



## **Citizenship and supporting people with capacity issues about sexuality**

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# Definition



- “Sexuality is a central aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious and spiritual factors” p.8
- World Health Organisation 2006a



# Capacity



- Historical attitudes and expectations
- Current approaches: Person centred, age appropriate, dignity, confidentiality, information giving
- Changes
  - Degenerative LLTC conditions - illness, progression, end of life.
  - Learning Disability - mild, moderate, severe, profound



# Accountability and professional codes of conduct



- **“It is important to recognise that addressing issues about sex and sexuality is both appropriate and legitimate and that staff have a professional and clinical responsibility to do so within the boundaries of their individual cultural, religious and social beliefs and the law. If a member of staff feels unable to provide this level of support they should refer the young person to someone who is able to do so” p.18**

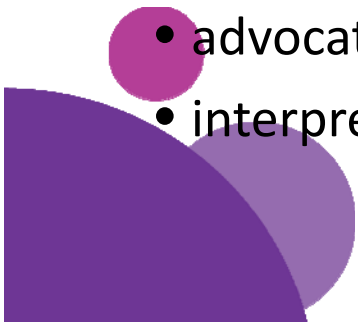
- Individual ability to understand, retain and communicate information - knowledge need only be rudimentary. A person has capacity to consent to sex if they understand on a simple level:
- a) the mechanics of the act b) That there are health risks involved, particularly the acquisition of sexually transmitted and transmissible infections and c) (if relevant to them) that sex between a man and a woman may result in the woman becoming pregnant” p.25-6
- - age - under 16, 16-18 and over 18
- Legal barrier to consent: age (under 16 cannot consent to sexual contact of any kind)
- It is not lawful to prevent an adult from having consensual sexual expression in private, alone or accompanied, unless they have already been found to lack capacity to make decisions about sex p.26
- Care staff should seek legal advice to clarify how the law will apply in a certain situation p.26



# In practice...



- **“The Mental Capacity Act, 2005 requires that all practicable steps should be taken to help a person make a decision and this includes providing sex education to those who lack capacity to engage in sexual activity” (Griffith and Tegnah 2013) p.12**
- If there is anything that can enable a young person to have that basic understanding, then it should be facilitated, for example by using
  - multidisciplinary team approach,
  - communication aids,
  - advocate,
  - interpreter.



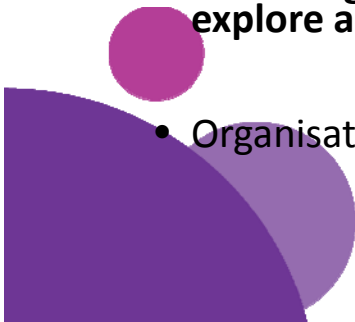
# In practice...



- **“Promotion of positive perceptions of sexuality within the care environment will translate into a confident and non-judgemental approach to supporting sexuality, which in turn will ensure young people have the freedom to express their needs in an open and honest way to achieve the most appropriate support” p.13**

Some examples

- encourage attention to sexual health needs,
  - facilitate choices about personal appearance,
  - ensure there are opportunities for social interaction and developing friendships/relationships if desired,
  - foster a staff culture of recognising and respecting privacy, dignity and confidentiality
  - Seek/provide education
  - help to understand appropriate sexual behaviour p.15
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- **Professionals supporting parents, carers and partners to develop the confidence and knowledge to safely support the young person as their needs change over time, and to explore areas of difficulty, prejudice using appropriate and effective communication p.13**
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- Organisational responsibilities, for example sexuality policy and regular training



# Safeguarding



- “The key issue to be aware of is the law relating to consent and finding the balance between protecting a young person with a LLTC from harm and taking acceptable risks. As long as those involved in the sexual activity give their consent, the law generally permits freedom of sexual expression” p.18
- “Young people with LLTCs should have the same right to relationships, fun and sexual expression as anyone else as long as no harm will be caused” ( De Than 2014) p.24
- **“Practical support to have a normal life also meant being treated like an adult at all times” p.16**



# Case example



- One of your colleagues went into the bedroom of one of the adult clients thinking it was empty but found the (male) client having oral sex with another male resident. Both men have a learning disability. The staff member wants to put them in separate residential units as it is not clear whether both of the clients have capacity to consent to sex. It is known that both of the men spend a lot of time together socially and have a very warm and friendly relationship with each other.





# Resources



- FPA 2015
- Sexual respect.org
- Makaton
- Image in action
- NSPCC and Triangle
- Helen and Douglas House Transition and Beyond Toolkit
  
- See page 19 for more, and appendix 4 p.37-39



# References



- De Than C (2014). *Sex, Disability and Human Rights: Current legal and practical problems in Owen & De Than*, A clear guide for health and social care professionals: Jessica Kingsley Publishers, ISBN: 978-1-84905-369-9.
- Griffith R & Tengnah C (2014). *Assessing capacity to consent to sexual relations: a guide for nurses*, Br J Community Nurs, Apr, vol 18, no 4, p198-201.
- World Health Organization (2006a) *Sexual and Reproductive Health*. [www.who.int/reproductivehealth/topics/sexual\\_health/sh\\_definition/en/](http://www.who.int/reproductivehealth/topics/sexual_health/sh_definition/en/) (accessed on 6th October 2015).

