

Managing safeguarding concerns raised in relation to care workers and ensuring the safety of other adults at risk

Introduction

1. Sharing the right information, at the right time, with the right people, is fundamental to good practice in safeguarding adults. This guidance outlines action to be taken when concerns about the standard of care, allegations of abuse and/or criminal acts ('safeguarding concerns') are raised about an individual providing care services to an adult/s at risk ('the care worker') employed by a care provider or employed through direct payments.
2. Safeguarding concerns are often raised alleging abuse by care workers. These can include allegations of physical abuse, sexual abuse, financial abuse, neglect or many of the other common forms of abuse. Sometimes the concerns may be more about the quality or standard of care being provided but all such safeguarding concerns need to be considered and evaluated in relation to the particular incident itself and with regard to any other wider implications for other adults at risk with whom the care worker has contact with.

Initial considerations

3. Where the safeguarding concern is of a serious or significant nature (usually level 3 or above in the harms level guidance and/or sufficiently serious to involve the police), it is vital that consideration be given both to *all* the adults at risk that the care worker could come into contact within their workplace and the risk to the care worker themselves of further allegations being made against them subsequently.
4. In the first instance the care provider should consider whether it is appropriate to suspend the care worker whilst a criminal and/or safeguarding investigation takes place. It should be emphasised that suspension is a neutral act and does not imply the allegations are correct or are otherwise substantiated. Even in situations where the police decide not to be involved but further enquiries under section 42 of the Care Act 2014 are required then the circumstances may still warrant suspension. Each situation needs to be assessed individually

Managing risk in the absence of suspension

5. Ultimately the decision to suspend a care worker rests with their employer. Where a significant incident has occurred but the employer's decision is not to suspend the care worker pending the outcome of a fuller investigation then the multi-disciplinary team involved (usually police and adult social care, plus other relevant bodies as appropriate such as a CCG) should seek assurance from the provider that: (i) a full risk assessment has been undertaken; and (ii) there are robust measures in place to protect both other adults at risk and the care worker whilst enquiries / investigatory work takes place and is concluded.
6. The adult social care safeguarding chair should ask for a copy of the risk assessment, circulate it to all parties involved (where it is appropriate to do so), and seek feedback and agreement that the measures outlined reasonably protect all adults who could be placed at risk. If not satisfied, this should be communicated as soon as possible to the care provider.
7. Measures short of suspension might include:
 - the care worker working alongside other staff at all times;

- supervision by a manager or other senior staff member (who may well need to know why supervision is needed); and/or
 - the care worker being prohibited from undertaking any care tasks on their own.
8. Such arrangements can carry risks for all parties including the care worker themselves for example should another similar incident or allegation occur whilst still in work . Whatever measures are put in place an employer should ensure they are sufficient to offer protection to the care worker and others.

Duties and fairness towards the care worker

9. Employers should ensure there are procedures in place to handle allegations against care workers and other staff. There must be procedures in place to make a referral to the Disclosure and Barring Service (DBS) if a person in regulated activity has been dismissed or removed due to safeguarding concerns, or would have been had they not resigned.
10. Employers also have a duty of care to their employees. They should act to manage and minimise the stress inherent in cases where allegations have been made against a care worker. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless it is not appropriate to do so or there is a reasonable objection by a relevant body e.g. the police object on the basis that it might prejudice an ongoing criminal investigation.
11. Care providers can be reluctant to suspend a care worker for a number of reasons, for example: (i) there have previously been no concerns regarding the care worker; (ii) initial indications suggest the allegations are likely to be false; (iii) the provider is reluctant to incur the financial cost of suspension where the care worker still receives full pay; and/or (iv) the provider is reluctant to incur the expense or difficulty of covering shifts. For those reasons where suspension has taken place, all parties including the police should make every effort to conclude the investigation as soon as possible.

Where a care worker is on a zero hours contract they are particularly at risk as a suspension will likely result in them not receiving pay so for reasons of fairness and natural justice it is particularly important to undertake enquiries and reach a conclusion as soon as possible.

Sharing relevant information with relevant parties

12. Generally, where an allegation is made, the employer (or the individual/body to whom an allegation has been raised) should consider whether it is necessary to maintain confidentiality whilst an allegation is being investigated/considered or whether relevant information should be shared.
13. Regard should be had to the Care and Support statutory guidance regarding information sharing. As per the guidance early sharing of information is the key to providing an effective response where there are emerging concerns and: *“If a professional has concerns about the adult’s welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed.”*
14. Where a care worker who is the subject of a safeguarding concern is known to work for another agency and/or as a personal assistant under direct payments, consideration should be

given by the social work team involved to sharing relevant information with the other known employers to enable them to discuss the issue with that carer, risk assess the situation and decide upon the appropriate course of action. Principles for information sharing (set out in detail in chapter 14 of the statutory guidance) should be considered to ensure information sharing is necessary and appropriate. A careful record of the decision making process and the information that is shared should be kept.

15. Where it is necessary to inform another employer, the care worker should normally be informed of this and given the opportunity to inform their other employer in advance

Sharing relevant information where the care worker is employed as a personal assistant under direct payments

16. Where the care worker is understood to be employed as a personal assistant to an adult/s in receipt of a direct payment, it may not be known who the care worker's employer/s are. Reasonable efforts ought to be made to clarify if the care worker is employed by a recipient of direct payments - e.g. by contacting the agency that supports people with direct payments (currently Penderels). If it is established that the care worker is employed through a direct payment then the appropriate social work team should be informed who should consider whether it is appropriate to share relevant information to the person with the direct payment (or anyone supporting them to manage their direct payment). Normally it would be appropriate to share as otherwise the adult in receipt of the direct payment could be at risk. For complex situations or where there is any uncertainty further advice should always be sought either from the safeguarding lead or legal team

Action following a criminal prosecution

17. If the police decide to charge the individual then consideration should be given whether there might be wider public interest in the matter. At this point a senior manager should be informed and consideration also given to informing the public relations team and any other partners involved to similarly brief senior managers and their press relations department (eg police, CCG, CQC etc) to ensure a coordinated and consistent approach.
18. Also at the point an individual is charged it may be appropriate for the suspension to be reviewed by the provider and to consider if further action (such as dismissal) is warranted after following relevant procedures. If a care worker is dismissed then the provider should refer to DBS. Should the provider feel that further action is not necessary or appropriate at this point, they should keep the matter under review and reconsider the position at the outcome of any criminal prosecution. Again public relations and senior management should be alerted if/when a case comes to court.
19. Whilst primary responsibility for reporting to DBS lies with the employer, in exceptional circumstances for example where the provider fails to do this, it might be necessary for the adult social care manager to make the DBS referral. Failure to refer to DBS is an issue that it would be recommended leads to discussion with the relevant CQC inspector

Action following a decision not to pursue a criminal conviction

20. Where the police or CPS decide not to charge or prosecute a care worker, the safeguarding process still needs to decide, on the balance of probabilities, whether the allegation is substantiated. It is entirely possible for either a substantiated or inconclusive outcome to be

reached even though the police have decided there is insufficient evidence for their service to take further action (where a different standard of proof applies).

21. In some cases a substantiated outcome based on the balance of probabilities might still be sufficient for an employer to dismiss a worker. The employer should take their own advice.
22. A case conference should not make recommendations or provide advice to a care worker's employer regarding their dismissal or employment status as this will ultimately be a decision for the employer. A safeguarding chair making such a recommendation could find themselves implicated in an unfair dismissal claim/facing an industrial tribunal. However it would be entirely legitimate for the case conference to seek a formal assurance from the care provider about the safety of other residents and to ask how in the light of the information shared and/or the outcome of the case conference what their intentions are and, if they include the care worker returning to work, how the service will ensure adults at risk will be protected