

Relationship Policy and Guidance**Derbyshire County Council - Adult Social Care****Approval and Authorisation**

Name	Job Title	Date
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Approved by: QA	Quality Assurance Group	September 2017

Change History

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V2	May 2010	Review and update	Andrew Hambleton
V3	October 2014	Review and update to include information on Direct Payments	Dawn Nash
V4	Sept 2017	Review and update	Wendy Holehouse
V5	July 2020	Review and update	Fiona Hambleton-Relf

This document will be reviewed on a regular basis – if you would like to make any comments, amendments, additions etc please email Phil Robson – Policies and Procedures, phil.robson@derbyshire.gov.uk

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Introduction

No policy document or guidelines can possibly meet all the needs and queries of colleagues in this area of work, and this one is no different. It is unfair to deny our clients the help and assistance they need in the area of interpersonal relationships, and it is the responsibility of Adult Social Care and Health (ASCH) to deliver this help.

The danger of any policy is that it can suggest a very formalised and bureaucratic approach to what is an extremely personal, intimate and sensitive area. None of us would want to feel that all our sexual feelings and actions will be discussed. The policies and guidelines are necessary as they offer us a framework within which to work, but they must be used sensitively as everyone’s needs/feelings are unique.

We initially co-produced this policy and guidelines taking into account the views of representatives of the people who receive services. This most recent update has been done with further consultation with individuals and with carers and our thanks go to them for their assistance.

Glossary

Care and Support Plan/Personal Support Plan – Document outlining the services put in place after an assessment of an individual’s needs

Clients - People who use services provided directly or commissioned by Derbyshire County Council ASCH.

Colleagues and Volunteers – All those who provide services on behalf of Derbyshire County Council ASCH. For the purposes of this policy this includes personal assistants via a direct payment.

Personal Relationship/Interpersonal Relationship - Formal or informal intimate relationship such as loving or sexual relationships or romantic relationships with or without living together.

Part One Application of Policy and Guidance

This policy and guidelines apply to all services provided directly by ASCH in Derbyshire. It will be used to assist commissioned services develop appropriate policy and guidance in this area of work. The policy and guidance will also be put forward to partner agencies as a means of developing consistent arrangements for this area of work.

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Purpose of Policy and Guidance

This policy and guidance seeks to:

- demonstrate our commitment to clients by supporting their right to determine all aspects of their lives – including expressing sexuality, developing personal relationships and complying with legislation
- ensure that the rights, choices and preferences of each of our clients are respected
- ensure that all information is treated in a confidential manner
- provide effective written procedures to enable people to respond appropriately when required, to support individuals with areas including sexuality and personal relationships between people who use services
- make clear the roles and responsibilities when assisting with sexuality and personal relationships
- comply with legislative requirements including the [Health and Social Care Act 2008](#), the [Mental Capacity Act 2005](#) and the [Care Act 2014](#)

Adult Social Care and Health Departmental Vision

We will ensure that:

- services promote and facilitate the health and wellbeing of the people who use them
- services promote independence and support people to live a fulfilled life making the most of their capacity and potential
- people who use services are encouraged to participate fully in their community and that their contribution is valued
- people who use services and their carers have access to choice and control of good quality services, which are responsive to individual needs and preferences
- those who need social care have equal access to services without discrimination or prejudice; people feel safe and are safeguarded from harm
- people are not disadvantaged financially and have access to economic opportunity and appropriate resources to achieve this
- services are confidential and secure, respecting the individual and preserving their dignity

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We will achieve this by:

- supporting the provision of good quality social care
- assuring accountability of services to local communities through consultation with local people and in particular people who use services

Implementing this Vision

When implementing this vision with regard to interpersonal relationships, services should:

- support clients in accessing a variety of opportunities to meet and interact with people outside the service, as part of their support plan and to meet their eligible outcomes - this may include safely assisting someone with using dating services and accompanying clients on dates, to social activities
- provide appropriate support and guidance to facilitate clients' involvement in the wider community
- acknowledge the importance of friendships and relationships by supporting clients in maintaining these
- respect the right of the client to make choices about their relationships and be sexually active should they so wish
- ensure that clients' rights to privacy are maintained and that their individual values are respected by colleagues and volunteers
- set clear boundaries and provide guidelines for colleagues and volunteers assisting clients in establishing personal and/or sexual relationships
- take into account the values of colleagues and volunteers in relation to providing services to support clients with interpersonal relationships
- ensure the atmosphere and culture within services is conducive to the maintenance and development of clients' personal and/or sexual relationships
- ensure that providing appropriate support to enable one client to exercise their rights does not infringe on or hinder the rights of any other individual

Legal Framework

The behaviour of all members of society is governed by legislation. It is important to be aware that there are certain situations and behaviours that are against the law and should not be condoned:

- personal and/or sexual relationships where there appears to be no consent, or one or more of the individuals involved is not able to give consent

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- a personal and/or sexual relationship between anyone who is in a professional or formal position (colleague/volunteer/personal assistant/etc.) and a client
- sexual relationships between people under the age of consent under UK law
- possession of pornographic materials that would contravene the [Obscene Publications Act](#)
- masturbation or sexual acts in a public place
- where sexual exploitation or undue psychological pressure (including coercive and controlling behaviour) is placed on an individual there is an expectation that this may trigger a report of abuse and/or a safeguarding referral.

The Human Rights Act 1998

[Article 8](#) of the European Convention on Human Rights as incorporated in the Human Rights Act, states that everyone has the right to respect for his or her private and family life, his or her home and correspondence.

Please note that the language used below is that of the specific pieces of legislation and does not necessarily reflect the current preferred terms.

Sexual Offences Act 2003

Relevant offences under the [Sexual Offences Act 2003](#) are:

- sexual activity with a person with a mental disorder impeding choice
- causing or inciting a person with a mental disorder impeding choice to engage in sexual activity
- engaging in sexual activity in the presence of a person with a mental disorder impeding choice
- causing a person with a mental disorder impeding choice, to watch a sexual act
- inducement, threat or deception causing any of the above
- it is a criminal offence for care workers to:
 - engage in sexual activity with a person with a mental disorder
 - to cause or incite sexual activity
 - to carry out sexual activity in the presence of a person with a mental disorder
 - to cause a person with a mental disorder to watch a sexual act

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(Mental Disorder has the meaning given to it by [Section 1 of the Mental Health Act 1983](#)).

Consent is defined in the act as “a person consents if he agrees by choice, and has the freedom and capacity to make that choice”.

The Mental Health Act does not define capacity in this context therefore capacity should be interpreted in light of the [Mental Capacity Act 2005](#).

There are similar offences regarding a person over 18 who is in a position of trust in relation to a child under 18 years.

In addition, the statutory guidance to the [Care Act 2014](#) requires safeguarding adults boards to establish and agree a framework and process to respond to allegations against anyone who works (either paid or unpaid) with adults who have care and support needs (see [PIPOT](#)).

Other Offences

Other offences include:

- indecent exposure
- taking or possessing indecent photographs of children
- possession of material contrary to the [Obscene Publications Act 1959](#)
- offences in relation to prostitution
- offences in relation to discrimination due to any protected characteristic under the [Equality Act 2010](#)

Associated Policies and Procedures

In operating this policy regards will be paid to topics which can be found either on the Derbyshire Safeguarding Adults Board website or on the Safer Derbyshire website, including:

- [safeguarding adults](#)
- safeguarding children
- domestic abuse strategy and policy
- [data protection \(General Data Protection Regulations - GDPR\)](#)

As well as any other relevant codes of practice for employees.

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Part Five Guidance

ASCH provides services to a wide range of people in a variety of settings. It therefore has a responsibility to provide guidance to all volunteers, colleagues and clients in order to promote a positive, proactive and consistent approach to supporting clients in maintaining and developing social, personal and sexual relationships.

The World Health Organisation defines good [sexual health](#) as:

“...a state of physical, mental and social well-being in relation to sexuality. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence.”

In its document “[Relationships and sexuality in adult social care services](#)” the Care Quality Commission (CQC) states that

“[s]exual expression is a positive, natural human need. Ignoring it can have a negative impact on individuals’ physical and mental wellbeing”.

It is therefore important that services aim to ensure that sexual health, sexuality and relationships are seen in the wider context of clients' social and personal relationships.

However, it is important that ASCH balances its responsibilities to clients with those of colleagues and volunteers. Managers must take into account religious or personal grounds in allocating work in this sensitive area. Workers should always discuss the situation with their line manager and, where necessary, support the clients in accessing appropriate external guidance/information.

Maintaining and Developing Personal Relationships

The benefits of maintaining old and building new friendships and relationships are well known. As well as providing practical support, friends enhance self-esteem, well-being and can help to support clients through the effects of adverse life events such as loss or serious illness.

Personal Relationships

For all of us, changes in circumstances can be stressful and unsettling, and this makes new relationships even more important as clients may be separated from normal

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family/social networks.

Evidence suggests that whilst some clients maintain close family links, some will have “acquaintances” with whom they maintain casual contact and the only other people they will come into contact with and get to know well are other clients, colleagues, volunteers and professionals.

When an individual becomes a client, they sometimes lose contact with close family and friends and, in the process, lose their sense of self and their history.

It is important that in line with the client’s wishes and their support package, their needs in maintaining existing friendships and relationships are assessed and documented. Services must ensure support is provided to maintain marital and other existing personal relationships. Assisting people to stay in touch is essential. For example, using email can help people keep in touch and services could support clients to access this technology. Group care/living settings should also, where possible, provide private personal space to enable clients to entertain friends without having to use their bedrooms.

It is important that people in need of care and support are not limited to only seeing their friends and partners whilst at college or day opportunities. This includes visiting people in their homes, going to social venues such as pubs, clubs, cinemas, theatres, and sharing activities such as sports or walks. This may include consideration of working hours, building in flexibility so that social contact is not restricted by shifts finishing part way through an activity.

It is equally important to provide support in enabling clients to develop new friendships /relationships. For example, enabling a young client to develop their social life and relationships independent of parental involvement.

Opportunities to establish new friendships may include facilitating clients to join in local community activities or access to shops and places of entertainment and education. Services may wish to consider the role of the volunteer in facilitating clients in making initial contacts within the local community. It is important that clients have as many opportunities as possible to meet a wide variety of people. Services provide appropriate support, guidance and protection without the overprotection that unnecessarily restricts the individual and/or prevents from them taking ordinary life risks.

An increasing factor in people’s lives is the use of social media and networking sites. Whilst people should be supported to explore these if they want to and use them to maintain contact with their family and social circles, there is also a need for services to

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work with individuals to ensure their safety. This might include discussion of how to use websites, cybercrime awareness (including exploitation and/or cyber-bullying) and [digital safety](#) in general.

Sexual Relationships

It is important that guidance/support on safe sexual relationships/activity is individually assessed and provided to meet the specific age, ability and personal needs of clients. Clients should be provided with supporting information in accessing relevant external organisations.

The client’s support/guidance needs should be recorded as appropriate in line with their wishes in their support plan. In line with the support plan it may be necessary for colleagues to provide specific support to individual clients to develop and maintain safe sexual activities. Care and Support Plans which reflect support with a sexual activity needs to clearly state the role/purpose of the worker and require signature from a manager

For example, we may occasionally be asked to:

- assist clients to get into bed and to remove their clothing prior to sexual activity
- reposition clients before and/or after sexual activity
- provide personal care before and/or following sexual activity
- fit or remove a condom
- support clients to obtain legal pornography or sex aid
- support clients in minimising risk if they wish to access the services of a sex worker

It is acknowledged that not all clients will require this level of support and not all workers would feel comfortable or competent to provide this type of service. However, where it is required and provided, it should be managed with sensitivity and dignity.

Any intervention or support needed should be recorded clearly and in enough detail in the support plan to protect the workers assisting the client to embark on a sexual activity.

The role of workers however must not stray into the area of participation. For example it should not include:

- assisted masturbation for a client/client’s partner
- remaining in the room during sexual activity
- physically assisting a client/client’s partner with penetration

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Privacy and Confidentiality

Clients have the right to be left alone and free from intrusion in their personal or sexual relationships. Colleagues and volunteer attitudes and behaviours should show a sense of respect and dignity. Information that is personal and private to the client must be maintained in line with the requirements of [data protection under GDPR](#).

Consent and Choice

Clients should be encouraged to make their own decisions about their personal and/or sexual relationships. The law defines the age at which consent can be given for certain relationships and activities. It also requires that for consent to be valid it is freely decided and the individual(s) concerned is/are able to demonstrate a broad understanding of what is involved and have a basic understanding of the likely consequences of their actions. If a client does not have this level of understanding then it may be, in the eyes of the law, they are unable to make the decision.

However, as a general rule, it should be assumed that clients can make their own decisions and freely and mutually consent to enter into a personal and/or sexual relationship. If there is any doubt regarding a client's ability to make informed decisions, the [Mental Capacity Act 2005](#) must be complied with, and a multidisciplinary based approach is used, a risk assessment is carried out and any intervention is handled sensitively. This should be recorded and aim to achieve what it is agreed with the client, as well as being shown to be in their best interests.

In determining the client's ability to make informed decisions the client's lead worker, who is often the social worker, should involve the client and their advocate, the service manager, their line manager, or other placement authority representative, the client's family/friend as appropriate and any other relevant people.

Where this group believes that the client does not demonstrate a broad understanding of what is involved or does not have a basic understanding of the likely consequences of their actions, measures must be put in place by the service to protect and support the client. Any decisions taken to restrict the client's rights must be clearly documented and reviewed taking into account any factors that might have changed. This includes any relevant case law.

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Personal Relationships

The client should be offered the support of an advocate, independent of ASCH and made aware of his/her right to challenge any decision.

Whilst it is recognised that parents/relatives may have strong views about how clients conduct their personal and/or sexual relationships, they do not have any legal right to control adult clients' behaviour. For young adults, where appropriate, parents/carers should be assisted to understand that adolescence is a time of physical growth and development and that emerging sexuality and sexual orientation is a part of adolescence. In all cases, colleagues should support clients in working with parents/relatives to enable them to come to terms with any issues they may find uncomfortable or distressing.

Risk Taking/Duty of Care

Whilst ASCH recognises the right of service users to take risks in relation to their personal and/or sexual relations without interference, it also recognises that clients may need varying levels of support to achieve this right. Therefore, services must ensure that training, guidance and support is provided to clients, colleagues and volunteers appropriate to the individual's needs and the context of the services provided, to support positive risk taking.

Intervention to reduce risk must be recorded.

Protection of Clients from Abuse

In all cases where abuse is thought to have taken place, or it is believed that there is a risk that it may take place, the procedures detailed in [Derbyshire and Derby SABs Safeguarding Adults Policy and Procedure](#) must be followed.

Workers and Volunteers

It is acknowledged that workers and volunteers will have a wide range of views and opinions on the subject of personal and/or sexual relationships. All colleagues and volunteers should be provided with guidance/awareness training and support as appropriate and must have the right to opt out of providing support in relation to sexual activity on religious/personal grounds.

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Helping People to Access Extra Guidance and Support

Guidance, support and specialist counselling should be made available to specific colleagues to enable them to work closely with clients and colleagues to provide up-to-date, relevant appropriate advice and information, and enable them to carry out such tasks in a professional sensitive manner. **However, colleagues should never act alone in making decisions or providing support to clients in relation to these issues.**

Colleagues or volunteers must not block, suppress or undermine clients’ sexual relationships and service managers must ensure that the values and attitudes of colleagues and volunteers do not adversely impact on clients’ rights to have active sexual relationships.

Services should support colleagues or volunteers, where appropriate, to work through their concerns and accept that ultimately responsibility must rest within the service not with individual colleagues or volunteer members. Colleagues and volunteers will not be expected to undertake activities that are illegal.

Code of Conduct

Your job role will bring you into close contact with clients, members of the public, workers and volunteers, and you should ensure that your relationships are open and professional. This includes respecting the privacy of others, discouraging gossip and maintaining confidentiality. You must inform your manager of any close personal relationships which develop at work so that your manager can ensure that neither the service nor working relationships are adversely affected and that you follow the relevant code of conduct.

Mental Capacity

[The Mental Capacity Act 2005](#) provides the legal framework for acting on behalf of individuals who lack the mental capacity to make particular decisions at specific times, for themselves. Everyone working with and/or caring for an adult who may lack capacity to make specific decisions at a specific time must comply with the Mental Capacity Act when making such decisions or acting for that person. The same rules apply whether the decision is a life changing one or an everyday one. The people making the decisions must be able to evidence that the choice made is in the best interests of the person.

Individuals should be making decisions for themselves, with support where necessary, unless it can be shown that they lack the capacity at the time the decision needs to be made. This is known as the **presumption of capacity**. The act also states that people must be given all appropriate help and support to enable them to make their own decisions

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or to maximize their participation in any decision making process. (See the [Mental Capacity Act Code of Practice](#)).

Nothing in the act permits a decision to be made on someone else’s behalf on a number of matters:

- consenting to a marriage or a civil partnership
- consenting to have sexual relations
- consenting to a decree of divorce on the basis of two year’s separation
- consenting to the dissolution of a civil partnership
- consenting to a child being placed for adoption or the making of an adoption order
- discharging parental responsibility for a child in matters not relating to the child’s property
- giving consent under the [Human Fertilisation and Embryology Act 1990](#)

In matters of sexual and personal relationships capacity must initially be presumed unless the person has an impairment of, or a disturbance in their mind or brain function which means that the person is unable to make a specific decision when they need to.

Where two people have capacity to make a decision about having a sexual or intimate personal relationship and where there is no duress on either party, they should be supported to do so.

There will be circumstances where either or both partners may be assessed as not having the capacity to make decisions regarding entering, maintaining or the extent of a relationship. In these circumstances there needs to be consideration of the legal issues and the best interests of the client(s) concerned, within the terms of the [Mental Capacity Act 2005](#). This will include wherever possible, ascertaining the views and preferences, current and historical of the person who lacks capacity. It will also take into account views concerning the person’s best interests held by anyone the person has previously named as someone they want to be consulted; others with an appropriate interest in the person’s welfare; the role of a suitable person; any attorney appointed by the person under lasting power of attorney (for health and welfare) and any deputy appointed for that person by the Court of Protection.

Personal Relationships

As well as adhering to this policy and guidance the relevant professional code of conduct will be followed (Care Quality Commission, Royal College of Nursing, Social Work

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England, employer’s own, etc.), meaning that colleagues are responsible for making sure that their conduct does not fall below the standards set out in that code and that no act or omission on the part of care colleagues harms the wellbeing of clients. Inappropriate relationships should be considered in risk assessments and prior to commissioning and arranging a service – this is particularly important for direct payment recipients. In addition the [Care Act 2014](#) also sets out measures for safeguarding adults at risk which should be observed.

Workers/Volunteer/Client Relationships

Where a colleague’s or volunteer’s relationship with a client develops beyond the normal professional boundaries, the service manager in conjunction with HR support must manage the situation on an individual basis. Actions taken must be in line with the requirements of [Derbyshire County Council Codes of Conduct](#) for employees and as laid out in the [Derbyshire County Council Constitution](#) to ensure the most appropriate outcome for the people concerned and the organisation, with the priority being to promote the wellbeing and safety of the client.