



**Equality and human rights duties impact analysis (decision making and policies)**

**Registering the right support: CQC’s policy on registration and variations to registration for providers supporting people with a learning disability and/or autism**

Equality Act 2010  
Human Rights Act 1998

**Section 1**

<p><b>Intended outcomes</b></p>	<p>To promote registration of service providers that provide care reflecting principles of relevant national guidance, including <i>Transforming Care (2012)</i> and <i>Building the right support</i>, ensuring that for people with learning disabilities the norm is that they are able to live in their own homes with the support they need for independent living, accessing hospital support when they need it.</p> <p>To be transparent with providers about our approach and to encourage providers and commissioners to develop approaches consistent with national policy and best practice.</p> <p>Note: this revised guidance offers greater clarity on our approach to ensuring that providers meet national best practice guidance, for example <i>Building the right support</i>. It does not amend any of the existing prompts for inspectors.</p>
<p><b>Who will be affected?</b></p>	<p>Aspiring and existing providers of services for people with a learning disability and/or autism.</p> <p>People with a learning disability and/or autism who use services.</p> <p>Carers of people with a learning disability and/or autism.</p>

## Section 2

<ul style="list-style-type: none"> <li>Does the work affect people who use services, employees or the wider community? (This is not only refers to the number of those affected but also by the significance of the impact on them)</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Is it a major piece of work, significantly affecting how functions are delivered?</li> </ul>	No
<ul style="list-style-type: none"> <li>Will it have a significant effect on how other organisations deliver their functions in terms of equality or human rights?</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Does it relate to functions that previous engagement has identified as being important to particular protected groups or human rights?</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Does or could it affect different protected groups differently?</li> </ul>	No
<ul style="list-style-type: none"> <li>Does it relate to an area with known inequalities or breaches of human rights?</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Does it relate to an area where equality objectives have been set by CQC?</li> </ul>	Yes (objective 1, person-centred care and equality)
<ul style="list-style-type: none"> <li>Does it or could it impact upon personal privacy? For example by:           <ul style="list-style-type: none"> <li>Using personal data (information about identifiable individuals) in new or significantly changed ways, or for new purposes.</li> <li>Collecting new identifiers (such as information that identifies people, such as name, date of birth, NHS number, postcode).</li> <li>Combining anonymised data sources in such a way as to risk identifying individuals?</li> <li>Disclosing or publishing personal data or identifiers.</li> <li>Using new or additional information technologies with substantial potential for privacy intrusion (such as surveillance, image or video recording of individuals, tracking or monitoring of individual).</li> <li>Observing or monitoring with potential for privacy intrusion (such as observing intimate personal care).</li> </ul> </li> </ul>	No

If the work does or could impact upon personal privacy, explain how (for example: what additional information is being collected, used or shared?)  
If there is no anticipated impact upon personal privacy, skip this box and continue below.

N/A

### Section 3

Do the answers above indicate that this work is relevant to equality or human rights?  
 If yes skip this box and continue below.  
 If no, document the reasons below and forward this EHRDIA to the EDHR team for sign-off

Yes – see below

### Section 4

#### Engagement and involvement

- Have you involved people who use services, staff and other stakeholders?
- What are the key findings of your engagement relating to equality and human rights?

Include known representation across the characteristics protected in the Equality Act: age, disability, gender, gender reassignment, marriage/civil partnership, pregnancy/maternity, race, religion and belief, and sexual orientation.

Target group	Summary of involvement
People who use services	This revised guidance is particularly relevant to people with a learning disability with high levels of need. This includes, but is not limited to, people with behaviour that challenges. We have involved people who use services through our public consultation and through a workshop with Experts by Experience and carers in January 2017. The strong message received was that this was the right thing to do.
CQC staff	We have involved staff throughout the process of developing the next phase consultation (including the section on the proposed changes to <i>Registering the right support</i> ). We have also discussed the revised guidance with several hundred CQC staff at the Registration National Conference (March 2017) and kept them up-to-date with developments (including an intranet news article in February 2017).
Other stakeholders	We proposed making revisions to the guidance and changing its status in November 2016. This was to ensure that providers are clear that we will expect their model of care to accord with the service model and the underpinning principles set out in the national guidance. We also proposed changing the status of the guidance to statutory guidance in November 2016 to impose a statutory duty on providers to take account of our policy and wider national guidance when designing and developing their service for people with a learning disability. We held a public consultation on these changes from December 2016 to February 2017. Feedback has been considered, and has been included in our June 2017 response to the consultation, available at: <a href="http://www.cqc.org.uk/nextphase1">www.cqc.org.uk/nextphase1</a> .  In response to feedback on the consultation, colleagues from the Policy and Registration teams have attended meetings with funders of adult

	<p>social care, MPs and other respondents to discuss feedback and implementation.</p> <p>Additional involvement from other stakeholders included:</p> <ul style="list-style-type: none"> <li>• specific workshops with providers and provider representative groups during December 2016</li> <li>• a webinar for providers in January 2017</li> <li>• further meetings with provider representative groups in February 2017.</li> </ul>
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## Section 5

<b>Evidence</b>	
Age: (include younger as well as older people, safeguarding, consent and child welfare)	This guidance applies mainly to mainly adult social care services (as services for other age groups are usually outside of CQC's remit). <a href="#">Transforming care</a> (2012) is explicit that the principles underpinning this work apply to people of all ages.
Carers: (impact of part-time working, shift-patterns, general caring responsibilities)	Carers were represented in responses to the public consultation on this revised guidance.
Disability: (include attitudinal, physical and social barriers)	<a href="#">Transforming care</a> (Department of Health, 2012) <a href="#">Building the right support</a> (ADASS, 2015) <a href="#">Winterbourne View Review Concordat</a> (2012) <a href="#">Valuing People Now</a> (2010) Engagement through public consultation
Gender: (men and women)	This revised guidance applies to services for people with a learning disability and/or autism of any gender.
Gender reassignment: (transgender and transsexual people, issues such as privacy of data and harassment)	This revised guidance applies to services for people with a learning disability and/or autism of any gender.
Pregnancy and maternity: (impact of working arrangements, part-time working, infant caring responsibilities)	<a href="#">Good practice guidance on working with parents with a learning disability (Working Together with Parents Network, 2007)</a>

and breastfeeding)	
Race: (include differences between ethnic groups, nationalities, gypsies and travellers, language barriers)	This revised guidance is based on supporting underpinning principles of choice, inclusion and independence for people with learning disabilities, including supporting them with self-identified needs or preferences relating to culture or ethnicity. Research has shown that person-centred care along with nuanced cultural understanding is vital to ensuring that people in some Black and minority ethnic (BME) groups are equally satisfied with adult social care services: <a href="http://socialwelfare.bl.uk/subject-areas/services-activity/social-work-care-services/natcen/satisfaction14.aspx">http://socialwelfare.bl.uk/subject-areas/services-activity/social-work-care-services/natcen/satisfaction14.aspx</a>
Religion or belief: (include different religions, beliefs and no belief)	This revised guidance is based on supporting underpinning principles of choice, inclusion and independence for people with learning disabilities, including supporting them with needs or preferences relating to religion or religious practice.
Sexual orientation: (include impact on heterosexual people as well as lesbian, gay and bisexual people)	<a href="#">A Life Like Any Other? Human Rights of Adults with Learning Disabilities (2008)</a> (section on relationships with friends and family, sexual or other personal relationships)  <a href="#">Valuing People Now</a> (2010) (section on relationships)
Human rights (refer to Guidance for examples, includes privacy)	<a href="#">A Life Like Any Other? Human Rights of Adults with Learning Disabilities (2008)</a>  <a href="#">British Institute of Learning Disabilities Factsheet – Human Rights Act</a>

### **Full reference list**

*A Life Like Any Other? Human Rights of Adults with Learning Disabilities. Seventh Report of Session 2007-8* (House of Lords House of Commons Joint Committee on Human Rights, 2008). Available at:

<https://www.publications.parliament.uk/pa/jt200708/jtselect/jtrights/40/40i.pdf>

*Building the right support: A national plan to develop community services and close inpatient facilities for people with a learning disability and/or autism who display behaviour that challenges, including those with a mental health condition* (Association of Directors of Adult Social Services, October 2015). Available at:

<https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf>

*DH Winterbourne View Review Concordat: Programme of Action* (Department of Health, 2012). Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/213217/Concordat.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213217/Concordat.pdf)

*Factsheet – Human Rights Act* (British Institute of Learning Disabilities). Available at: <https://www.thh.nhs.uk/documents/Patients/PatientLeaflets/general/HumanRights-BILD.pdf>

*Good practice guidance on working with parents with a learning disability* (Working Together with Parents Network, 2007). Available at: <http://www.bristol.ac.uk/media-library/sites/sps/documents/wtpn/2016%20WTPN%20UPDATE%20OF%20THE%20GPG%20-%20finalised%20with%20cover.pdf>

*Satisfaction with adult social care among Bangladeshi, Pakistani and white British populations* (Blake, Mowlam & Husain, December 2014, NatCen Social Research). Available at: <http://socialwelfare.bl.uk/subject-areas/services-activity/social-work-care-services/natcen/satisfaction14.aspx>

*Transforming care: A national response to Winterbourne View Hospital Department of Health Review, final report* (Department of Health, 2012). Available at: <http://www.local.gov.uk/sites/default/files/documents/transforming-care-report-47f.pdf>

*Valuing People Now: Summary Report March 2009 to September 2010*. Including findings from Learning Disability Partnership Board Self Assessments 2009-2010. (Department of Health, 2010). Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/215891/dh\\_122387.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/215891/dh_122387.pdf)

## Section 6

Analysis	
Effect on eliminating discrimination, harassment and victimisation (includes unlawful discrimination because of marriage or civil partnership status, as well as other protected characteristics)	This guidance supports the underpinning principles of promoting choice, independence and inclusion of people with learning disabilities. Supporting these principles ensures people with learning disabilities have better protection from unlawful discrimination and promotes their human rights. <b>Therefore, this guidance is likely to have a positive effect on eliminating discrimination, harassment and victimisation.</b>
Effect on advancing equality of opportunity (includes removing or minimising disadvantages, taking steps to meet the needs, and encouraging participation in public life of people from protected groups)	<i>Transforming care</i> states, “Evidence shows that community-based housing enables greater independence, inclusion and choice, and that challenging behaviour lessens with the right support.” (p19). People with learning disabilities have worse health outcomes and hence it is essential that we encourage providers to follow best practice. This revised guidance promotes equality of opportunity in line with relevant national policy that supports these principles for people with a learning disability and/or autism, in relation to outcomes from social care beyond health outcomes, such as ability for people to exercise choice in how they spend their time. This includes providing appropriate support in relation to other protected

	<p>characteristics, such as gender, ethnicity, religion and sexual orientation. This revised guidance signals a more robust approach from CQC to supporting and enacting these principles. <b>This guidance is likely to have a positive effect on equality of opportunity for people with learning disabilities and/or autism.</b></p> <p>The revised guidance promotes registration of providers delivering services that meet best practice, which is also likely to promote equality on the grounds of other characteristics (such as race or ethnicity). Therefore the likely benefit is not only in reducing inequality on the basis of disability.</p>
Effect on promoting good relations between protected groups	<p>This revised guidance promotes provision of residential services for people with learning disabilities in the community, maximising the opportunity for people using the service to develop relationships and promote inclusion within local communities. <b>Therefore, this guidance has a likely positive effect.</b></p>
Effect on compliance with Human Rights Act 1998	<p><i>A Life Like Any Other?</i> states that, “[The Human Rights Act ] provides a legal framework for service providers to abide by, and for service users to demand that they are treated with dignity” (p21). In particular, delivery of best practice care settings is important in protecting the right to life and the right to liberty and security. <b>This guidance aims to reduce the risk of people with learning disabilities and/or autism receiving care in institutionalised settings, and to support them to receive person-centred care in the community, living independently wherever possible.</b></p>
Privacy impact (includes assessment of risks to personal privacy. Privacy issues will be reviewed by CQC’s Information Governance Group who may require further privacy impact assessment work)	N/A

## Section 7 – Log of equality and human rights actions

There are no additional actions (actions covered in implementation of the guidance).