



Lesbian, gay, bisexual or trans clients or patients

Guidance for nurses and health care
support workers on next of kin issues



Royal College
of Nursing

The Royal College of Nursing (RCN) celebrates diversity, promotes equality, inclusion and human rights through a commitment to developing and promoting excellence in nursing practice. The RCN is committed to challenging stigma, unlawful discrimination and prejudice in health care.

Discrimination by health care staff

Lesbian, gay, bisexual, trans people and communities (LGBT) may experience stigma, prejudice and unlawful behaviour both as patients and as colleagues. Discrimination against these client groups is called homophobia, biphobia or transphobia.

The terms 'trans' refers to individuals whose gender identity is different to the gender that was assigned to them at birth.

This type of behaviour may encompass a range of negative attitudes and feelings toward homosexuality or people who are identified or perceived as being lesbian, gay, bisexual or transgender. Like any other form of bias, it can be expressed in a wide variety of ways including antipathy, hostility and contempt. Heterosexism can also be present. It is the automatic assumption that everyone is heterosexual and that heterosexuality is inherently superior and preferable to other sexual orientations.

The combination of discrimination and heterosexism can lead some LGBT people to:

- present late in disease
- experience poor levels of care while in treatment
- be reluctant to adhere to effective follow-up or continuity of care.

What does the law say?

The Equality Act 2010 outlaws discrimination against individuals and groups because of their sexual orientation or their gender identity.

The Nursing and Midwifery Council code of conduct also states that:

'You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to. You make sure that those receiving care are treated with respect, that their rights are upheld and that any discriminatory attitudes and behaviours towards those receiving care are challenged.'

Maintaining contact

Many health care professionals will only discuss a patient's issues with a 'next of kin'. This is often unofficially presumed to mean a blood relative or heterosexual spouse. For day-to-day care of clients without a registered partner or spouse, the patient's or clients wishes in their choice of nominated person should be respected.

With regard to matters of consent to treatment for those unable to freely provide it, you should seek advice from your employers. The underlying rule must be to always act in the patient's best interest.



Children with LGBT parents

LGBT parents may experience hostility, prejudice or discrimination because of homophobia, biphobia or transphobia. Families with LGBT parents may be viewed as 'not proper families' as a result of heterosexist assumptions. Positive health care support is therefore essential to the wellbeing of these family units.

Some LGBT people may have had their children within a heterosexual relationship, and, if they were married at the time of the birth, the biological father will automatically have parental responsibility. The biological mother has parental responsibility whether she is married or not.

The partner or spouse of a lesbian mother may have parental responsibility if they live together and she has applied through the court for a residence order under the Adoption and Children Act 2002/the Children Act 2004. This would normally include granting authority to the non-biological parent to make health decisions and consent to treatment on behalf of the child. Gay men and lesbian women may now foster and adopt children as a family unit or a couple.


A gay man who has fathered a child is able to apply for a residence order if he lives with the child, or he can be granted parental responsibility by the birth mother. A court order, like a residence order, clarifies whether an individual has parental responsibility and gives nursing staff clear authority to recognise such relationships.

However, in practice, many lesbian and gay parents may choose not to seek such formal action. Any person who is involved with a child would expect to be included in their care if the child was in hospital or being nursed in the community. It is in the child's interest that such relationships continue uninterrupted.

Confidentiality, access, information and documentation

When eliciting information about spouses, partners, or 'significant others', nursing staff need to tell patients the reason for the request and how the details will be recorded. It is also important to ascertain from patients who they wish information to be given to and who they might wish it to be withheld from. This applies to seeking medical information to be given to visitors, and anyone over the telephone. Where the patient is unable to state their own views, individual circumstances should be considered. Nursing staff and health care support workers should avoid making judgements themselves and should also remain alert to the potential for conflict with other relatives. Local guidelines should be devised to deal with this kind of situation.

The British Medical Association and the Association of British Insurers have issued guidelines which state that doctors do not have to reveal all aspects of their patients' history, nor disclose incidents of STIs provided there are no long-term health implications.



Insurance companies should not ask whether an applicant for insurance has taken a HIV or hepatitis B or C test, had counselling in connection with such a test, or received a negative result.

Nurses and health care support workers also need to recognise that some LGBT people will not feel comfortable using various sexuality terms to label or define themselves to others and some will have concerns about such information being documented.

Nurses should never make a record of a patient's sexual orientation without the patient or clients permission.

Dealing with death

Provisions within the Human Tissue Act of 1961 allow a non-relative to receive a body, arrange a funeral and give permission for a post-mortem to be carried out. According to the act, if a person dies in hospital, the hospital authority has lawful possession of the body and the hospital administrator has legal authority to direct that organ or tissue transplantation takes place. This is provided that reasonable enquiries have been made which show that it would not be against the wishes of the deceased nor their relatives. Same-sex civil partners and spouses are granted the same rights as heterosexual spouses. Similarly, trans patients or clients who are in a civil partnership or who are married also enjoy the same rights and obligations as heterosexual couples. They can authorise transplantation.

When a same-sex or transgender partner or spouse has been bereaved they may not receive the same support and recognition as someone who was in a heterosexual relationship. There are specialist counselling services available, nurses and health care support workers can find out more about the support available by contacting local LGBT organisations.

Nurses and health care support workers should:

- be sensitive about the way they request information from patients, using language which is inclusive and respectful
- ask for a contact person to whom information should be given, rather than using the term 'next of kin'. They should also find out the names of those people the patient wishes or does not wish to have contact with
- challenge discriminatory attitudes and behaviour in nursing colleagues, clerical staff, other patients and service users
- make it safe for LGBT patients and LGBT parents of children who are patients to be open about their relationships, so that families can be supported during times of illness. This includes respect for privacy and confidentiality
- nursing practice should be to ensure that clients and their partners are treated with dignity and respect, irrespective of their gender or sexual orientation.

Conclusion

Nursing staff should:

- Be sensitive about the way they request information from patients, using language which is inclusive, and neither offensive nor embarrassing.
- Ask for a contact person to whom information should be given, rather than using the term 'next of kin'. They should also find out the names of those people the patient wishes or does not wish to have contact with.
- Challenge heterosexist, homophobic, biphobic, transphobic and any other discriminatory attitudes and behaviour in nursing colleagues, clerical staff, other patients and service users.
- Make it safe for LGBT patients and LGBT parents of children who are patients to be open about their relationships, so that families can be supported during times of illness. This includes respect for privacy and confidentiality.
- Be mindful that there are laws relating to all of these issues in order to promote and achieve sexuality equality and outlaw discrimination.
- Nursing practice should be to ensure that clients and their partners or significant others are treated with dignity and respect, irrespective of their gender or sexual orientation.

Resources

Gender Identity and Research Society (GIRES)

GIRES is a registered charity that promotes research and education on trans issues. It also provides information for trans people, their families and the professionals who care for them.

www.gires.org.uk

The Gender Trust

The Gender Trust provides support to those who are directly or indirectly affected by gender identity.

www.gendertrust.org.uk

Lesbian and Gay Foundation (LGF)

A Manchester-based organisation working to challenge homophobia, biphobia and trans phobia particularly in the health care sector.

www.lgf.org.uk

PACEHEALTH

PACE is the LGBT+ mental health charity promoting the emotional well-being of the lesbian, gay, bisexual and transgender community.

www.pacehealth.org.uk

Stonewall

Stonewall campaigns for LGBT equality. They have a presence in England, Scotland and Wales.

www.stonewall.org.uk

References

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Guidance on combating transphobic bullying in schools (Home Office 2010) at **www.gires.org.uk/assets/Schools/TransphobicBullying.pdf** and **www.stonewall.org.uk/educationforall**

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