

The CARE CERTIFICATE

# Duty of Care

- What you need to know

Standard

3

## 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.

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.



### Wellbeing

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

### Code of conduct

The code of conduct tells you how you are expected to behave as a care worker.

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.

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. 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.

## Supporting independence

The code of conduct says that 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.

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. You will look at issues around mental capacity, mental health, dementia and learning disabilities in more detail in standard 9.



### Advocate

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 will become more important when the Care Act becomes law.

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.

## Comments and complaints

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. They 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 organisations agreed ways of working. Depending where you work, that could include:

- 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.

Often an organisation has one 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.

## Incidents, errors and near misses

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 health and social 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.

### 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.

### Incidents:

specific negative events. In health and social care serious incidents are described as events which need investigation as they caused severe harm or damage to either the person receiving care or the organisation.

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 which you should complete to record incidents, accidents and near misses. You should record the date, time and facts. 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.

## Legislation

For health and social care work a number of legislations set standards on how to handle

# 6Cs

## Care and compassion

Think clearly and carefully about the potential reasons for someone's distress. Use your person centred approach and knowledge of them as an individual, as you may be able to de-escalate a challenging situation by recognising their unmet needs and responding to these with supportive care and/or additional services.





### **The Health and Safety at Work etc. Act 1974**

This is the main piece of legislation covering occupational health and safety in the UK. It places a duty on employers and employees for the health, safety and welfare of persons in the workplace.

[www.hse.gov.uk/legislation/hswa.htm](http://www.hse.gov.uk/legislation/hswa.htm)

### **The Management of Health and Safety Regulations 1999**

Workplaces should have a procedure in place for recording, reporting and evaluating all serious incidents. They should take measures to avoid them happening again.

[www.legislation.gov.uk/ukxi/1999/3242/contents/made](http://www.legislation.gov.uk/ukxi/1999/3242/contents/made)

### **The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)**

This places duties on responsible persons working on the premises to report specific workplace accidents, occupational diseases and specific dangerous occurrences or near misses to their local Health and Safety Executive (HSE).

[www.hse.gov.uk/riddor/](http://www.hse.gov.uk/riddor/)

### **The Control of Substances Hazardous to Health Regulations 2002 (COSHH)**

This requires employers to assess the risks of potentially harmful substances and take precautions to minimise these. They include, for example, cleaning materials and medication.

[www.hse.gov.uk/coshh/](http://www.hse.gov.uk/coshh/)

### **The Provisions and Use of Work Equipment Regulations 1998 (PUWER)**

Anyone responsible for work equipment should ensure that it is suitable for the job, well maintained, inspected regularly and only operated by well-informed and trained staff.

A breach of any of these regulations is a crime in the UK and therefore needs to be reported immediately. If any person suffers harm as a result, the offender may be taken to court.

[www.hse.gov.uk/work-equipment-machinery/puwer.htm](http://www.hse.gov.uk/work-equipment-machinery/puwer.htm)



## Managing conflict and difficult situations

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 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.*

Your workplace might have a policy on responding to behaviour that challenges. There will usually be a form to report what happened, who has been involved and where and when the incident took place. You should include if anyone has been injured and needed medical assistance or whether the police have been called, and sign and date. This will then be used to discuss and take any action that is needed to better support the individual.

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.

The CARE CERTIFICATE

# Duty of Care

- What do you know now?

Standard

3



## Activity 3.1a



As a social care or health worker, you have a duty of care to all people you support. Use the following words to **define** what is meant by duty of care:

## Duty of care

**Define** - provide a definition in your own words to demonstrate your understanding.

Responsibility

Safety

Obligation

Wellbeing

A large white rectangular area with horizontal dotted lines for writing, intended for providing definitions for the terms listed above.

## Activity 3.1b



Thinking about your own work role, complete the sentences below to **describe** how the duty of care affects you in practice. The first example has been completed for you:

**Describe** - to describe means to create a picture with words but not simply writing a list of bullet points.

My job description states that...

I have certain responsibilities to the individuals I provide care and support to and to my colleagues; this includes working safely and with the interests and wishes of the individual at heart.

The code of conduct means that...

The organisational policies and procedures are there to...

I must report unsafe or abusive practices because...

## Activity 3.2a

There will be times when your duty to safeguard the wellbeing of the individual is in conflict with your duty to promote the individual's right to take risks. It is your duty to ensure an individual is kept safe and does not experience harm but these situations may cause you a dilemma and you may not know the right thing to do to keep them safe at the same time as enabling them to make their own choices.

Think of two dilemmas that might arise in your work and **describe** these in the space below:

**Describe** - to describe means to create a picture with words but not simply writing a list of bullet points.

Dilemma 1:

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Dilemma 2:

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## Activity 3.2b & c



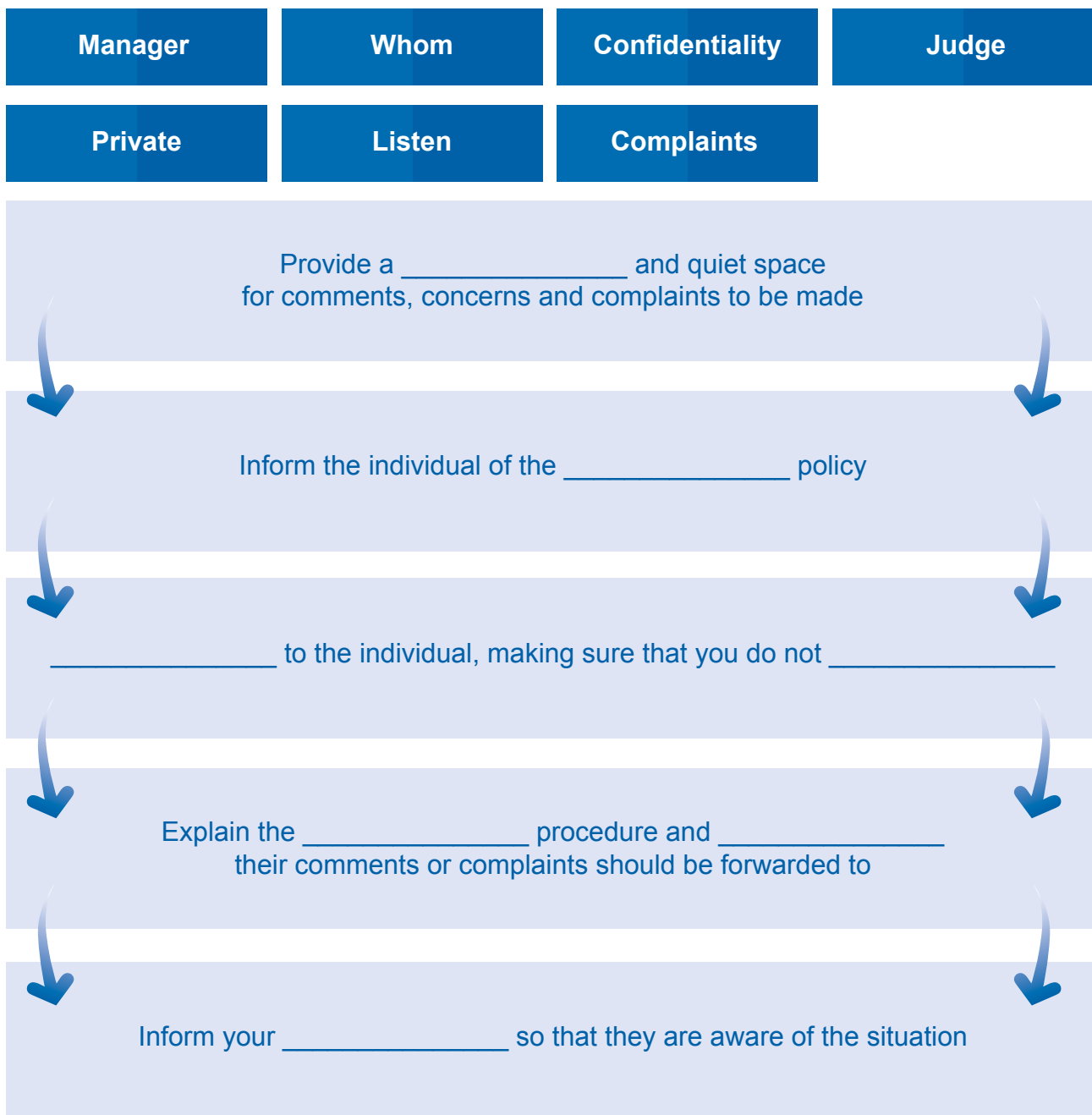
For the two dilemmas that you have described in 3.2a, complete the table below to **explain** what you must and must not do within your role for each dilemma and where you would get additional support and advice to help you resolve the dilemma:

**Explain** - to explain something you will need to provide a clear account of your understanding, including details like why and how.

	What you must do within your role	What you must not do within your role	Where would you get additional support and advice to resolve the dilemma and why
Dilemma 1			
Dilemma 2			

## Activity 3.3a

Fill in the gaps in the diagram below to show how to respond to comments, concerns and compliments in line with legislation and agreed ways of working:





## Activity 3.3b



For each of the three examples below, describe who you would ask for advice and support in handling comments, concerns and compliments:

**Describe** - to describe means to create a picture with words but not simply writing a list of bullet points.

<p><b>A number of individuals you are supporting believe that someone has been tampering with their medical records</b></p>	
<p><b>You have read the complaints procedure but you would like to ask for further guidance on one section</b></p>	
<p><b>An individual you support has told you that they wish to make a complaint about the food served at meal times</b></p>	

## Activity 3.3c



It is essential to learn from comments and complaints when providing care services. Explain the importance of learning from comments, concerns and compliments in order to improve the quality of service that you provide:

**Explain** - to explain something you will need to provide a clear account of your understanding, including details like why and how.

A large rectangular area with horizontal dotted lines for writing.

## Activity 3.4a & b

You have a duty of care to respond to events and incidents in an appropriate and agreed way. To show your understanding, complete the table below to **describe** how you would recognise adverse events, incidents, errors and near misses (scenarios) and **explain** what you must not do in relation to each:



**Describe** - to describe means to create a picture with words but not simply writing a list of bullet points.

**Explain** - to explain something you will need to provide a clear account of your understanding, including details like why and how.

	Decide whether this is an example of an adverse event, incident, error or near miss		Describe how you recognise this as an example of an adverse event, incident, error or near miss	Explain what you must do and must not do in relation to each example
An investigation is started after a number of patients died unexpectedly in care.	Adverse event	Incident		Must do:
	Error	Near miss		Must not do:
You arrive at an individual's home to support them with their shopping to find that a colleague has already arrived to undertake this task.	Adverse event	Incident		Must do:
	Error	Near miss		Must not do:

# Activity 3.4a & b continued



	Decide whether this is an example of an adverse event, incident, error or near miss		Describe how you recognise this as an example of an adverse event, incident, error or near miss	Explain what you must do and must not do in relation to each example
When serving lunch, an individual who has a nut allergy was given a peanut butter sandwich by mistake. You notice this just in time to change the sandwich.	Adverse event	Incident		Must do:
	Error	Near miss		Must not do:
An individual in the bathroom area slips on the wet floor. When investigating you notice that a wet floor sign has not been used.	Adverse event	Incident		Must do:
	Error	Near miss		Must not do:

## Activity 3.4c

Thinking about the four scenarios in 3.4a & b, **list** the legislation and agreed ways of working that need to be taken into account when reporting adverse events, incidents, errors and near misses:



**List** - this term means to identify the main points which can be written as bullet points.

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2.

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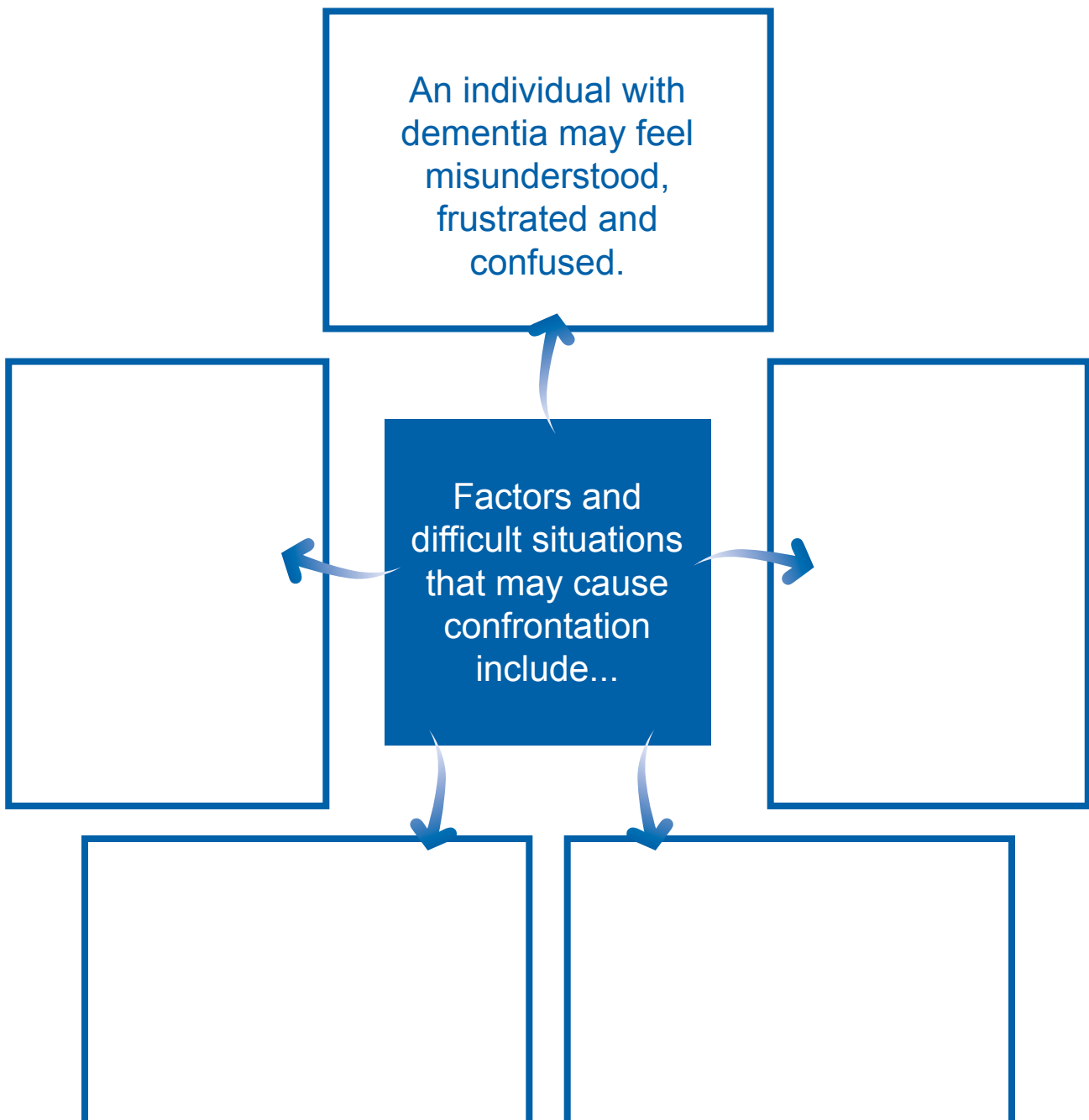
4.



## Activity 3.5a

Fill in the spider diagram below to **list** the factors and difficult situations that may cause confrontation. One example has been provided for you:

**List** - this term means to identify the main points which can be written as bullet points.



## Activity 3.5b, c & d



Thinking about the factors and difficult situations that may cause confrontation, select one that relates to your own role and answer the questions below:

1. What is the factor or difficult situation that may cause confrontation?

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2. How could communication be used to solve problems and reduce the likelihood or impact of confrontation?

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3. How would you assess and reduce the risks in this situation?

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4. What is the agreed way of working for reporting confrontation in your service?

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## Care Certificate *progress log, mapping and sign-off document*

**Standard Number: 3**

**Standard Title: Duty of Care**

### Document guidance

This document provides an overview of the outcomes and assessment criteria for Standard 3: Duty of Care. It identifies the criteria within the Standard that should have been achieved upon successful completion of the underpinning knowledge within the Care Certificate workbook. Employees must demonstrate their competence in practice in order to fully achieve this Standard of the Care Certificate.

This progress log and sign-off document should be completed jointly by the employee and the manager/supervisor/assessor to confirm that all outcomes and criteria have been achieved in practice in the work setting. Supplementary evidence can be attached to demonstrate achievement and it is suggested to do so as good practice.

This document also provides an outline of the suggested mapping of outcomes and criteria within Standard 3: Duty of Care of the Care Certificate to the recommended Qualifications and Credit Framework (QCF) unit, the National Minimum Training Standards for Healthcare Support Workers and Adult Social Care Workers in England and the Common Induction Standards. This document does not necessarily indicate direct mapping of criteria and therefore assessors and/or managers should ensure they follow the guidance below. Please note that when the term assessor is used throughout this document this could be the manager, supervisor or assessor and will be decided by the employing organisation.

This document should always be used in conjunction with the guidance provided in the Care Certificate Framework Technical Document.

### Guidance for assessors

Assessors must ensure that the learner has produced evidence for each assessment criterion that is valid, authentic, reliable, current and sufficient. Therefore assessors **must not assume** that if the mapping document indicates a criterion could have already been achieved, the mapped criteria within the QCF unit should automatically be awarded. Learners and assessors are responsible for ensuring that the outcomes and criteria within the QCF unit and standards below have been achieved to the required standard. For reference, within the column that refers to coverage of the relevant QCF unit, a **P** indicates that the Care Certificate criteria provides partial coverage of the relevant criteria within the QCF unit, whereas an **F** indicates full coverage.

The **Assessment method used** column is included to allow assessors to provide evidence of the type of assessment method that has been used to assess the Care Certificate criteria. This is likely to be noted as the Care Certificate Workbook, however if further evidence is also provided this could include professional discussion, observation, question and answer, e-learning, witness testimony etc. This column can also be completed to evidence competency using these example assessment methods.

The **Evidence location** column is included to provide a clear signpost to where the learner's evidence can be found. This may be within a portfolio of evidence, a continued professional development (CPD) file or electronically via e-learning or e-portfolio.

Unit number	Unit title	Level	Credit
H/601/5474	Introduction to duty of care in health, social care or children's and young people's settings	2	1
R/601/1436	Principles for implementing duty of care in health, social care or children's and young people's settings	3	1

Care Certificate Standard 3 Outcome	Care Certificate Standard 3 Criteria	Knowledge/ Competence	Question within workbook	QCF unit: Introduction to duty of care in health, social care or children's and young people's settings P = Partial F = Full	QCF unit: Principles for implementing duty of care in health, social care or children's and young people's settings P = Partial F = Full	National Minimum Training Standards: Standard 5 – Duty of care	Common Induction Standards: Standard 5 – Principles for implementing duty of care	Assessment method used	Evidence location	Sign-off initials	Date
3.1 Understand how duty of care contributes to safe practice	3.1a Define 'duty of care'	K	3.1a	AC1.1 – F	AC1.1 – P	5.1.1	S5 – 1.1				
	3.1b Describe how the duty of care affects their own work role	K	3.1b	AC1.2 – F	AC1.1 – P	5.1.1	S5 – 1.1				
3.2 Understand the support available for addressing dilemmas that may arise about duty of care	3.2a Describe dilemmas that may arise between the duty of care and an individual's rights	K	3.2a	AC2.1 – F	AC2.1 – P	5.2.1	S5 – 2.1				
	3.2b Explain what they must and must not do within their role in managing conflicts and dilemmas	K	3.2b and c			5.2.2	S5 – 2.2				
	3.2c Explain where to get additional support and advice about how to resolve such dilemmas	K	3.2b and c	AC2.2 – F	AC2.3 P	5.2.3	S5 – 2.3				
3.3 Deal with comments and complaints	3.3a Demonstrate how to respond to comments and complaints in line with legislation and agreed ways of working	C	3.3a	AC3.1 – P AC3.2 – P	AC3.1 – P AC3.2 – P	5.3.1	S5 – 3.1				

	<b>3.3b</b> Describe whom to ask for advice and support in handling comments and complaints	<b>K</b>	<b>3.3b</b>	<b>AC3.1 – P AC3.2 – P</b>	<b>AC3.1 – P AC3.2 – P</b>	<b>5.3.2</b>	<b>S5 – 3.2 S5 – 3.3</b>				
	<b>3.3c</b> Explain the importance of learning from comments and complaints to improve the quality of service	<b>K</b>	<b>3.3c</b>			<b>5.3.3</b>	<b>S5 – 3.4</b>				
<b>3.4</b> Deal with Incidents, errors and near misses	<b>3.4a</b> Describe how to recognise adverse events, incidents, errors and near misses	<b>K</b>	<b>3.4a and b</b>			<b>5.4.1</b>	<b>S5 – 4.1</b>				
	<b>3.4b</b> Explain what they must and must not do in relation to adverse events, incidents, errors and near misses	<b>K</b>	<b>3.4a and b</b>			<b>5.4.2</b>	<b>S5 – 4.2</b>				
	<b>3.4c</b> List the legislation and agreed ways of working in relation to reporting any adverse events, incidents, errors and near misses	<b>K</b>	<b>3.4c</b>			<b>5.4.3</b>	<b>S5 – 4.3</b>				
<b>3.5</b> Deal with confrontation and difficult situations	<b>3.5a</b> List the factors and difficult situations that may cause confrontation	<b>K</b>	<b>3.5a</b>			<b>5.5.1</b>					
	<b>3.5b</b> Describe how communication can be used to solve problems and reduce the likelihood or impact of confrontation	<b>K</b>	<b>3.5b, c and e</b>			<b>5.5.2</b>					



	<b>3.5c</b> Describe how to assess and reduce risks in confrontational situations	K	3.5b, c and e			5.5.3					
	<b>3.5d</b> Demonstrate how and when to access support and advice about resolving conflicts	C				5.5.4					
	<b>3.5e</b> Explain the agreed ways of working for reporting any confrontations	K	3.5b, c and e			5.5.4					

### Declaration of completion

I confirm that the evidence provided by the employee meets the full requirements for **Standard 3: Duty of Care of the Care Certificate**.

**Employee signature:**

**Name of assessor\*:**

**Assessor\* signature:**

**Completion date:**

\*The Assessor can be your Manager, Supervisor or someone else authorised by your employing organisation. This individual provides confirmation that all learning outcomes and assessment criteria for the Care Certificate standard identified above have been completed and signed off by an authorising person.