

1: Protecting your human rights when using health and care services - Citizens Advice

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Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December General Assembly resolution A as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over languages. 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. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Everyone has the right to life, liberty and security of person. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Everyone has the right to recognition everywhere as a person before the law. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. No one shall be subjected to arbitrary arrest, detention or exile. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. They are entitled to equal rights as to marriage, during marriage and at its dissolution. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. All children, whether born in or out of wedlock, shall enjoy the same social protection. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

2: MCA: Promoting human rights, choice and control in care planning | SCIE

Our pilot scheme is training social workers to use the Human Rights Act in practice, from writing care plans to expressing concern about neglect Helen Wildbore Senior human rights officer, British.

History[edit] In , Thomas Jefferson proposed a philosophy of human rights inherent to all people in the Declaration of Independence , asserting that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. Ellis calls the Declaration "the most quoted statement of human rights in recorded history". A year later, the Declaration of Independence announced that the Thirteen Colonies regarded themselves as independent states, and no longer a part of the British Empire. Some of this conceptualization may have arisen from the significant Quaker segment of the population in the colonies, especially in the Delaware Valley, and their religious views that all human beings, regardless of sex, age, race, or other characteristics, had the same Inner light. Quaker and Quaker-derived views would have informed the drafting and ratification of the Constitution, including through the direct influence of some of the Framers of the Constitution , such as John Dickinson and Thomas Mifflin , who were either Quakers themselves or came from regions founded by or heavily populated with Quakers. As the new Constitution took effect in practice, concern over individual liberties and concentration of power at the federal level, gave rise to the amendment of the Constitution through adoption of the Bill of Rights , the first ten amendments of the Constitution. However, this had little impact on judgements by the courts for the first years after ratification. For example, although women had been voting in some states, such as New Jersey, since the founding of the United States, and prior to that in the colonial era, other states denied them the vote. In Lydia Chapin Taft voted, casting a vote in the local town hall meeting in place of her deceased husband. Through the doctrine of coverture , many states also denied married women the right to own property in their own name, although most allowed single women widowed, divorced or never married the "Person" status of men, sometimes pursuant to the common law concept of a femme sole. Among these amendments was the Fourteenth Amendment , which included an Equal Protection Clause which seemed to clarify that courts and states were prohibited in narrowing the meaning of "Persons". Anthony , buttressed by the equal protection language, voted. She was prosecuted for this, however, and ran into an all-male court ruling that women were not "Persons"; the court levied a fine but it was never collected. In the s, the Burger Court made a series of rulings clarifying that discrimination against women in the status of being Persons violated the Constitution and acknowledged that previous court rulings to the contrary had been Sui generis and an abuse of power. The most often cited of these is Reed v. Reed , which held that any discrimination against either sex in the rights associated with Person status must meet a strict scrutiny standard. The s also saw the adoption of the Twenty-sixth Amendment , which prohibited discrimination on the basis of age, for Persons 18 years old and over, in voting. Other attempts to address the developmental distinction between children and adults in Person status and rights have been addressed mostly by the Supreme Court, with the Court recognizing in , in Miller v. Alabama a political and biological principle that children are different from adults. In the members of the United Nations organization completed the drafting of its founding text – the United Nations Charter: The USA played a significant role in this process. Similarly, for the United States government and its citizens, much remained uncertain about the future impact, force, and reach of international human rights. Eventually the United States had not yet developed a policy approach regarding whether or not it would recognize international human rights within a domestic context. Now that the United States had successfully adopted the UDHR, obviously it seemed like human rights would play a leading part in domestic law within the US. Still there was harsh controversy over the question whether to apply international law on the inner-land-basis. Fitzpatrick won the Pulitzer Prize for editorial writing in ; in his editorials he had repeatedly warned against international human rights overthrowing the supreme law of the land. Over the past few decades, the United States government has often held itself up as a strong supporter of human rights in the international arena. Nonetheless, in the view of the government human rights are still rather an international than a domestic phenomenon – representing more of choice than obligation. Conflict between the human rights of the child

and those of a mother or father who wishes to leave the country without paying child support or doing the personal work of child care for his child can be considered to be a question of negative and positive rights. The Essential Reference, "the American Declaration of Independence was the first civic document that met a modern definition of human rights. The Ninth Amendment and Fourteenth Amendment recognized that not all human rights were enumerated in the original United States Constitution. The scope of the legal protections of human rights afforded by the US government is defined by case law, particularly by the precedent of the Supreme Court of the United States. Within the federal government, the debate about what may or may not be an emerging human right is held in two forums: Additionally, individual states, through court action or legislation, have often protected human rights not recognized at federal level. For example, Massachusetts was the first of several states to recognize same sex marriage. Non-self-executing treaties, which ascribe rights that under the constitution may be assigned by law, require legislative action to execute the contract treaty before it becomes a part of domestic law. Treaties regarding human rights, which create a duty to refrain from acting in a particular manner or confer specific rights, are generally held to be self-executing, requiring no further legislative action. In cases where legislative bodies refuse to recognize otherwise self-executing treaties by declaring them to be non-self-executing in an act of legislative non-recognition, constitutional scholars argue that such acts violate the separation of powers" in cases of controversy, the judiciary, not Congress, has the authority under Article III to apply treaty law to cases before the court. This is a key provision in cases where the Congress declares a human rights treaty to be non-self-executing, for example, by contending it does not add anything to human rights under U. The International Covenant on Civil and Political Rights is one such case, which, while ratified after more than two decades of inaction, was done so with reservations, understandings, and declarations. Therefore, if a human rights treaty has been ratified by the U.

3: Universal Declaration of Human Rights | United Nations

In December the SHRC published Scotland's National Action Plan for Human Rights (SNAP), setting out key commitments aimed at improving human rights protection in Scotland. The Action Plan was developed by a drafting group including the Scottish Government, local authorities, the NHS and the Care Inspectorate, among others.

Public authorities, like a local authority or the NHS, must follow the Act. If a public authority has breached your human rights, you may be able to take action under the Act. Read this page to find out more about the Human Rights Act. These rights are called Convention rights. Examples of Convention or human rights include: The Human Rights Act means you can take action in the UK courts if your human rights have been breached. The European Convention on Human Rights protects the human rights of people in countries that belong to the Council of Europe. This includes the UK. The Council of Europe is different from the European Union. Who does the Human Rights Act protect? Who must follow the Human Rights Act? Public authorities must follow the Human Rights Act. The Human Rights Act says they must act in a way which is compatible with your human rights. A public authority is an organisation which provides public functions. This can be a public sector organisation, like a hospital, government department or the courts. Private organisations or charities which carry out public functions are also public authorities - for example, private prisons. More about public authorities When must public authorities follow the Human Rights Act? Public authorities must follow the Human Rights Act in everything they do. They must respect and protect your human rights when they make individual decisions about you. They must also follow the Human Rights Act when they plan services and make policies. Taking positive steps to protect your human rights Public authorities must not interfere with your human rights. For example, the police have a positive duty to protect you if they know your life is in danger from someone. What can you do if a public authority has breached your human rights? If a public authority has breached your human rights you can take action under the Human Rights Act. You can complain to the public authority or you may be able to take legal action in the courts. More about taking action What if a private organisation or person has breached your human rights? Only public authorities have obligations under the Human Rights Act. But if you take court action against someone for some other reason - for example, a claim for unfair dismissal against your employer, the courts can look at whether your human rights have also been breached. This is because courts are also public authorities and they must take account of human rights in all cases they hear.

4: Human Rights Act

The commentary is supplemented by precedents for making applications under the Human Rights Act and a set of essential materials on human rights in care proceedings, all of which ensures that every child lawyer and child care professional will benefit from reading this timely publication.

The judge has given leave for this version of the judgment to be published on condition that irrespective of what is contained in the judgment in any published version of the judgment the anonymity of the child and members of his family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court. This appeal raises the question of how the court should determine an application by parents for an injunction under the Human Rights Act to prevent a local authority removing their child who is living at home under a care order.

Summary of Facts 2. His mother was assessed in as being on the borderline of a mild learning disability. His father was found to have a more significant cognitive impairment, with an IQ of around 70. In the earlier proceedings described below, a psychological assessment concluded that he lacked capacity to conduct litigation. He has, however, managed to function successfully in his adult life, with some assistance from local authority adult social services. He has worked in the same job for over 12 years and has been contributed towards the financial support of the family. When D was born, the local authority started care proceedings under s. 20. After he was discharged from hospital, D and his parents underwent a week residential placement in a local authority foster placement which was completed successfully. Afterwards, the family moved into a new home with a package of support from the local authority and other agencies. They have extended family on both sides to whom they are close, and a network of friends. They attend a local church. In the summer of 2010, the parents were married. The judge recommended that D remain in their care under a full care order. That order would be subject to review after a year when it was thought it might be appropriate to move to a supervision order. The plan specified the level of professional support to be provided for the family. The local authority would then carry out a viability assessment of his maternal grandparents to see if they were able to look after him, although an assessment carried during the care proceedings had concluded that they were not. The order included an undertaking by the local authority not to remove D from the care of his parents without giving 7 days notice in advance, unless an emergency situation should arise. Thereafter, D remained at home for 18 months. The local authority social worker now says that, during this time, she became increasingly worried about aspects of his care. She thought that he was not receiving the reassurance and encouragement he needs and was left to try to work out boundaries for himself. There have been concerns about his walking into the road, taking a knife from the kitchen worktop and jumping off furniture. The social worker observed that D is indiscriminate about whom he approaches to meet his needs. There has also been some concern about his excessive weight. He has been observed by professionals in the home hitting, throwing and shouting. The social worker concluded that D could potentially be at risk of physical harm because of the failure on the part of his parents to recognise risk so that they are unable to predict potential dangers. Her evidence is that they need constant prompting and guidance on safety in and out of the home. It is said that these concerns are shared by the local authority independent reviewing officer. As the social worker continued to have concerns on the viability of placing him with his maternal grandparents, it was decided that upon removal from his parents D should be placed with foster carers. The local authority proposed that, after his removal, he should have contact with his parents once a week for two hours. The parents attended the meeting at the local authority to discuss the issues but this was terminated when they became distressed. Following that meeting, on 31st March, the local authority gave notice to the parents that they intended to remove D on 25th April. The remedy available to parents in these circumstances is to apply under s. 8. But this remedy is not straightforward. A parent whose child is subject to an application for a care order under s. 20. Because the father works, and therefore has a small income, he and the mother are not entitled to legal aid. In the current case, these difficulties are compounded because the father lacks capacity, and it is therefore necessary to invite the Official Solicitor to represent him as litigation friend. A further difficulty is that the application for discharge

of a care order is a blunt instrument. If the application is contested, the care order can only be discharged after the preparation of reports and other evidence and a full hearing. This does not provide an interim remedy for parents where the local authority proposes to remove the child immediately without waiting for the determination of the discharge application. The father consulted his former solicitor, Rebecca Stevens of Messrs. Withy King, who, having applied unsuccessfully for public funding, agreed to represent him pro bono. On 11th April, she filed an application on his behalf for the discharge of the care order. The application was supported by a statement signed by the father. She therefore requested an early hearing date. The application was allocated to the county court and listed before a district judge. Directions were given for the local authority to file a statement by 23rd April "setting out their initial proposals" and to CAFCASS to appoint a guardian, who was given permission to file a position statement on the day of the hearing or otherwise present an oral report to the court. On 22nd April, the local authority filed an application for a recovery order under s. The grounds for seeking this order were that the parents had repeatedly said words to the effect that they would not allow the local authority to take D, and it was the intention of the authority to remove him from his parents on 25th April. On 24th April, the social worker signed a statement setting out the basis on which the local authority had decided to remove the child. I have already summarised her concerns which were set out in the statement. I understand that the statement was available to the parents and their representatives unsigned on 23rd April. The guardian who had represented D at the earlier care proceedings was reappointed and duly supplied a position statement in which she supported the local authority proposal to remove D. She reported that she had visited the home on 23rd April and found that the tension was elevated because the family were extremely frightened and anxious about having the previous professionals involved with the family once more. The guardian was concerned that, as a result of the enhanced anxieties, the parents were now even more distracted from looking after D than they had been before. Following her visit, she was very worried that, if D were left within the home pending the outcome of the proceedings, he may come to some physical harm due to the loss of attention and concentration by the parents who were preoccupied with the proceedings. The hearing on 24th April took place before District Judge Goddard. The guardian was not present at the hearing. I have a note of the judgment approved by the judge and a note of the hearing which has neither been approved nor completely agreed by the parties. According to this latter note, the District Judge suggested at the outset of the proceedings that the father should have applied for an injunction. She invited the court to list the matter so that the guardian could attend so that the parents could challenge her views. According to the unagreed note, the judge indicated that he thought the current case was distinguishable from Re H. He noted that there was no emergency situation but, in the absence of the local authority agreeing to some breathing space and not pursuing the removal, he felt he was being asked to go behind the care order which he felt he could not do as it had not been appealed. He asked the local authority whether they would agree to a breathing space. Having taken instructions, their counsel confirmed that their concerns were so great that they remained of the view that the child should be removed. The judge indicated that, when considering whether to grant relief as provided under s. He refused an application to hear oral evidence. When the parties returned to court, according to the note provided to me, the parties stated that they agreed that the case law confirmed that the court had the ability to grant injunctive relief. Counsel for the local authority concluded the hearing, however, by stating that, under s. The court in November had authorised the care order and, when the care order was made, the responsibility for the child was removed from the court and passed to the local authority. In his judgment, DJ Goddard recorded that the local authority had confirmed that the situation was not an emergency, although the problems were escalating. I do not feel that it is improper of me to give my view on the likelihood of success of this application as it plays on my decision. In my view, it is extremely unlikely that he will succeed to discharge the order. The judge then recorded that he had suggested that an injunction was the appropriate remedy and referred to the case of Re H. He then continued "I am being asked to glean the arguments from Re H and apply them to this situation, to import injunctive relief rights into this case to prevent D being removed tomorrow. I have tremendous sympathy for the parents. D has lived with them since birth, they both have difficulties, and they have received lots of support. They were both properly represented and both have consented to the order of 7th November. They never appealed this order. In the absence of the

local authority agreeing to give some breathing space and time, I can not go behind that order. In some ways I wish I had the power to do so. I wish I could persuade the local authority to grant further breathing space as there is no emergency event which has precipitated the local authority wanting to take D tomorrow. They say that the progress they hoped for 15 months ago has just not happened. In the absence of me being able to persuade the local authority to agree to such a window, I can not grant injunctive relief. There will still be a hearing to deal with the application to discharge. With a lot of reluctance, I have to dismiss the application for an injunction. I can not see that I can do anything else. In practice, in accordance with the order of 7th November , and in line with the care plan, D will be removed tomorrow. He granted the application for a recovery order under s. Thereafter, the local authority offered contact on two days per week as opposed to the original plan of one day a week, although in the event, only three visits have taken place because D has had chicken pox. The grounds of appeal settled by Miss Deirdre Fottrell of counsel who has also acted pro bono at the hearing of this appeal are as follows. By direction of the Designated Family Judge, HH Judge Marshall, the application for permission to appeal, and, if granted, the appeal itself, were listed before me on the first available date, 15th May, later adjourned until the following day 16th May. Under article 8 of ECHR, " 1 Everyone has the right to respect for his private and family life, his home and his correspondence. The local authority is a public authority. In exercising its powers under a care order, the local authority must therefore comply with its obligations under Article 8 not to interfere with the rights of the child and his parents to respect for their private and family life. The procedural element includes the duty to ensure that the processes by which decisions about children are made are fair and that the parents and the child, depending on his age and level of understanding are sufficiently involved in that process:

5: The Human Rights Act - Citizens Advice

Care providers must obtain consent to each element of the care plan where the person is able to give it (consent is considered in more detail in the section Care planning, liberty and autonomy). For example, the person may be able to make their own decisions in relation to their personal care, but not about their finances.

See also the section on Other key legislation. This makes Parliament and public bodies more accountable to UK citizens through the courts. The fundamental rights include rights that impact directly on service provision in the health and social care sector. Rights particularly relevant to dignity in care include the right to life, the right not to be subjected to inhuman or degrading treatment and the right to a family life. A balance has to be reached between rights and responsibilities. Not all rights are absolute and frequently practitioners are required to balance competing rights. However, the UK for many years refused to incorporate the Convention into its domestic law. Since the implementation of the Human Rights Act in many people have relied on the Act to assert their individual rights under the Convention. Perhaps more importantly, public services have reviewed their provision to ensure that they comply with the legislation. The primary purposes of the HRA are to enable the rights set out in the ECHR to be enforced through the UK courts and to provide a check on the activities of Parliament and public bodies. The ECHR was designed to prevent a repeat of the rise of fascism and totalitarianism and to restrict the oppression of individual rights in the name of the state and in the name of the majority. The Convention is a child of its time – the post-war years when the states of western Europe tried to set their faces both against the devastation of the recent past and against any new form of totalitarianism. So the Convention says many important things about due process, personal integrity and free speech and ideas; but nothing directly about the most elementary of all human needs, a right to enough food and shelter to keep body and soul together. The European court of human rights, however, has acknowledged that protection of dignity and human freedom is "the very essence of the ECHR" and that protecting dignity is a matter of civilisation. *SW v UK* Human dignity has therefore emerged as an entirely judge-made concept with an uncertain normative basis and definition, generally located somewhere between the prohibition of torture and inhuman or degrading treatment under article 3, ECHR and the right to privacy Article 8, ECHR. The government established an independent Commission on a Bill of Rights on 18 March. The Commission investigated the creation of a UK Bill of Rights to incorporate and build on all our obligations under the ECHR, to ensure that these rights continue to be enshrined in UK law, and protect and extend our liberties. The members of the Commission have, however, failed to reach agreement, meaning that progress on legislation to reform human rights is not likely to be made before the next general election. The government started the Dignity in Care campaign in response to negative media reports about how people were treated in health and social care services. The campaign has continued and gained momentum but the media reports of poor quality care and abuse have regrettably continued. The HRA and the Mental Capacity Act MCA provide opportunities for people using services and their carers and advocates to challenge a paternalistic culture where professionals decide what is best for the people in their care. One crucial element of ensuring people are treated with dignity is for providers to understand the significance of human rights legislation. The legal framework of human rights law requires that health and social care workers, alongside other providers of public services, respect the dignity of people using services. The ethics and values that underpin good practice in social care, such as autonomy, privacy and dignity, are at the core of human rights legislation. There are ongoing tensions between adherence to these values and the need to protect people from abuse, neglect and harm. For example, someone with dementia may want to do something that presents a risk to themselves or others, and in such a case workers would need to consider whether this decision has been made with capacity. If the person may lack capacity, they should be assessed according to the MCA. Human rights cannot be embedded in care services solely through people taking individual legal action. The government takes responsibility for the enforcement of standards through guidance, inspection and regulation. In addition, organisations and individuals that provide care and treatment need to understand human rights principles, accept challenges to the traditional way of doing things and adapt their practices in response. Adherence to

human rights and equalities legislation should be reflected in policy and in practice. The way that day-to-day support is offered, for example, support with personal hygiene, eating and the discussion of confidential information with other people, may be challenged by people using services and their advocates. This does not mean that every assertion of human rights must be complied with. Health and social care workers have a number of other legal responsibilities imposed on them, for instance through health and safety laws, under the Data Protection Act DPA or through their contracts of employment. Some of these requirements “ as well as targets and demands imposed by organisations “ may appear to conflict with human rights, equality and dignity. What is often required is a careful consideration of the human rights issues involved, which need to be weighed against the other duties imposed on those providing services.

6: Family Law Week: Re DE (A Child) [] EWFC 6

Care Plans And The Human Rights Act Re S Minors Re W Minors Ukhlo A Special Bulletin Lucas cav diesel governor repair manual softysde, cardiorenal disorders and.

Read this page to find out more about using human rights law when you receive health and care services. What are human rights? Human rights are the basic rights and freedoms that belong to every person in the world. Who must respect your human rights? Public authorities must make sure they respect and protect your human rights when they provide health and care services. If a public authority has treated you badly, you may be able to use human rights law to make a complaint or take court action. Which human rights are the most relevant when you receive health or care services? The following rights are the most relevant when you receive health or care services: Your right to a private and family life Your right to a private and family life means you should be able to enjoy your family relationships. Article 8 protects you - for example when: Your right not to be subjected to inhuman or degrading treatment Article 3 protects you against serious harm and degrading treatment. It could be used - for example if: Article 5 protects you - for example when: Your right to life The right to life means that nobody can try to end your life. It also means that you have the right to be protected if your life is at risk. The NHS or a care provider should consider your right to life when they make decisions that might affect your life expectancy. Article 2 can be used - for example if: Your right not to be discriminated against The Human Rights Act protects you from discrimination in connection with your human rights under the Act. This protection is wider than that of the Equality Act When must public authorities respect your human rights? They must also respect your human rights when they commission and plan services - for example, when a local authority contracts with a private organisation to provide care services.

7: Dignity in care - Key legislation: Human Rights Act - Introduction

The Human Rights Act protects you from discrimination in connection with your human rights under the Act. This means your human rights mustn't be breached or protected differently because of certain things like sex, disability and race.

Promoting human rights, choice and control in care planning Promoting human rights, choice and control This section sets out the responsibilities of providers and commissioners. It introduces the MCA as a framework for promoting human rights, choice and control. Understand your legal obligations Where do human rights begin? In small places, close to home – so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person – Eleanor Roosevelt, Embedding the principles of the MCA within care planning means the world of the individual person is one in which their rights are respected. The MCA provides a framework for empowering people to make their own decisions and for others to make decisions that are in their best interests when they are unable to do so. These decisions may range from small everyday matters such as what to wear and what to eat, to more complex decisions such as where to live or what medical treatment to receive. The MCA makes it clear who can make decisions on behalf of a person who lacks capacity to do so, when they can do this, and the safeguards that must be followed. It also enables people with capacity to plan for a time in the future when they may lack capacity. Everyone working with, or providing care and support for, a person over 16 years of age, who may lack capacity to make decisions for themselves, is required by law to understand and use the MCA. Around two million people are thought to lack capacity to make decisions about their care and support. The Commission called upon both providers and commissioners to improve in this area. The Care Act The statutory obligation contained in the Care Act , to promote individual wellbeing, sets the future direction of social care. This means that care planning must focus on achieving change for people and not just their safety. It places a duty on local authorities to make sure that: The principles that underpin the MCA mirror these duties. The MCA places the person at the heart of decision-making. Providers must show through their care plans and associated records how people are supported to stay in control of their lives and to make their own decisions about how their care and support is provided as far as they are able. The five principles of the MCA The law recognises that each person is unique and will have a different lifestyle and aspirations for their care and support. To reflect this diversity, the MCA is underpinned by five key principles which enable a flexible approach to decision-making. When staff use these principles well, they empower people to make their own decisions and protect and empower those who lack capacity to do so. The five principles are: The principles applied to care and support planning Principle 1: A person who has capacity has a right to make their own decisions without interference from others. Assuming capacity, therefore, means starting from the premise that a person has capacity to make their own decisions about their care and support. It should never be assumed that a person lacks capacity solely because of their age or medical condition. A person may have capacity to make decisions about some aspects of their care and support and not others. Care providers must obtain consent to each element of the care plan where the person is able to give it consent is considered in more detail in the section Care planning, liberty and autonomy. For example, the person may be able to make their own decisions in relation to their personal care, but not about their finances. When providing care and support, staff should consider whether the person has the capacity to make the specific decision at the time that it needs to be made. Asking this question protects the person from blanket assumptions of a lack of capacity. It would be unlawful to say that a person lacks capacity if you have not tried to support them to make a given decision. We all need advice and support at different times of our lives, for example, when buying a house or making complex financial decisions. If we seek advice we want information conveyed to us in a way that we are able to understand to help us reach our own decision. This applies equally to people in need of care and support. Before concluding that a person lacks capacity, care staff must do all they reasonably can to help them understand the choices they have about their care and support this is discussed further in the section Care planning, involvement and person-centred care. What to look for in the care and support plan and other records A description of any special communication needs. How the person is supported to understand and be involved in decisions about their

care and support. This includes the nature of the decision, the options available and the consequences of each decision. Staff must not impose their values on people for whom they provide care and support. Everyone has a right to pursue choices that others may consider unwise – for example, eating unhealthy foods, engaging in dangerous sports, buying lottery tickets, etc. This right does not diminish simply because a person uses care services. A person is not to be treated as unable to make a decision merely because this decision is considered unwise. What to look for in the care and support plan and other records Information about what is important to that person, their wishes and preferences. What the person would like to achieve from their care and support. If the person appears to lack capacity to make a specific decision for themselves at the time it needs to be made, an assessment of capacity should be made in relation to that particular decision. This is unlawful and deprives a person of their basic human right to freedom and autonomy. This applies to all decisions about care, treatment and support, except where there is an advanced decision to refuse treatment see chapter 9 of the Code or in cases of research see chapter 11 of the Code. Yet we know that putting people in the driving seat of their care and support dramatically improves outcomes. Care staff should always question whether their own value judgements are influencing the decision-making process. How the person was supported to be involved in the decision about their care and support. This includes keeping them informed about any decisions made about them. Staff should always challenge themselves to consider whether there could be an alternative option that is less restrictive, but nevertheless meets the identified need. What to look for in the care and support plan and other records Details of the options that were considered together with the associated risks and benefits of each. A clear explanation of why a particular option was decided upon. If restrictions are imposed, when these will be reviewed and how.

8: Action plans and action plan guides | Australian Human Rights Commission

In the UK, human rights are protected by the Human Rights Act Public authorities, like a local authority or the NHS, must follow the Act. If a public authority has breached your human rights, you may be able to take action under the Act. Read this page to find out more about the Human Rights.

Staff within the health and social care sector has a duty to promote equality and diversity across all areas of their work, providing a service that is fair, personalised and diverse. Equality and diversity are key components in the delivery of quality health and social care services and good practice should encourage and promote these values as much as possible. A health and social care worker should ensure that through their work, service users are treated fairly and equally and each service user they are responsible for is treated with dignity and respect. Equality and diversity should never be viewed as a bonus in terms of service delivery; it should be an integral part of service planning

Defining Equality and Diversity Before you can start to actively promote equality and diversity within a health and social care setting, it is important to understand what they mean:

- Equality** – Ensuring that all service users can access the same opportunities regardless of their lifestyle, ability or background
- Diversity** – Demonstrating respect for individual beliefs, values, cultures and lifestyles and appreciating difference

To learn more about Equality and Diversity why not take out 30 minute course to enhance your knowledge

Common Core Strategic Principles All leaders within the health and social care sector have a duty to promote diversity and equality across each business area. This involves organising care and support packages which are tailored to the individual requirements of the service user, recognising differences and reducing inequality. Within the health and social care sector, providers are strongly encouraged to implement the Common Core Strategic Principles. These principles outline a consistent approach to care provision which ensures that equality and diversity are taken into consideration and they are at the forefront of all decisions at a strategic level. The Common Core Strategic Principles include

- Commitment to Equality, Diversity and Human Rights Values** – Any health and social care provider should promote equality and diversity through their mission statement, core values and strategic action plans.
- Promoting Equality, Diversity and Human Rights in Decision Making** – Managers should ensure that decision making, partnership working and governance all promote equality and diversity through the implementation of robust organisational policies and procedures which are consistently applied in each business area. Any barriers which may prevent a service user from accessing what they need should be identified and removed. These principles provide a comprehensive framework which enable providers to deliver the right support within health and social care and to ensure that equality and diversity are at the centre of strategic decision making. Furthermore, the promotion of equality and diversity within the workplace is often about the prevention of discrimination even if this is unintentional.

Equality, Diversity and the Law In order to promote equality and diversity it is important that you understand the various pieces of legislation which relate to health and social care settings:

- The Equality Act** – Safeguards against discrimination for people who possess one of the nine protected characteristics. Fairness, Respect, Equality, Dignity and Autonomy.
- The Mental Capacity Act** – Most relevant to equality and diversity is the Deprivation of Liberty Safeguards which promote the dignity, independence and rights to freedom for individuals who lack the capacity to do so.
- The Care Act** – Within this Act there are six principles which establish the foundations for all work with vulnerable adults, ensuring that the care provided for them is tailored to their requirements.

Strategies for the Promotion of Equality and Diversity Being able to promote equality and diversity in the workplace is so important. All employees should have a comprehensive understanding of the principles, practices and legislation so they can properly apply them in their day to day activities. Without a fundamental understanding of equality and diversity it can be very difficult to actively promote it in the sector. There are several strategies that you can implement to effectively promote equality and diversity including:

- The development of an equality and diversity policy** Ensuring that your workforce have read and understand the policy
- Providing all staff with the opportunity to complete equality and diversity training** as part of their induction and provide regular refresher training to reflect changes in legislation
- Promoting individual**

requirements and developing tailored care plans Finding out what your service users expect from the services that they are accessing. By keeping their requirements at the forefront of care planning you can provide a tailored package of care which will always be in the best interests of the service user. Ways of Working Establish ways of working which are not discriminatory, provide person centered care and work in a non judgmental manner. Value Diversity Employees should be encouraged to value diversity and respect the attributes that make people different. Individual care plans should be developed to reflect the likes, dislikes, personal history and beliefs of the individual. Code of Conduct One of the best ways in which you can promote equality and diversity is to comply with the health and social care code of conduct. In this industry, a code of conduct or code of practice will define the standards that health and social care workers must meet to provide the right level of support. In health and social care the code of conduct outlines the following key principles: In order to ensure the delivery of person centred care then please do take our Care Certificate Standards Course.

9: Legislation protecting people in care | Care Information Scotland

An Act to make provision to reform the law relating to care and support for adults and the law relating to support for carers; to make provision about safeguarding adults from abuse or neglect; to make provision about care standards; to establish and make provision about Health Education England; to establish and make provision about the Health Research Authority; to make provision about integrating care and support with health services; and for connected purposes.

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