become a parent or not.
- The right to support during pregnancy and the subsequent upbringing of children (where their capacity to provide proper care can be demonstrated)

- To be treated with respect, sensitivity and dignity. This includes a right to privacy.
- To hold their own moral, cultural and religious beliefs.
- To take risks and make mistakes.
- To be given support and assistance if they feel that their rights have not been upheld.
- To have an advocate and/or someone of their choice to speak up on their behalf if required.

3.2 When enabling people to exercise any of these rights, the PCT recognise the need for planned, multi-agency approaches, including family, carers, friends and advocates and for proper discussion and recording of plans. This policy must be read in conjunction with the policies on Mental Capacity and Consent.

**3.3 People who use services have the following responsibilities:**

- To stay within the law as for any other citizen.
- To respect the rights of others.
- To treat others with respect, consideration and sensitivity.
- To recognise that no one has the right to impose his or her beliefs or wishes on others.
- To ensure that any Personal Assistants they employ have had recent clear CRB checks and are given access to training on personal relationships and safeguarding as well as other aspects of care and support.

**3.2 Partners, families and carers have a right to be treated with respect at all times and:**

- To have their views listened to and taken into account.
- To have help and support to express their views and have them heard.
- To have their contribution to someone's care recognised and taken into account.
- To raise concerns either formally or informally about any aspect of someone's care, including concerns about abuse.
- To have their concerns taken seriously and if necessary investigated.
- To be offered professional support and information to help them understand and cope with decisions being made by the person they love /care for that they find difficult.

**3.3 Personal Assistants should expect**

- To have support and training about personal relationships



- To be aware of abuse and the multi-agency policy and procedures for Safeguarding Vulnerable Adults and to report any concerns they may have.
- To be protected, as far as is possible, from discrimination, harassment and abuse and to be assisted and supported if this does occur.
- To have the opportunity to discuss matters that concern them with designated NHSP staff (including the Safeguarding Coordinator and Contraception and Sexual Health Services)

### **3.4 Staff and managers should expect:**

- To have support and training about personal relationships so that they can support service users to obtain consistent, accurate and culturally appropriate information on sexual health and wellbeing and, where relevant, to access services as part of their support plan.
- To be aware of abuse and the multi-agency policy and procedures for Safeguarding Vulnerable Adults and to report any concerns they may have.
- To be protected, as far as is possible, from discrimination, harassment and abuse and to be assisted and supported if this does occur.
- To have adequate supervision, guidance and support from their managers.
- To have the opportunity to discuss matters that concern them with their line manager.

### **3.5 To meet these principles:**

- It is recognised that staff are entitled to hold their own values; however staff are not be expected to impose their values on people who use services, or others with whom they work, but to promote the values of the organisation and this policy.
- The issues surrounding sexuality are seen in the context of the values that underpin the whole of Adult Health and Social Care Services. This translates to our commitment to service users being treated in a person centred way, with dignity and respect in order to maximise and promote rights, choice, control, independence and social inclusion.
- In this context the issues surrounding sexuality and development of personal relationships are seen as a right and as one of many positive aspects that enhance people's lives.

## **4. Outcomes**

### **4.1 Our aim is that service users should:**

- Feel safe – and receive support to be safe if they need it.

- Recognise their rights and responsibilities and feel able to make their own decisions with regard to their sexuality, sexual health and wellbeing.
- Be treated fairly, respectfully and with dignity, regardless of age, gender, sexual orientation, race, ethnicity, citizenship, education, physical and / or mental ability.
- Have their privacy respected and be confident that their personal information will be protected and not shared with others without their permission.
- Be enabled to identify and access information, advice or services that will support their sexual health and wellbeing.

## Glossary

### **Personal Assistant (PA)** means:

- A care worker or assistant who is employed by the service user and or their family directly, usually using a direct payment or personal budget. The concept of a PA as someone employed by a service user to enable and empower them to make choices and be independent was borne out of independent living movement.

### **Sexuality** means:

- The condition of being characterized and distinguished by sex
- Sexual character
- Concern with or interest in sexual activity

### **Sexual orientation** means an individual's sexual preference towards

- People of the same sex as him or her (gay or lesbian)
- People of the opposite sex (heterosexual)
- People of both sexes (bisexual).

### **Transsexual** means

- A person whose sexual identification is entirely with the opposite sex
- A person who has undergone a sex change operation

### **Trans and Transgender** are similar terms meaning

- A person appearing or attempting to be a member of the opposite sex, as a transsexual or habitual cross-dresser
- Trans is primarily a UK term, developed in a political context to refer to a diverse and inclusive community of people ranging from part-time cross-dressers to transsexual people who undergo gender reassignment surgeries.

### **Transvestite** means

- A person who dresses and acts in a style or manner traditionally associated with the opposite sex

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