

POLICIES AND PROCEDURES

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Alternative formats: Large print (18pt) or audio (mp3) format of this document is available by emailing executiveadmin@orpheus.org.uk

Personal Relationships and Sexuality Policy

Policy statement

Staff members do not promote any one life-style as the only acceptable one for society. The best way in which Orpheus can operate with the maximum happiness and fulfillment for everybody is if the maximum courtesy and respect is shown for each other. Students at Orpheus are expected to respect the dignity of other students, staff members and volunteers in the organisation and have the right to expect that their own dignity will be respected.

Scope

Definitions and explanation of terms

For the purposes of this policy, the following terms are defined as:

Document definitions

- “Sexual relationship” and “sexuality” include heterosexual, gay, lesbian, bisexual, transsexual and transgender relationships and all expressions of sexuality.
- “Students” also represents additional terms used for learners / service users / people who use our service

Roles and responsibilities

Chief Executive Officer

The CEO shall have overall responsibility for ensuring that the policy is implemented.

The COO will ensure that adequate resources are made available to implement this policy and carry out any necessary remedial action or amendments to this policy

Senior Managers/Departmental Managers

Senior Managers/Departmental Managers shall ensure that the policy is implemented within their department.

Employees Responsibilities

All employees shall ensure that:

- The Orpheus Centre will ensure that staff members receive appropriate training and support to operate the Personal Relationships and Sexuality Policy, including the legal and ethical framework relating to sexual activity. The expectations of staff in implementing this policy will be clearly explained to them at the outset during induction.

- Staff members will endeavour to protect students from sexual abuse or exploitation and support users in a non-judgemental, respectful and discreet manner, to ensure that their rights, choices and aspirations are respected.
- Staff members should not impose their personal beliefs and values on students and any member of staff experiencing difficulties in implementing any aspect of this policy, must report this to their line manager

Aims of Policy

The aim of this policy is to ensure a coherent and consistent approach towards personal relationships and sexuality. It seeks to ensure a proper balance between an individual's rights and responsibilities, their physical and emotional safety, and the rights and responsibilities of others.

Principles

The organisation has a duty of care to ensure that student's rights and freedom of choice are maintained, whilst protecting them from any form of abuse. Any concerns or allegations of abuse will be reported and investigated through The Orpheus Centre's Safeguarding Policy.

This policy does not prescribe for every situation that may arise, and it is, therefore, important that every case is treated individually within the framework and spirit of this guidance.

This policy is set in the legal framework of:

- Mental Capacity Act 2005
- Deprivation of Liberty Safeguards (DoLS)
- Sexual Offences Act 2003
- Data Protection Act 1998.
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The policy meets the requirements of section 20 Regulations of the Health and Social Care Act 2008 and should be read in conjunction with the Safeguarding Policy and the Equality and Diversity Policies.

Legal Framework

From the age of 18 (or from the age of 16 in the case of sexual intercourse and medical consent) people with disabilities have the right to make their own decisions. This includes participating in consensual sexual activity that is lawful. Students must be assumed to have capacity to make decisions unless there is a valid reason to question capacity. Staff members must follow our policy & procedure for the Mental Capacity Act and attend mandatory training. Staff members are often faced with situations which challenge them. It is important to work within the law while acknowledging individual rights. There are five Acts that are directly relevant to sexual behaviour of people with disabilities:

- Mental Health Act (1983)
- Sexual Offences Act (1985)
- Human Rights Act (1998)
- Sexual Offences Act (2003)
- Mental Capacity Act (2005)

Student's rights

Within the constraints of current legislation, and the need to ensure physical and emotional safety, staff members will promote the rights of students to develop and enjoy personal and/or sexual relationships of their choice. These rights 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)

Consent

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

Every adult has the right to make his or her own decisions regarding personal relationships and sexuality and must be assumed to have capacity to do so unless it is proved otherwise. The Orpheus Centre will ensure that all decisions made on behalf of a person who lacks capacity are based on their best interest and are the least restrictive of their basic rights and freedoms. An assessment of someone's capacity to consent will be based on the individual decision to be taken. There will under no circumstances be a blanket label of a lack of capacity.

All sexual activity between individuals must be consensual. Any sexual act that takes place between two, or more, people where one of them is not consenting, or does not have the capacity to consent, is classed as sexual assault or rape

The ability of a person to give consent should be judged in each particular circumstance and time. Advice of professionals, such as psychologists, psychiatrists, speech and language therapists and independent advocates may be sought if there is doubt that a person can give consent.

Consent does not have to be verbal. Care must be taken to ensure that students are given the opportunity to communicate consent in the manner that they are used to. This could be using

Makaton, picture boards etc. Where appropriate, advocates can be used. Whatever methods are used to communicate with the student the interpretation of what they want and understand must be recorded in their notes.

Consent is a continuing process and can be withdrawn at any time

Whilst seeking to be supportive of consensual and healthy sexual activity, staff need to be alert to abusive or exploitative behaviour. This must be reported to their line manager, with a view to informing the police or invoking the Safeguarding Adults procedures. The police must be involved if there is any immediate danger. Where a service is registered and inspected, they should also comply with the requirements of the Care Quality Commission. Staff are reminded of the need to cease questioning students about an incident if there is any likelihood of a police investigation

The students' rights and wishes are central to all decision-making. A student's 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 an advocate to enable them to resolve such conflict.

Working with families and carers

The Orpheus Centre will ensure that it works sensitively with carers and families in the area of students' sexual relationships and activities. Carers and families should be made aware that the students' rights are of primary importance in issues of sexuality and relationships.

If a student gives their permission, it can be helpful for parents to know their young adult is taking part in a relationships and sex education programme and to have some knowledge of the material which will be used. This can give them the opportunity to discuss any fears and confusions and also to support their young adult in reinforcing what they have learnt.

Some parents may object to a sex education programme out of principle, even if they have seen the material and are aware of the content. In such a situation, if an adult with a disability has capacity, still wishes to take part in a sex and relationships education programme and has made an informed choice to do so, they should be supported to attend the course. Any such decision to support a student in accessing training and information about sexuality, relationships and related health needs should be recorded and discussed with the appropriate Line Manager. Service users should be offered the services of an advocate if they feel they want support in expressing their wishes to their parent carers.

Some parents may object to their young adult having sexual feelings and wanting to have intimate personal relationships. This issue can be a very emotive one and staff members will need to acknowledge the potential conflict of views over the expression of sexuality between a student and parent(s). It is important to work in partnership with families / carers, whilst keeping the student as the focus. In practice this means that workers have a responsibility to:

- Ensure that good communication with families and carers exists, and make sure their views are listened to and treated with respect. However, the rights of our students need to be of primary importance.
- Take seriously any issues raised by families relating to personal safety of the person with a disability by undertaking appropriate risk assessment
- Ensure that families and carers have the opportunity to find out about and discuss issues relating to relationships and the sexual wellbeing of their young adult. However, staff must

respect the right to privacy with regard to personal matters and, the student's permission should always be sought prior to discussing such matters with their family / carers.

- Ensure that students, families and carers have access to the complaints procedure.

Sexual Relationships

Staff members will provide the space and privacy to support healthy non-abusive sexual relationships between people accessing the organisations services, provided that they are over the age of 16 years and have the capacity to make the decision to consent to the relationship.

The Orpheus Centre will ensure that service users aged 16 and over are supported to make choices and decisions as to their sexual preferences.

Respecting Diversity

Both staff and students need to understand the diversity of sexual expression and sexual preference and respect this. Similarly, attitudes towards sex are influenced by our cultural and religious backgrounds – which will not be shared by everyone but which need to be respected.

Students may need to be supported to explore the implications of any decision they make on their relationship with their family or wider community.

Risk

Staff members recognise and support the rights of individuals to take decisions in their personal lives that involve an element of risk. Students must be given the time and support to make informed decisions about risk-taking and be fully informed of the possible consequences.

Confidentiality

As in other aspects of their lives, students are entitled to confidentiality. Personal information should not be shared without their consent, unless there are issues of personal safety. In that case, they must always be told that confidentiality cannot be maintained

Everyone has the right to be private and safe. Safe privacy enables an individual to express themselves sexually, for example, within a consenting sexual relationship or in masturbation. Difficulties can arise when people lack access to privacy and can experience frustration in their lack of opportunity to express their sexual feelings and can lead to them expressing themselves inappropriately, and illegally, in the company of others and /or in public places.

Personal and sexual relationships, and individual expressions of sexuality, require access to private space, which must be offered and respected.

Managers and staff members will ensure that any information reported or recorded about the sexual relationships and activities of students is kept strictly confidential, in line with the Data Protection Act 1998, unless there are concerns about abuse, exploitation, illegality or risk to health and well-being.

Sex education

Students need information and support to understand their bodies, their sexuality and the nature of relationships. Such information needs to be appropriate for their age and ability and may need to take into account the students religion or belief system.

Contraception

Students known to be sexually active or planning to be sexually active must be given access to information and services relating to contraception, emergency contraception, sexually transmitted infections and other aspects of sexual health. Staff members must keep themselves informed about relevant local services.

Sexual health

All adults are entitled to annual health checks. This is where GPs should ask questions about an individual's health, including sexual activity and (along with the use of other indicators) be able to determine the need to give more information about contraception, smear tests, breast screening, testicular checks and screening for sexually transmitted infections.

Staff members should encourage students they know to be sexually active to go for regular screening and checks either with their GP, Family Planning Clinic or Genitourinary Medicine Clinics (GUM). GUM clinics are protected by law with an extra level of confidentiality, so they cannot pass on any information about patients or what infections they have without their consent, even to the patients GP. Everyone is entitled to free, confidential contraceptive advice and condoms are usually freely available from these clinics

Pornography and sexual aids

Other than for training purposes, staff members must not bring sexually explicit material into the work setting or seek to influence students to obtain it.

An individual person may purchase legally available sexually explicit material if he or she wishes and is able to use it in a socially responsible manner, in private. Although they should not be made to feel guilty about using such material, staff should inform them that other people may find it offensive and embarrassing.

Staff members have no right to destroy a person's property just because they do not agree with it.

Sexually explicit material is readily available on TV and the Internet and in magazines and videos, and may be a legitimate source of enjoyment and stimulation to students. However, students may need to be helped to understand that such material may be offensive and embarrassing to others. They may need support to understand that such material should be viewed in private. Staff and students also need to be aware that some internet sites contain illegal material.

Viewing sexually explicit material may confuse or mislead students and they may need help to understand the context and the variety of sexual preferences. In particular, they may need support to understand that they do not need to copy what they view.

Where students are known to be accessing material that involves illegal sexual activity (e.g. paedophilia, bestiality or sexual violence) this must be reported to a senior manager, who will inform the police. The police must be informed if any sexual material involving children is found. Where there are also concerns that the student poses a potential threat to others or is being unduly influenced by others, Safeguarding procedures will be invoked.

Masturbation

Masturbation is a common element of the sexual behaviour of adults, but students may need to be helped to understand that it is an activity requiring privacy. Where staff become concerned that

masturbatory practices are causing physical harm, they should seek discreet advice from one of the designated safeguarding team at Orpheus.

Marriage, living together and divorce

Students have the same rights in law as anyone else to marry or live together. Providing the person is over 16 years and has a general understanding of what it means to get married or enter a civil partnership, he or she has the legal capacity to consent to marriage. No one else's consent is ever required.

The District Registrar can refuse to authorise a marriage taking place if he or she believes one of the parties does not have the mental capacity to consent.

Professional Behaviour

Some aspects of personal care (especially those involving undressing) can involve intimate touch and can have sexual connotations. Staff members must behave in a sensitive and respectful way when undertaking such personal care.

Staff members should be alert to colleagues who fail to respect student's privacy, gossip, tease, flirt or are inappropriately intimate (verbally or physically). Any such concerns must be discussed with a Senior Manager immediately.

It is a disciplinary offence for any staff member to have any type of sexual relationship with a student regardless of their level of understanding or ability, or whether they welcome a sexual relationship or not. It is essential that staff members work to agreed standards of care and support and recognise the power imbalance that exists in staff and student relationships. **Any sexual touch or expression between staff and student is inappropriate and may constitute breaking the law.**

Enabling

Direct interventions which, under some circumstances, could involve the use of sexual aids or direct physical touch. Such interventions must be agreed in advance by a student's social worker or multi-disciplinary team, whose responsibility it is to ensure all other options have been explored. The decision must be properly recorded and monitored in a discreet manner.

Pregnancy and parenting.

Staff must be aware of the legal and medical implications of an unplanned pregnancy and be prepared to access advice promptly to ensure that the student can seek professional support and advice and make an informed decision.

Termination.

The Orpheus Centre will ensure access to appropriate professional medical advice and counselling to assist a student in deciding whether they wish to continue with a pregnancy or seek a termination. Any student considering such choices must be given access to appropriate specialist counselling and support before and after the termination.

External Reporting

See Safeguarding Policy for reporting flowchart and guidance.

Training

All new staff will read the organisation's policies on relationships, sexuality, safeguarding and confidentiality as part of their induction process. Ongoing training is provided for students, staff and families.

Glossary

Useful resources:

<https://www.healthysurrey.org.uk/sexual-health>

<https://www.sexualhealth.cnwl.nhs.uk/>

<https://www.fpa.org.uk/professionals/resources/leaflet-and-booklet-downloads>

<https://www.sexwise.fpa.org.uk/>

<https://www.fpa.org.uk/>