

R/601/1436

Principles for
implementing duty of
care in health, social
care or children's
and young people's
settings

standards

Understand how duty of care contributes to safe practice

Explain what it means to have a duty of care in own work role

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 an adult care worker. (The Code of Professional Practice in Wales).

By way of example, as a healthcare support worker or adult 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

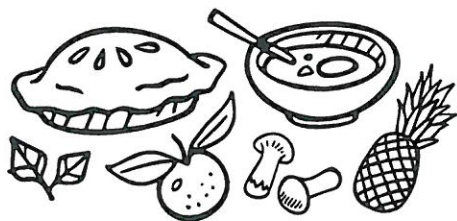
Duty of care is a legal requirement; you cannot choose whether to accept it. It applies as soon as someone has care or treatment. Breaking this duty, for example through negligence, could result in legal action.

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 adult care workers?

- If they needed help in the bath you would expect someone to make sure the water isn't too hot
- If they had a food allergy you would expect someone to consider this when preparing their meals
- If they needed medication you would expect someone to give it to them at the right time in the correct dose



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

Explain how duty of care contributes to the safeguarding or protection of individuals

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 that 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.



It is your duty of care to participate and act on the guidance and learning and development you receive to enable you to contribute to safeguarding and protection. If you are aware of gaps in your knowledge and understanding you should be proactive in raising this with your manager or using your initiative to learn and pass on information to your colleagues where you can, always checking out first with your manager that you have the correct understanding.

Sadly, having the best ways of working, the code of conduct and the duty of care, doesn't always protect vulnerable adults from harm. All adult care workplaces involve workers collaborating towards the wellbeing of those needing care or support. Mistakes happen through things like lack of knowledge, poor communication or not sharing information, stress, negligence or being distracted.

Mistakes are seen as being one of the following:

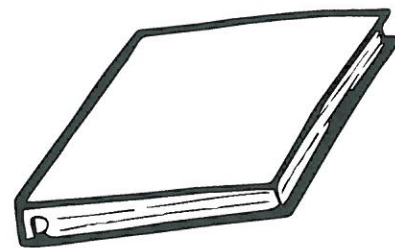
Adverse events: action or lack of action that leads to unexpected, unintended and preventable harm.

Incidents: specific negative events. In adult care, serious incidents are described as events that need investigation as they caused severe harm or damage to either the person receiving care or the organisation.

Errors: not doing something as it should have been done, for example through bad planning or being forgetful.

Near misses: situations where an action could have harmed the individual but, either by chance or purpose, was prevented.

As part of your duty of care, the first thing to do after something has gone wrong is to do what you can to improve the wellbeing and meet the immediate needs of the individuals involved. Your workplace will have a form that you should complete to record incidents, accidents and near misses. You should then record the date, time and facts accurately. This is used to make your manager aware straight away. Do not blame other workers or suggest why the incident might have happened to those involved even if you have an idea why it was. If your thoughts turned out to be wrong, you could lose the individual's and family's trust and respect. The matter will be investigated according to the agreed way of working by your employer and actions will be taken that can put things right or ensure a similar incident does not happen again.



Know how to address conflicts or dilemmas that may arise between an individual's rights and the duty of care

Describe potential conflicts or 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.

Here are 2 specific case examples:

1. George

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 and also directed abuse towards other residents.

There are several aspects to this situation.

- George is an adult 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

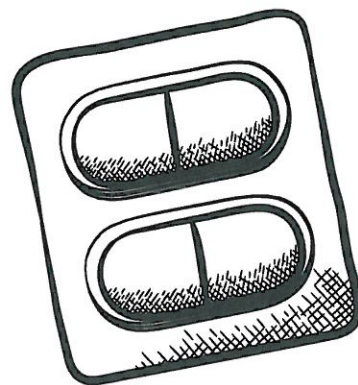


2. Sonja

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.

There are several aspects to this situation.

- Sonja is an adult and should be allowed to decide when she washes, puts on clean clothes, and brushes her teeth
- Sonja has bipolar disorder so may be prescribed medication that she is choosing not to take
- The other residents are unhappy with her odour which is potentially affecting their wellbeing too



All are important points that 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. 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. The more you develop an understanding and so can describe the potential conflicts or dilemmas that may arise between your duty of care and an individual's rights, as well as the rights of others, the better you will become at contributing to or managing risks and helping to resolve dilemmas that you encounter.

Describe how to manage risks associated with conflicts or dilemmas between an individual's rights and the duty of care

So what do you do when faced with a dilemma like the one concerning George or Sonja and manage the risks that it brings to them and others?

Part of your role as a lead adult care worker is to lead and support others to understand and address the above types of conflicts or dilemmas and examine the alternative solutions using the risk assessment process.

Think of some of the ways you could support other workers to address conflicts or dilemmas.



THINK!

What would you need to take into account? What actions could you and the team take?

You should make sure that they have as much information as possible about their choices and what could happen as a result to themselves and others. 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.

You must keep in mind that people have the right to make choices, for example about whether 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.

As in the cases of George and Sonja, there are many things that can cause conflict with and between individuals. Conflict or behaviour that is challenging often happens as a result of distress or because a person's needs are not being met.

It could be caused by a number of factors including:

Biological - for example because an individual is in pain or suffering the side-effects of medication or substance misuse

Social - for example because of being bored, wanting social contact, having a need to be in control, not being able to communicate or understand what is being said

Environmental - for example because of loud noise or bad lighting or barriers in the room to mobility

Psychological - for example because of feeling left out or lonely

An open discussion with any individual, where they are treated with respect and dignity, can often find a solution.

If possible and safe:

- **take the individual to a quiet place**
- **ask questions and listen carefully to what they say**
- **take their feelings of being upset or angry seriously**
- **try to find a way forward that they understand and can agree to**

It is important that you get to know the individuals you are working with as far as possible so you can recognise triggers to distress. It is also important that you don't get emotionally involved but keep a clear head and look out for body language and reactions. If you feel that a one-to-one situation between yourself and an individual has the potential to

become confrontational you should try to leave the scene to give them time to calm down. When you recognise frustration and aggression in a person's behaviour you will learn, as you develop in your role, how to use your communication skills and other ways of working to manage a situation before it becomes violent or aggressive. Your manager will provide guidance, explain ways of working and support you to develop your knowledge and skills as you progress in your work.

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 will then be able to decide together what would be best practice in this case.



In some situations, peers might be more successful in resolving dilemmas as they are perceived as being in the same situation and can get alongside the individual in a different way, 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 that only recounts 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 the future.

Explain where to get additional support and advice about conflicts and dilemmas

Your employer will give you guidance on risk assessments, risk enablement and health and safety. They may also provide specific learning and development about positive behaviour support or the Mental Capacity Act as well as other training that might further develop your skills in managing risks associated with dilemmas and conflict.

Whatever you come across you have to consider the individual's well-being 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 adult 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 and 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.

There are other sources of free information and learning resources that you can access about conflicts and dilemmas. One useful source is the **Social Care Institute for Excellence (SCIE)** www.scie.org.uk



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 adult 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 that 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.

Explain the main points of agreed procedures for handling complaints

The complaints policy is a recorded and documented process that 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.