

H/601/5474

Introduction to duty
of care in health,
social care or
children's and young
people's settings

Standards

Understand the implications of duty of care

Define the term 'duty of care'

You have a duty of care to all those receiving care and support in your workplace. This means promoting wellbeing and making sure that people are kept safe from harm, abuse and injury.

Wellbeing could be defined as the positive way in which a person feels and thinks of themselves.

The code of conduct tells you how you are expected to behave as a care worker. (The Code of Professional Practice in Wales)

Duty of care is a legal requirement; you cannot choose whether to accept it. It applies as soon as someone has care or treatment. Breaking this duty, for example through negligence, could result in legal action.

The duty of care is also to other workers, for example, in a hospital, to doctors, nurses and healthcare support workers but also to caterers, cleaners and maintenance workers. If you are a home care worker you will often work alone in a variety of homes. Your duty of care is to each individual and to the other workers you come into contact with in the community.



Imagine an older person moving into a residential care home. How would you expect them to be treated by care workers?

- **If they need help in the bath you would expect someone to make sure the water isn't too hot**

- **If they have a food allergy you would expect someone to consider this when preparing their meals**

- **If they need medication you would expect someone to ensure that they have access to it at the right time in the correct dose**

You would expect care workers to make the interests, wellbeing and safety of the individual their main priority by being observant, cautious and attentive.

Describe how the duty of care affects your own work role

The duty of care is part of the code of conduct for healthcare support workers and adult social care workers in England and will most likely also be in your job description. Other countries in the UK have their own specific codes of practice in a similar way. Following the guidance set out in these codes will give you the reassurance that you are providing safe and compassionate care of a high standard, and the confidence to challenge others who are not. It is important that you have the knowledge and skills to act on your duty of care in your role but that you don't work beyond it.

As part of your duty of care you should pass on any concerns you have about wellbeing. Every employer has agreed ways of working to respond to possible harmful situations which will include how to report any concerns. Concerns could be about anything from poor working conditions or equipment to untrained workers, as well as suspected abuse. In any situation, if you do not know what you should do, ask your manager. If you are working for a very small employer, ways of working may be passed on to you in a discussion. Providing guidance about how to deal with abuse and violence or substance misuse or how to handle toxic substances or carry out risk assessments are all part of making sure that the duty of care is carried out. Fire drills, agreed ways of handling medication as well as cooking and food storage are some of the routine ways that make sure that the duty of care is in place and will depend on your workplace.



By way of example, as a healthcare support worker or adult social care worker in England you must:

1. **Be accountable by making sure you can answer for your actions or omissions**

2. **Promote and uphold the privacy, dignity, rights, health and wellbeing of people who use health and care services and their carers at all times**
3. **Work in collaboration with your colleagues to ensure the delivery of high-quality, safe and compassionate healthcare, care and support**
4. **Communicate in an open and effective way to promote the health, safety and wellbeing of people who use health and care services and their carers**
5. **Respect a person's right to confidentiality**
6. **Strive to improve the quality of healthcare, care and support through continuing professional development**
7. **Uphold and promote equality, diversity and inclusion**

In England, health and social care services are regulated by the Care Quality Commission (CQC) which sets the fundamental standards of care and inspects organisations providing care to check whether these standards are being met. For Scotland the regulators would be Healthcare Improvement Scotland (HIS) for health services and the Care Inspectorate for social services. Ireland has the Health Information and Quality Authority (HIQA). Wales has the Care and Social Services Inspectorate Wales (CSSIW).

Your employer should have policies and procedures in place that give you guidance on how to respond to potentially harmful situations. This could be guidance on how

to react to abusive and violent behaviour, how to deal with substance misuse, how to handle toxic substances or how to carry out risk assessments for specific situations.

Risk Management
Policies Law
Rules **Procedures**
Process *Guidelines*

You might be asked to attend a course that will help you when avoiding, or dealing with, potentially harmful situations. Depending on your job role this could be:

- **positive behaviour support - this might be necessary when working with individuals who may behave in ways that are difficult for you to respond to, and to protect you from harm.**

- **first aid at work - to help you deal with emergencies immediately**

- **basic food hygiene - for safe food preparation**

- **COSHH (Control of Substances Hazardous to Health) training - to ensure you are aware how to handle toxic substances**

- **moving and assisting people - so you can safely move or lift people without hurting them or yourself**

- **advanced driver training - to learn how to drive safely, defensively and in an anticipatory way**

It is important that you maintain the level of knowledge and skills necessary for your job role but also that you don't work beyond the level required for your role.

It is also important that you raise any concerns you might have about the wellbeing of individuals: this could be poor working conditions or equipment or untrained staff, as well as suspected abuse. This reporting of unsafe or illegal practice in the workplace is called whistleblowing. Employers will have a whistleblowing policy which provides you with guidelines on how to address the issue. Although your line manager is usually the first point of call, it is obvious that, if the bad practice involved them, you would need to speak to somebody else. You might want to consider talking to a colleague or union representative, or informing an appropriate regulator. Whatever you decide, ensure you document exactly what happened in an objective way. Whistleblowing has nothing to do with gossip, it is the right way of ensuring the wellbeing of individuals receiving care and support.



Understand support available for addressing dilemmas that may arise about duty of care

Describe dilemmas that may arise between the duty of care and an individual's rights

You must work in ways that respect and protect the individual's rights, including their right to live as independently as possible, to make their own choices and to take risks.

There may be times when they make choices that you think are unwise, unsafe or that you disagree with. For example, when someone with a disability wants to try a new physical activity or when someone chooses not to eat less fatty foods, you should make sure that they have as much information as possible about their choices and what could happen. If they still choose to make a risky choice a risk assessment may identify ways in which risks can be reduced and the individual can be supported to make those decisions.



Case scenario:

You are working in a residential care home. George, a 75-year-old individual, who is just recovering from severe bronchitis, has been demanding all morning to be allowed to smoke a cigarette. When you reminded him of the no-smoking policy in the house, he became verbally abusive towards you and towards other residents.

There are several aspects to this situation.

- George is a grown-up man and should be allowed to smoke if he so wishes

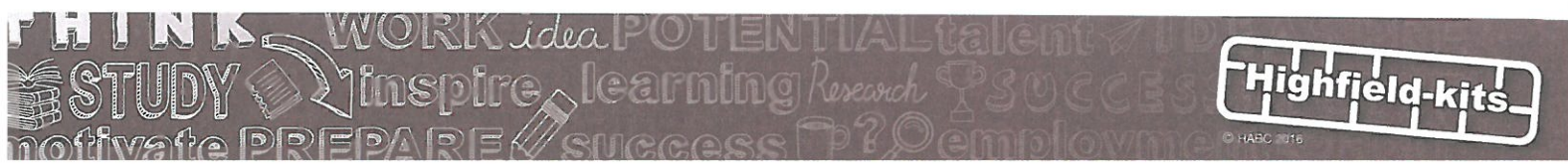
- The house has a no-smoking policy

- George is just recovering from bronchitis so smoking could further affect his lungs

- Other residents would be passively inhaling his smoke; therefore it's a risk to their health

- George is verbally abusing staff and other residents

All are valid and important points which show that at times it is not easy to find answers in policies and procedures, rules and regulations. It is very important that these situations are brought to a satisfactory outcome as quickly as possible. You must keep in mind that people have the right to make choices, for example about whether or not to take medication, but sometimes they might not be able to foresee the consequences of their wishes. You will need to give them as much information as possible and explain why specific policies are in place or why it is important to take their medicine. In this way they know about the risks and can make informed decisions. It is the individual's right to make those decisions and take risks; you can only advise and encourage them.



Depending on your job role and line of work you might come across dilemma situations almost on a daily basis, for example when an individual with dementia wants to go for a walk alone or a drunken homeless person asks for a bed for the night in a shelter.



Explain where to get additional support and advice about how to resolve such dilemmas

Your employer will give you guidance on risk assessments, risk enablement and health and safety. Whatever you come across you have to consider the individual's wellbeing as your main priority. If you are unsure about any situation, ask your manager. Other sources of support might be the individual's friends or family, a befriender or an advocate, their GP or another care worker. An advocate is a trusted, independent person who can speak and act for the individual. They can advise on matters such as benefits and can ensure that the individual's voice is heard in care planning meetings making sure that decisions are made in the interests of the individual. The role of advocates and advocacy services has become more important since the Care Act 2014 became law.

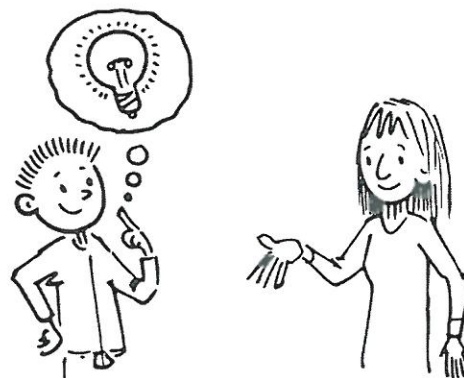
So what do you do when faced with a dilemma, especially if you have just started

working in a new job role? It could be quite unnerving having to deal with such a situation.

Individuals make decisions all the time and should be supported to do so. Sometimes an individual may not be able to understand and retain the information they need to make a decision or communicate their choice. If this is the case they may lack the mental capacity to make the decision. They may be able to make day-to-day decisions for example what to wear and what they want to eat, but not able to make decisions about money or medical issues. In situations where you are not entirely sure about the individual's capacity, please seek additional advice or guidance.

The issue of mental capacity is a very complex one and can only be judged by trained specialists.

You should know the boundaries of your job role and not say or do anything beyond these boundaries. When faced with a dilemma you should immediately seek advice from your supervisor or line manager, or a senior member of staff. You would then be able to decide together what would be best practice in this case.



There is also the possibility to expand your skills by undertaking learning and

development. One example of training that might be beneficial could be recognising and handling violence and aggression where you would learn to recognise potentially dangerous situations, understand why they occur and know what can be done to minimise risk and promote safety.

Sometimes individuals you support might benefit from the advice or guidance of a peer supporter or individual who is or has been in the same situation. Imagine the following situation:

Sonja, a young adult with mental health problems, is living in a women's refuge following an incident of domestic violence. Sonja has bipolar disorder and when she is feeling very low and depressed she will stop taking care of her personal hygiene. For a few days now different care workers have tried to persuade Sonja to have a shower, wash her hair and brush her teeth and put fresh clothes on, to no avail. The other women in the refuge have observed the pleas and have tried to influence Sonja too by telling her what an attractive woman she is and that it is a shame she would try to disguise it; but they also complain about the odour that surrounds her.



In some situations, peers might be more successful in resolving dilemmas as they are perceived as being in the same situation and can empathise with the individual. Whenever you find yourself in a duty of care dilemma, ensure you write a report about the incident. Organisations will generally have a report form you need to fill in after an incident has occurred. The form will usually ask questions like: date, time and location of the incident, as well as who was involved, what happened, what was your reaction and what was the outcome of the situation. Ensure you write an objective, non-judgemental report which is only recounting the facts. Together with your manager you are then able to review the situation and, as part of supervision, discuss possible alternatives for handling similar issues in future.

Know how to respond to complaints

Describe how to respond to complaints

If you have tried to solve a duty of care dilemma at your workplace, and the individual is still unhappy, you should advise them of the complaints procedure your employer has in place. You have a duty to make sure that individuals know

that they have a right to complain or comment about their care or support. It is important that this is able to happen quickly and in a positive way. Complaints should be taken seriously and explored so that any learning can be used to keep doing the right things or to make improvements. Positive comments can be

encouraging and used to show how good ways of working are making a positive difference. Ask your employer to tell you about what to do when someone wants to complain or comment.

The Local Authority Social Services and NHS Complaints (England) Regulations 2009 is the legislation for complaints in health and social care. The Department of Health also published the NHS Constitution in 2011, which tells you about guiding principles and patients' rights. There should be a recorded process to follow which may differ depending on the type of workplace and have a time limit in which the complaint has to be made after the situation happened. If someone wants to make a comment or complaint you should deal with it in line with your organisation's agreed ways of working.

Depending where you work, the complaints policy may state the following.

- **Arrange to talk in private**

- **Make sure the individual knows that you may need to pass on information if there is a risk to the safety of themselves or others**

- **Listen calmly and actively, assuring them that you are taking them seriously**

- **Do not judge or become emotional. Offer your support but do not try to answer at this stage. Explain what will happen next, who the complaint will be passed to and when they will get some feedback**

- **Thank them, tell your manager what has been said, and make a record as soon as possible**

Ensure that you familiarise yourself with the complaints procedures of your workplace so you know how your organisation expects you to respond to complaints.

It is important that you are aware that individuals and their friends and families might have different viewpoints from your own; these viewpoints might result from different ideas, expectations, experiences, backgrounds or cultures. When dealing with complaints it is important to stay open-minded, objective and non-judgemental.



Identify the main points of agreed procedures for handling complaints

The complaints policy is a recorded and documented process which should be easily accessible to the individual. There may be formal and informal options. If this is the case, advise the individual about them. There is usually a time limit in which the complaint has to be made after the situation occurred.

Often an organisation has 1 named person who deals with complaints. Depending on the size of the organisation there may be a complaints section such as the NHS's Patient Advice and Liaison Service (PALS). Your workplace also needs to identify a 'responsible person' who will be the person that holds the role of accountable officer. Smaller workplaces might not have anything in writing but will still have agreed ways of working when complaints are made.



Once the complaint has been acknowledged, there is a set time frame within which investigations have to be made and results achieved. At this point, an investigator might get in touch with the individual who has made a complaint to resolve the issue verbally. A time and place for a meeting might be agreed. On conclusion of the investigation the complainant should be formally informed about the outcome in a written response and a record of the complaint will be kept by the organisation. If the complainant does not agree with the response, they should be supported to follow up the issue and they have a right to contact a higher authority if necessary.

believe:achieve:evolve

