Ashtons LEGAL

Under Pressure:

How Unconscious Bias Shapes Rehabilitation Decisions

Felicity Sparkes

Ashtons LEGAL

This is a safe space

- This is not about blame, values or calling anyone out
- Bias does not equal prejudice. While there are similarities, they are different
- Bias is what happens to *good* professional judgement under pressure

Ashtons LEGAL

Why This Matters In Your Role

Two clients, similar injury severity and rehab potential. One framed as “motivated but anxious”, the other as “risky and resistant”.

Which would you choose to work with and why?

Ashtons LEGAL

What Unconscious Bias Is — and Why It Grows Under Pressure

What it *is*

- Fast, automatic pattern recognition
- Energy saving and threat-reducing
- Largely invisible to the decision maker

What it is *not*

- Not deliberate
- Not about being “a bad practitioner”
- Not fixed or permanent

Ashtons LEGAL

Why Bias Increases in COP

- Time pressure: Urgent decisions, heavy caseloads
- Risk exposure: safeguarding, litigation anxiety
- Emotional load: trauma, family conflict , grief
- Fear of scrutiny: “What will the court say if this goes wrong”

Ashtons LEGAL

Structural factors

- Medico-legal models built on Eurocentric norms:
  - Independence > interdependence
  - Verbal articulation = insight
  - Emotional restraint = capacity
  - “Engagement” and “compliance” defined narrowly

Ashtons LEGAL

System Pressures

- Multiple professionals contributing to a single narrative
- Early descriptions becoming “sticky”
- Risk-averse cultures amplifying caution

Ashtons LEGAL

Structural factors

- Medico-legal models built on Eurocentric norms:
  - Independence > interdependence
  - Verbal articulation = insight
  - Emotional restraint = capacity
  - “Engagement” and “compliance” defined narrowly

Ashtons LEGAL

Common, Practice-Relevant Biases in Case Management

Affinity Bias

- Matching based on comfort or familiarity
- Trusting clients who communicate “like us”
- Overestimating motivation when styles align

www.ashtonslegal.co.uk

9

Ashtons LEGAL

Common, Practice-Relevant Biases in Case Management

Confirmation Bias

- Early framing (“challenging family”, “high risk client”)
- Neutral behaviour interpreted to fit the story
- Disconfirming evidence discounted

www.ashtonslegal.co.uk

10

Ashtons LEGAL

Common, Practice-Relevant Biases in Case Management

Risk Amplification Bias

- Some clients feel riskier than the evidence suggests
- Defensive decision-making
- Restriction framed as protection

Ashtons LEGAL

Common, Practice-Relevant Biases in Case Management

Attribution Bias

- Behaviour attributed to personality rather than context
- Trauma, pain, culture, neurodiversity misread as resistance

Ashtons LEGAL

Which of these shows up most often when pressure is highest?

- Affinity Bias
- Confirmation Bias
- Risk Amplification Bias
- Attribution Bias

www.ashtonslegal.co.uk

13

Ashtons LEGAL

How Bias Shapes Decisions (Not Attitudes)

Where bias quietly operates:

- Matching
  - Who gets which support, therapist, or case worker
- Risk tolerance
  - Who is given time vs escalated quickly
- Interpretation of behaviour
  - “Non-engagement” vs self-protection
- Autonomy decisions
  - Who gets more choice and who gets more control

www.ashtonslegal.co.uk

14

Ashtons LEGAL

Practical, Real-Time Bias Interruptions

The 90-Second Pause

Before high-stakes decisions:

- What feels risky here—and to whom?
- What story am I telling myself about this client?

www.ashtonslegal.co.uk

15

Ashtons LEGAL

Practical, Real-Time Bias Interruptions

The "Different If?" Question

- Would I read this behaviour differently if the client were…?

www.ashtonslegal.co.uk

16

Ashtons LEGAL

Practical, Real-Time Bias Interruptions

Language Check

- "Non-compliant"
  - What need might this behaviour be meeting?
- "Challenging"
  - Under what conditions does engagement improve?

www.ashtonslegal.co.uk

17

Ashtons LEGAL

Practical, Real-Time Bias Interruptions

Matching Check

Am I matching for comfort or capability?

www.ashtonslegal.co.uk

18

Ashtons LEGAL

Practical, Real-Time Bias Interruptions

Risk Calibration

Is this a known risk or a felt risk?

Ashtons LEGAL

Reflective Supervision, Culture

Why individual insight isn't enough
- Bias is safest addressed **collectively**
- Supervision should explore *decision logic*, not just outcomes

What helps
- Permission to name uncertainty
- Language that normalises bias as human
- Teams that ask how decisions were made, not just what was decided

www.ashtonslegal.co.uk

Ashtons LEGAL

You don’t manage bias by being perfect.
You manage it by slowing decisions down just enough to think.

www.ashtonslegal.co.uk

21

If you would like more information on any of the topics discussed, please feel free to contact me through the details below.

Felicity.sparkes@ashtonslegal.co.uk
01473261304
07928691658

YOUR BUSINESS – YOUR LIFE – YOUR INJURY

www.ashtonslegal.co.uk

22