

Appendix 8: NHS DORSET AND DORSET COUNCIL PRIVACY, DIGNITY AND RESPECT FRAMEWORK

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1. INTRODUCTION

- 1.1 NHS Dorset and Dorset County Council are committed to ensuring that people who use the services the organisations commission, purchase and provide, experience a service which protects their privacy and treats them with dignity and respect.
- 1.2 However all people in whatever location they find themselves, are entitled to be treated with Privacy, Dignity and Respect.
- 1.3 This framework document covers services for adults and older people. However, it is intended that the principles set out in the framework will support work with other groups such as children and young people.
- 1.4 Privacy is the right to be free from intrusion; it includes:
- protecting personal information, which is bound by legislation
 - protection of modesty
 - access to areas which provide complete privacy when it is required
- 1.5 Dignity is a set of characteristics and concepts rather than an absolute measure. It is open to individual interpretation based on experience, values, culture, and perception. It is widely accepted that dignity is the “state or quality of being worthy of respect” Oxford English Dictionary.
- 1.6 Respect can be described as a set of attitudes and behaviours displayed towards an individual or group which demonstrates politeness and consideration.

2. SCOPE

- 2.1 This Framework provides guidance for all staff working directly for NHS Dorset and Dorset County Council, including practice-based commissioners. It applies to interactions between staff, patients, service users, carers, and members of the public as well as staff to staff.
- 2.2 Services commissioned and purchased by NHS Dorset and Dorset County Council will be expected to evidence adherence to this framework.
- 2.3 Where the provider unit of either organisation sub contracts a part or whole of a service to a third party they are responsible for ensuring the third party with whom they have an agreement or contract abide by and provide evidence of compliance with this framework.
- 2.4 This framework will support the development and delivery of joint commissioning strategies agreed by NHS Dorset and Dorset County Council.

3. LEVELS OF RESPONSIBILITY

- 3.1 The responsibility for protecting privacy, dignity and respect does not lie with one individual or a group, but with all staff at all levels, no matter what role they fulfil.

Individual Responsibility

3.2 Individuals are always personally responsible for their conduct to others. They must:

- comply with any professional codes of practice which relate to their role
- understand and practise within organisational policies
- uphold the duty of care they have to others, particularly service users, their carers, and members of the public they encounter in the discharge of their duties
- be aware of and work within the legislative framework

Manager Responsibility

3.3 Managers are responsible for their own conduct, attitudes and behaviours as described above. Additionally, they are responsible for:

- ensuring individuals within their teams understand their roles and responsibilities with regard to privacy, dignity, and respect
- understanding and implementing privacy, dignity, and respect activities relevant to the service and team
- ensuring policies are understood, implemented and their impact is measured regularly and systematically
- ensuring staff have the tools, resources, and skills to promote and deliver services which uphold privacy, dignity, and respect
- monitoring the performance and actions of individuals and teams
- ensuring action is taken to address deficits and gaps in a timely and appropriate manner

Senior Manager Responsibility

3.4 Senior Managers are responsible for all the above and for:

- ensuring that the privacy, dignity, and respect agenda is understood, promoted, and implemented as it relates to their service
- reviewing the performance of services and staff on this agenda

Director Responsibility

3.5 Directors are accountable to the Trust Board or Elected Members for all the above and in addition must:

- lead, promote and champion the privacy, dignity, and respect agenda as integral to their directorate work programmes
- ensure measurable standards are set and met
- ensure that the Trust Board or Elected Members and the public are briefed on the privacy, dignity and respect activities, achievements and actions taken to rectify any deficits

3.6 The Director for Adult Social Care has personal accountability for specific legislation that relates to social care provision and for ensuring legislative compliance and

delivery of the privacy, dignity, and respect agenda in respect of services commissioned, purchased, and provided.

Chief Executives

- 3.7 The Chief Executive of NHS Dorset is personally accountable for ensuring legislative compliance and delivery of the privacy, dignity, and respect agenda in respect of services commissioned, purchased, and provided.
- 3.8 The Chief Executive of the County Council is responsible for ensuring that accountabilities for legislative compliance and delivery of the privacy, dignity and respect agenda are clear.

The Primary Care Trust Chair

- 3.9 The Secretary of State has made Primary Care Trust Chairs personally responsible for eliminating mixed sex accommodation.

- 3.10 Elected members

Elected members have a responsibility to ensure that the privacy, dignity, and respect agenda is embedded in every aspect of the local authority's business. They should use their position to:

- promote, influence, and inform colleagues about the privacy, dignity, and respect agenda in relation to all service provision and developments
- act as role models by treating other people with dignity and respect
- challenge disrespectful behaviour rather than tolerate it.

4. LEGAL FRAMEWORK

- 4.1 NHS Dorset and Dorset County Council are committed to implementing the application and administration of the legislative framework under which they work and to promote the privacy, dignity and respect of service users, carers, the public and staff.

Human Rights Act

- 4.2 There are fifteen basic human rights in the Human Rights Act:

- the right to life
 - freedom from torture and degrading treatment
 - freedom from forced labour
 - the right to liberty
 - the right to a fair trial
-
- the right not to be punished for something that wasn't a crime when you did it
 - the right to respect for private and family life

- freedom of thought, conscience, and religion
- freedom of expression
- freedom of assembly and association
- the right to marry or form a civil partnership and start a family
- the right not to be discriminated against in respect of these rights and freedoms
- the right to own property
- the right to an education
- the right to participate in free elections

4.3 The basic human rights not only affect matters of life and death like freedom from torture and killing but also affect the rights of people in everyday life, for example what they can say and do, their beliefs and their right to a fair trial.

4.4 Organisations, through the services they commission, purchase and provide have an obligation to act in accordance with the convention rights and therefore staff must understand human rights and take them into account in their day to day work. This is the case whether they are designing service specifications, procuring, commissioning, purchasing, or delivering services directly to the public or undertaking their duties as an employer, developing new policies or procedures. (For more human rights information visit www.dca.gov.uk.)

The Mental Health Act 1998 (Revised 2008)

4.5 The Mental Health Act 1998 (revised 2008) Code of Practice sets out the guiding principles which underpin the administration of the Act, they include:

- the least restrictive principle
- the participation principle
- the respect principle
- the effectiveness, efficiency, and equity principle

4.6 In the application of these principles all decisions must be lawful and informed by good professional practice.

The Mental Capacity Act (2005) including Deprivation of Liberty Safeguards

4.7 The Act's premise is to confirm in legislation the assumption that adults have full legal capacity to make their own decisions unless it can be shown that they do not. The Act is intended to support people who might lack capacity and discourage those who care for them being overly restrictive or controlling.

4.8 A further amendment to the Act entitled the Deprivation of Liberty Safeguards (DoLS) was introduced following a ruling by the European Court of Human Rights. DoLS legislation came into effect on 1st April 2009.

NHS and Community Care Act 1990

- 4.9 The integration of mental health social care responsibilities (S31 Health Act 1999) introduced a broader application of the Act within joint services. The Act states that an assessment must be carried out for anyone who appears to need a community care service and that the assessment must take into account:
- the wishes of the person being assessed
 - whether the person has any health/mental health need
 - whether the person has any accommodation/housing need
 - what sources of help the person has access to, such as carers, family or nearby friends and their willingness to provide care
 - what needs people who provide care have
- 4.10 Community Care Practice and Case Law (Mandelstam and Schevety 1996) states that whilst individual service users do not have absolute legal rights or entitlements to services, the privacy and dignity of a person must form part of the assessment process which leads to an understanding of the needs of an individual (for further information please see www.opsi.gov.uk and www.direct.gov.uk).

The NHS Constitution

- 4.11 The NHS Constitution was introduced in January 2009. It establishes the principles and values of the NHS in England. It sets out **rights** to which patients, public and staff are entitled, and **pledges** which the NHS is committed to achieve, together with **responsibilities** which the public, patients and staff owe to one another to ensure that the NHS operates fairly and effectively.
- 4.12 All NHS bodies and private and third sector providers supplying NHS services will be required by law to take account of this Constitution in their decisions and actions.

Equality and Other Legislation

- 4.13 NHS Dorset and Dorset County Council discharge their duties with due regard to a range of equality and other legislation. Whilst current legislation is listed in Appendix 1, this list is not exhaustive and all current and future legislation will be adhered to.

The Policy Framework

- 4.14 A number of national and local initiatives and policies have been put in place relating to privacy, dignity, and respect (Appendix 2). These focus on older people as there is evidence that this group experience poor service in this respect.
- 4.15 NHS Dorset and Dorset County Council ensure that privacy, dignity, and respect agenda is at the heart of good leadership, commissioning, management, clinical practice, and public engagement. This Framework recognises the requirements of organisations to have clearly defined arrangements to promote, deliver and monitor the privacy, dignity, and respect agenda within the legal context.

5. PLANNING AND DELIVERING PRIVACY DIGNITY AND RESPECT

- 5.1 Dignity and Respect is one of the seven outcomes which local authorities are expected to demonstrate that they are achieving for local people. These are:
- improving health
 - improving quality of life
 - making a positive contribution
 - exercising choice and control
 - freedom from discrimination and harassment
 - economic well being
 - personal dignity and respect
- 5.2 The Social Care Institute for Excellence published Dignity in Care (2006) which sets out a dignity challenge. This includes a series of ten “dignity tests” which set out statements of what people can expect from a service which respects the privacy and dignity of people receiving services. This benchmark has been used for the Framework but has been adapted to include carers, the public and staff in order to provide a clear minimum standard for planning, delivery and monitoring of privacy, dignity and respect. (Further information can be found at www.dignityincare.org.uk).

6. THE TEN DIGNITY TESTS

Test One – Have a zero tolerance of all forms of abuse

- 6.1 Organisations are committed to ensuring that dignity is seen as important by everyone within the organisation and the services they commission and purchase, from leadership downwards. Care and support will be provided in a safe environment free from abuse. It is recognised that abuse can take many forms including physical, psychological, emotional, financial, and sexual and can extend to neglect, ageism, and discrimination.
- 6.2 The tests for this dimension require the organisations, their employees, the services they commission and provide to demonstrate that:
- valuing people as individuals is central to the philosophy of care
 - valuing people as individuals is central to employer/employee relationships.
 - policies uphold dignity and encourage vigilance to prevent abuse
 - a whistleblowing policy is in place that enables staff to report abuse to themselves, patients, carers, or members of the public in confidence
 - systems and processes are in place to undertake requisite Criminal Records Bureau and Protection of Vulnerable Adults list checks are conducted on all staff they employ directly and through Practice Based Commissioning

Test Two – Support people with the same respect you would want for yourself or a member of your family.

- 6.3 People accessing services provided, working within the organisations, the services commissioned and provided should be treated in a courteous and considerate manner, ensuring time is taken to get to know people, their needs, wishes and values. People receiving services should be helped to participate as partners in decision making about the care and support, they receive. They should be supported and encouraged to take responsibility for managing their care themselves in

conjunction with, when needed, care staff and other information and support services i.e. the third sector.

- 6.4 Staff working in the organisations should expect to treat others and be treated themselves in a courteous and considerate manner. They should take time to make their needs and wishes known and should extend this courtesy to colleagues, peers, and those to whom they provide a service. Staff should be helped to participate in shaping the services they provide and should be encouraged and supported in contributing to the objectives of the organisation.

They should be supported and encouraged to take responsibility for managing delivery of their role and responsibilities with, when needed, their peers, colleagues, and managers.

- 6.5 The tests for this dimension require organisations, their employees, the services they commission and provide, to demonstrate that:

- people are polite and courteous even when under pressure
- the culture of the organisation or service is about caring for people and supporting them, rather than being about “doing to” or “doing for” tasks
- policies and practices emphasise that we should always try to see things from the perspective of the other person or the person receiving the service
- people are not left in pain (physical, psychological, or emotional) or feeling isolated or alone
- policies and procedures support people giving confidential feedback
- systems exist to listen to, action and provide feedback about changes which are responding to expressed need, wishes and complaints

Test Three – Treat each person as an individual.

- 6.6 The attitude and behaviours of managers and staff should preserve the identity and individuality of the individual. Services should not be standardised but should be personalised and tailored to each individual. In particular time should be taken to get to know individuals and agree with them how formally or informally they would prefer to be addressed.

- 6.7 The tests for this dimension should demonstrate that:

- policies and practices promote care and support for the whole person
- policies and practices respect beliefs and values important to the individual
- care and support consider individual physical, cultural, spiritual, psychological and social needs and preferences
- policies and practices challenge discrimination, promote equality, respect individual needs, preferences and choices and protect human rights

Test Four – Enable people accessing services to maintain the maximum possible level of independence, choice and control

- 6.8 People accessing services should be helped to make a positive contribution to daily life and to be involved in decisions about their personal care. Care and support should be negotiated and agreed with people receiving services as partners. People

receiving services should have the maximum possible support and control over the services they receive.

6.9 In order to evidence this dimension commissioners and service providers should evidence that they:

- ensure staff deliver care and support at the pace of the individual
- avoid making unwarranted assumptions about what people want or what is good for them
- undertake individual risk assessments to promote choice and service options in a way that is not risk averse
- provide people delivering and receiving services the opportunity to influence decisions regarding policies and practices

Test Five – Listen and support people to express their needs and wants

6.10 Organisations and service providers should provide information to service users, carers, the public and staff in a way that enables people to reach agreement. For service users this should include them actively participating in the design and delivery of care plans, exercising their right to consent to care and treatment. Openness and participation should be encouraged. Where there are communication challenges, cognitive impairment, cultural or religious sensitivities adequate help, support and advocacy should be provided.

6.11 The commissioners and providers of services should evidence achievement of this dimension by:

- ensuring they can demonstrate they have listened with an open mind and responded appropriately
- ensuring people receiving services are enabled and supported to express their needs and preferences in a way that makes them feel valued
- ensuring staff can demonstrate effective interpersonal skills when communicating with people, particularly those who have specialist needs such as a learning disability, dementia, or sensory loss
- ensuring information is accessible, understandable, and culturally appropriate
- ensuring the views of minority groups are actively sought and acted on

Test Six – Respect people's right to privacy

6.12 Individuals have a right to have personal space in their immediate vicinity as well as access to quiet and private areas when needed. Issues of sensitivity which relate to modesty, gender, culture, religion, and basic manners must be fully respected. People must not be made to feel embarrassed about their differences or when they are receiving care.

6.13 Commissioners and providers must demonstrate that:

- there are quiet rooms available to staff and service users, carers and members of the public which are easily accessible to provide privacy
- staff actively promote individual confidentiality, privacy, and protection of modesty

- confidentiality is always maintained (except in exceptional circumstances)
- individuals do not assume they can intrude into the personal space of an individual without permission, even as a care giver, except in an emergency
- those people who receive care in a residential setting or inpatient unit, have access to single sex accommodation and washing facilities except in exceptional circumstances i.e. where they need critical or emergency care
- people receiving services can decide when they want “quiet time” and when they want to interact

Test Seven – Ensure people feel able to complain without fear of retribution

- 6.14 Service users, carers, members of the public and staff should have access to the information and advice they need in order to raise their concerns, complaints, and grievances with the appropriate person. They should have information about and access to advocates or staff side representation to support them in raising issues. Concerns, complaints, and grievances should be respected, investigated thoroughly in a timely manner and answered promptly. Changes made as the result of concerns, complaints and grievances should be identified in the public domain (for service users) and within and across organisations (for staff grievances).
- 6.15 In order to demonstrate this organisation, commissioned and provider services must evidence:
- systems and processes which support a learning no-blame culture
 - transparent and easily accessible complaints and grievance policies and procedures
 - prompt and thorough investigation and response to complaints and grievances, including whistleblowing
 - actions taken to address problems and shortfalls
 - publication of actions which have resulted from complaints and grievances

Test Eight – Engage with family members and carers as care partners

- 6.16 Relatives and carers should experience a welcoming ambience and be able to communicate with staff and managers as contributing partners. Relatives and carers should be kept fully informed and receive timely information. Relatives and carers should be listened to and encouraged to contribute to the benefit of the person receiving services.
- 6.17 In order to demonstrate this commissioners and providers must evidence that:
- employers, managers, and staff recognise and value the role of relatives and carers, and respond with understanding
 - relatives and carers are told who is 'in charge' and with whom issues should be raised
 - provide support for carers who want to be closely involved in the care of the individual, and provide them with the necessary information
 - relatives and carers views are not always the same as those of the person receiving services

Test Nine – Assist people to maintain confidence and a positive self esteem

- 6.18 The care and support provided encourages individuals to participate as far as they feel able. Care aims to develop the self-confidence of the person receiving services, actively promoting health and well-being. Adequate support is provided

in eating and drinking. Staff and people receiving services are encouraged to maintain a respectable personal appearance.

6.19 In order to demonstrate this organisation, commissioned and provider services must demonstrate that:

- personal care and eating environments are well designed for their purpose, and are comfortable and clean
- individual abilities are always maximised during eating and personal care and hygiene activities
- people receiving services wear their own clothes wherever possible
- whilst respecting the wishes of the person receiving services as far as possible, the person is always respectable, and staff are tidy and well presented

Test Ten – Act to alleviate people’s loneliness and isolation

6.20 People receiving services are offered enjoyable, stimulating, and challenging activities that are compatible with individual interests, needs and abilities. People receiving services are encouraged to maintain contact with the outside community. Staff help people receiving services to feel valued as members of the community.

6.21 In order to demonstrate this the provider service must demonstrate that:

- access to varied leisure and social activities that are enjoyable and person-centred are provided
- activities offered are reviewed to ensure they are up to date and in line with modern society
- information and support is provided to help individuals engage in activities which help them participate in and contribute to community life
- the responsibilities of all staff towards achieving an active and health-promoting culture are made clear through policies, procedures, and job descriptions

7. MONITORING AND EVALUATION

7.1 To ensure organisations achieve the desired outcomes in relation to privacy, dignity and respect, there are a number of local, national, and regional measures to assess progress and identify areas for further development or attention. The following are some of the measures used:

- incident monitoring
- Patient Advice and Liaison Services (PALs) trends
- complaints
- grievances
- Patient Environment and Action Team (PEAT) audits
- Essence of Care benchmarks
- audits of care pathways
- external inspections
 - * Mental Health Commission
 - * The Care Quality Commission
- national patient survey

- personal social service user survey
- regional audit
- clinical quality reviews
- care programme approach audit
- critical friend and critical analysis of business plans and Practice Based Commissioning plans
- equality scheme impact assessments of:
 - * service design
 - * roles and functions
 - * strategies and policies
- proactive and regular contract monitoring
- LINKs

7.2 Elements of the Dignity Agenda will be reported to NHS Dorset through the Clinical Governance Sub Committee and will form part of the assurance against standards C13a, C15b, C16 and C20b for the Annual Health Check. In Dorset County Council, reporting is through the County Council Performance Overview Committee.

7.3 Feedback will be made available to the wider general public through the publication of information about services within the public domain. Feedback is given directly to complaints and PALs enquiries.

7.4 Best practice will be disseminated within and across organisations to develop quality improvement through learning from others.

APPENDIX 1

Equality and Other Legislation

Equality Legislation

- The Equal Pay Act 1970 (as amended)
- Sex Discrimination Act 1975
- The Race Relations Act 1976
- The Disability Discrimination Act 1995
- Sex Discrimination (Gender Reassignment) Regulations 1999
- The Race Relations (Amendment) Act 2000
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- The Race Relation Act (Amendment) 2003
- The Civil Partnership Act 2004
- The Gender Recognition Act 2004
- Disability Discrimination Act 2005
- Employment Equality (Age) Regulations 2006
- The Equality Act 2006

Other Legislation

- National Assistance Act 1948
- Geneva Conventions 1957
- Health and Safety at Work Act 1974
- NHS Act 1977
- Access to Health Records Act 1990
- Geneva Conventions (Amendment) Act 1995
- Data Protection Act 1998
- Human Rights Act 1998
- Carers and Disabled Children's Act 2000
- NHS and Community Care Act Statute 1991
- Freedom of Information Act 2000
- Health and Social Care Act 2001
- The Carers (Equal Opportunities) Act 2004

- The Adult Placements Schemes (England) Regulations 2004
- The Local Involvement Networks Statutory Instruments 2008
- Mental Health Act
- Mental Capacity Act including Deprivation of Liberty Safeguards

APPENDIX 2

National and Local Policies and Initiatives

- National Service Framework for Older People 2001
- National Service for Older People – Next Steps 2006
- Dignity in care 2006
- Essence of Care; patient focused benchmarks for clinical governance 2003
- Living Well in Later Life 2006
- A New Ambition for Old Age 2006
- Caring for Dignity 2007
- Privacy and Dignity – the elimination of mixed sex accommodation 2007
- Privacy and Dignity – a report into mixed sex accommodation in hospitals 2007
- Safety, Privacy and Dignity in Mental Health Units – guidance on mixed sex accommodation for mental health services 1999
- The Operating Framework for the NHS in England for 2008/09

Local Policy

- Protection of Vulnerable Adults Policy
- Chaperone Policy – National Guidance
- Single Equality Scheme
- Mixed Sex Accommodation – PEAT Standard
- Patient and Public Involvement
- End of Life Care
- Dignity
- Whistleblowing
- PALs and Complaints
- Care Programme Approach
- Fairness and Dignity at Work
- Grievance
- Consent to Treatment
- Freedom of Information
- Information Sharing