



Berryman Healthcare update

Do you always care?

On 3 September 2009, at Wakefield Magistrates' Court, BUPA Care Homes (CFH Care) Limited found itself in the dock. It was a health and safety case. BUPA had pleaded guilty to failing to ensure the health and safety of an elderly nursing home resident. After hearing the facts, the Magistrates fined BUPA £15,000. They also ordered it to pay £10,500 prosecution costs.

The resident was an 80-year old lady. She suffered from multiple sclerosis and she was quadriplegic. Her care plan made it clear that 2 carers were needed to move and handle her. Despite that, on 13 July 2008 she was being attended to by a single carer when she fell out of bed and fractured both her legs. She died in hospital 9 days later.

The resident needed to be washed, which required her to be undressed and then redressed afterwards. Obviously this called for her to be rolled, which carers have to be trained for, so that it is done safely. Yet the single carer had only started work 6 days before the incident and had not undergone her training in handling and manoeuvring residents. In short, when the incident occurred the carer was not competent to do what she was doing.

So what went wrong? The simple answer is that the correct working procedures were not followed (1 carer instead of 2) and an untrained person was doing the work.

The effect of section 3(1) of the Health & Safety at Work Act 1974, is to place every employer under a duty to ensure, so far as is reasonably practicable, that non-employees who may be affected by any work being done by or on behalf of the employer, are not exposed to health and safety risks. Clearly this duty is owed by care providers to all those in their care.

How can you avoid something like this?

1. Review care plans and risk assessments and make sure that the correct working practices are properly set out.
2. Ensure that employees know the correct working practices and that they are being followed, by carrying out appropriate checks and audits.
3. If the correct working practices are not being followed, find out why and then take the steps and measures needed to ensure they are followed in the future.

4. Where tasks require specific training make sure that employees get that training before they do the tasks.
5. Look at competence from the employee's perspective – don't rely on the quality of your training, instruction and information, but how well the employee has understood it and taken it on board.
6. Learn from the mistakes of others – like BUPA – and ask whether those mistakes could happen to you.

You should bear in mind that if you have good and properly implemented health and safety practices and procedures – and proper implementation includes audit and review – then you will minimise the risk of something going wrong. And if it does, you will be well-placed to convince the health and safety inspector that you did all that you could. But, if you don't have good and properly implemented practices and procedure, you'll be guilty of systemic failure – and that will place you at the more serious end of any health and safety offence.

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