



Standards and issues in the Care Sector

Allison Grant, Head of Employment



Standards, a CQC focus

'Raising standards, putting people first

Our strategy for 2013 – 2016'

Raising standards and focus

- **Our purpose** - we make sure health and social care services provide people with safe, effective, compassionate, high quality care and we encourage care services to improve.
- **Our role** - we monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and we publish what we find, including performance ratings to help people choose care.

Raising standards and focus

Change what look at when inspect:

- Are they safe?
- Are they effective?
- Are they caring?
- Are they well led?
- Are they responsive to people's needs?

Raising standards

- Develop new fundamental standards to focus on the five areas
- Continue to carry out a programme of unannounced inspection and enforcement
- Continue to publish inspection reports

HSCA 2008, Regulation 18: Staffing

- Providers must provide sufficient numbers of suitably qualified, **competent**, skilled and experienced staff to meet the needs of people using the service at all times.
- Staff must receive the support, training, professional development, supervision and appraisals necessary to carry out their role and responsibilities.

Impact

How does this all impact on you?

- You must set the standard
- Managing performance before a problem arises
- Effective use of probationary periods
- Importance of appraisals

Setting the standard

- Implied into every contract of employment that an employee will perform the role to a minimum standard.
- Express terms – job title and description, probationary periods, qualifications required.
- Aside from obvious requirements of the job, important to have drawn the employee's attention to the required standard. How do you do this?

Setting the standard

- Non-contractual policies and procedures. For example, operating procedures or quality manuals set out in a staff handbook.
- Industry and local practice. For example, health and safety operating requirements, professional body standards of performance, and the historic standards of performance which the employer has accepted.

Probationary periods

- Usually 3 to 6 months, ideal time to assess suitability for the role, since employer's exposure to claims is limited.
- Contract likely to be terminable on one week's notice.
- Reserve the right to extend the probationary period.
- If not perform to required standard can be dismissed before period expires.

Importance of appraisals

- To maintain standards.
- Invaluable in motivating staff.
- Provide evidence of performance problems.
- If fail to tackle performance issues may find will hamper future decisions in other respects.
- To demonstrate a reasonable belief that an employee is incompetent so as to justify dismissal, employers need to produce evidence of poor performance.

Dealing with the problem at an early stage

- Monitoring and addressing performance issues will maintain standards.
- Employee likely to turn performance around if highlighted (or exit).
- Offering training and support results in a positive outcome, less time-consuming and costly than poor performance dismissal procedure and recruiting a replacement.

Dealing with the problem at an early stage

- Being able to demonstrate an employee has been given support and opportunity to improve will greatly improve chances of effecting a fair dismissal.

Is performance really the issue?

Each of the following can create legal liabilities for the employer if not seek to address them, as well as impact on standards, work colleagues, and those in your care.

- Ill-health or disability
- Problems with child care or caring responsibilities
- Poor management
- Harassment or bullying by a manager
- Excessive workload leading to inability to deliver and stress for the employee
- Bad attitude

Dismissing fairly for poor performance

- A reasonable belief
- Reasonable investigation
- Chance to improve
- Support or training
- Reviewing progress
- Dismissal

Issues that commonly arise

- Is it possible to fairly dismiss instantly for a single act of incompetence?
- Employees who lapse after improvement
- Can a final written warning be given for the first instance of poor performance?
- Is it acceptable to use a settlement agreement as an alternative to the capability procedure?

Duty of Candour

What is it?

Duty of Candour

- Applies to all care providers registered with CQC from 1 April 2015.
- Care organisations have a general duty to act in an open and transparent way in relation to care provided to patients.
- As soon as is reasonably practicable after a notifiable patient safety incident occurs, the organisation must tell the patient (or repr) in person.
- Applies to incidents where a patient suffered (or could suffer) unintended harm that results in death, severe harm, moderate harm or prolonged psychological harm.

Duty of Candour

- Once patient told in person about the notifiable patient safety incident, the organisation must provide the patient with a written note of the discussion, and copies of correspondence must be kept.

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Allison Grant

Partner & Head of Employment

Direct Dial: 0207 822 4125

Email: allison.grant@btinternet.com

Thank you for our discussion!

