

# 7-minute briefing on Managing racial abuse towards staff from people who lack capacity



## Section 01 - Why do we need to think about this?

In a Safeguarding Adult Review (SAR) due to be published by NSAB later in 2021, learning was identified in respect of care and nursing staff who were routinely subject to racist and other abuse from patients in a private hospital setting.

Employers are required, under the Equality Act 2010, to protect their staff from discrimination relating to race, gender, religion or other protected characteristics. This can be a challenge when those adults being abusive have some impairment to their mental capacity, e.g. people living with dementia, acute or long-term mental health conditions, or learning disabilities.

**Note:** where people who use services are assessed as having no impairment to their mental capacity (in respect of the language and/or aggression they are using and the way they are directing it), standard processes for reporting such abuse, including hate crime must be followed.

## Section 02 - Why is it a problem?

Consideration of the adult's understanding and any consequence for the behaviour is needed. Some actions that might be taken (in terms of the adult who lacks capacity) may have the potential to be experienced by them as a punishment, without making a real change to the behaviour (e.g. they can't have a treat or go on a trip). Incidents are rarely prosecuted where capacity is impaired. Moving staff to another ward or area is not always helpful as this can be seen as both rewarding the adult for their behaviour and punishing the victim. Where racist or other abuse becomes normalised in any setting it contributes to a negative culture, rather than promoting a positive and open environment where poor practice can be challenged.

## Section 03 - So what can be done?

There should always be some consideration of what practical steps can be taken with the adult – bearing in mind limitations due to impaired capacity e.g. what is least restrictive, any legal boundaries; proactive engagement with the patient / adult is needed, not just reactive.

There is increasing emphasis on the use of positive behaviour support (PBS) which is a strategy to support behaviour that may be seen to challenge others; there is training on this widely available for staff and organisations. PBS starts with understanding the behaviour of an individual, by assessing the social and physical environment in which the behaviour happens, includes the views of the individual and everyone involved, and uses this understanding to develop tailored support that improves the quality of life for the person and others who are involved with them.

Where it may be unrealistic to expect some adults receiving care and support to stop being abusive, because of the level of cognitive impairment they experience, the responses to incidents and support for staff on the receiving end is key.

## **Section 04 - What happens if we ignore the issue?**

If nothing is done, there is likely to be considerable impact in terms of staff turnover, service instability, impact on how staff work with patients / adults i.e. potential increase in safeguarding incidents or neglect.

Where racial abuse is seen as 'low-level' and not worth reporting it quickly becomes normalised - it becomes acceptable that black, Asian and other minority ethnic staff will be subject to types of abuse that white staff are not, and can create toxic environments for both staff and the adults they are supporting.

## **Section 05 - How does this perpetuate the problem?**

If there is no visible action seen as a result of reporting, staff feel there is "no point" in doing it – this contributes to a culture where racial abuse is not challenged and is then more likely to occur; if the concerns are not recognised at a strategic level, risk is neither recognised or mitigated.

## **Section 06 - Responsibilities for providers and organisations**

Organisations / care providers should have a clear policy on how such incidents will be managed. Staff should be encouraged to report incidents and given emotional and practical support – for example, individual / peer / community debrief after an incident. Feedback should be given both in terms of individual events and thematic review.

## **Section 07 - Further reading**

Skills for Care [Supporting-social-care-employers-to-prevent-and-manage-abuse-and-violence-FINAL-091014.pdf](#) (brookes.ac.uk)

Caselaw example – employment tribunal [Mr\\_C\\_Bessong\\_v\\_Pennine\\_Care\\_NHS\\_Foundation\\_Trust - 2403971\\_2017 - Final.pdf](#) (publishing.service.gov.uk)

[Statement on tackling racism within health and social care | Care Quality Commission](#) (cqc.org.uk)