



## **The Care Certificate**

### **STANDARD 3 DUTY OF CARE**

#### **3.1 Understand how duty of care contributes to safe practice**

##### **3.1a Define 'duty of care'**

The dictionary definition of duty of care is:

*'A requirement that a person acts toward others and the public with watchfulness, attention, caution and prudence that a reasonable person in the circumstances would. If a person's actions do not meet this standard of care, then the acts are considered negligent, and any damages resulting may be claimed in a lawsuit for negligence'*

##### **3.1b Describe how the duty of care affects your own work role.**

Thinking about the duty of care that you owe to people is helpful when you are planning your work. It makes you consider whether what you are planning to do is in the best interests of the person you are working with. This is not about physical risks; you also have a duty of care to treat people with dignity and respect.

Your duty of care underpins everything that you do; it is what underlies the Codes of Conduct and it should be built into your practice on a day to day basis. Exercising your duty of care is also a legal requirement and you need to recognise that you are responsible for the welfare of a vulnerable person and this brings with it certain duties.

#### **3.2 Understand support available for addressing dilemmas that may arise about duty of care.**

##### **3.2a Describe the dilemmas that may arise between the duty of care and an individual's rights.**

There will be potential dilemmas at work that you will have to deal with. There is a balance between supporting individuals to identify and manage potential and actual risks for themselves and your responsibility to ensure their safety from danger and harm. It is very important you read and understand the individual's care plan and any risk assessments in place. It is essential that these plans and risk assessments are followed when working with these individuals.

For example: An individual may wish to go outside for walk on their own but their care plan identifies that they must be accompanied at all times.

Another example would be when the individual you are looking after does not wish to use the hoist to get out of bed.



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In both these circumstances it is important that you ask a senior member of staff about the dilemma between the individual wishes and the care plan.

#### **3.2b Explain what you must and must not do within your role in managing conflicts and dilemmas.**

During your working role, an individual may tell you that they are feeling well today and would like a bath instead of the usual shower. However, you read in the care plan and risk assessment that the individual may have a shower or strip wash whichever they prefer but they cannot have a bath because it's not been fully risk assessed. To meet that person's needs you will need to refer the matter to a senior member of staff to carry out a risk assessment to ensure the correct resources are in place to ensure it is safe for the service user and the carers.

The individual may be insistent on their rights of choice but you are aware of the risk assessment and your duty of care. In order to exercise your duty of care, you must ensure that any decisions and choices people make are based on an understanding of the consequences and potential risks of what they want to do and their capacity to make such choices.

It is important to know what you can and cannot do in your role when managing these conflicts and dilemmas and who to report to or seek advice from.

#### **3.2c Explain where to get additional support and advice about how to resolve such dilemmas.**

Situations as described in 3.2b can make you feel uncomfortable and unsure and it is important that you know your organisational policy and procedures to follow in these circumstances and who to go for support and advice. It will generally be your supervisor or Line Manager.

#### **3.3a Deal with comments and complaints**

##### **3.3a Demonstrate how to respond to comments and complaints in line with legislation and agreed ways of working.**

See observation log.

An important part of exercising the right to complain is your role in assisting the individual to make the complaint when the service does not meet their expectation or is very poor. It is important that you understand and are familiar with your organisation's complaints policy and procedures. During your induction you will be given a copy of these procedures. When a person makes a verbal complaint to you, it is important to respond immediately either by putting things right if possible or contacting your manager who can respond to the verbal complaint before it becomes an official written complaint. ***Doing nothing is not an option!***

##### **3.3b Describe who to ask for advice and support in handling comments and complaints.**

You will have the support of your manager or supervisor who will give you advice on handling comments or complaints.



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### **3.3c Explain the importance of learning from comments and complaints to improve the quality of service.**

Comments and complaints are important not only to the individual making the complaint but also to the organisation in determining if the service provided is meeting the needs of its customers. Complaints should not be seen in a negative way but viewed as a learning exercise in a positive way to identify actions that need to be taken to improve or change the care or support. Your organisation will take comments and complaints very seriously and it is therefore important to ensure that they are recorded correctly and sent to the appropriate person.

### **3.4 Deal with incidents, errors and near misses.**

#### **3.4a Describe how to recognize adverse events, incidents, errors and near misses.**

An example of an adverse event may be when the lift breaks down and service users are unable to get to the 1<sup>st</sup> floor except by the stairs.

An example of an incident may be when two individuals argue with each other and one individual becomes verbally abusive to the other.

An example of an error may be when an individual is given the wrong medication.

An example of a near miss may be when an individual dispenses the wrong medication but the person administering the medication notices the error and corrected it before giving it to the individual.

#### **3.4b Explain what you must and must not do in relation to adverse events, incidents, errors and near misses.**

Adverse event – you must take instruction, you must not do anything that puts yourself or others at risk.

In an error or near miss – you must tell somebody, complete an error report and own the mistake.

In an incident – you must not inflame the situation. You must follow policy and procedures.

- You must report these to senior staff
- You must follow policy and procedures
- You must keep accurate records

You need to be aware of:

- What you must and must not do when dealing with these issues
- Your responsibilities for yourself, the individual and others.



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### **3.4c List the legislation and agreed ways of working in relation to reporting any adverse events, incidents, errors and near misses.**

The legislation that underpins the work to safeguard adults is:

- The Mental Capacity Act 2005
- The Health and Social Care Act 2008 (Regulations 2014)
- Public Interest Disclosure Act 1998
- Health and Safety at Work Act 1974
- RIDDOR - Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

Agreed ways of working (Policy and Procedures)

- Accident Reporting
- Adult Safeguarding
- Data Protection
- Health and Safety
- Incident Reporting
- Medication
- RIDDOR

### **3.5 Deal with confrontation and difficult situations**

#### **3.5a. List the factors and difficult situations that may cause confrontation**

There are many factors and difficult situations that can cause confrontations such as:

##### **Factors:**

- Barriers to communication – People who cannot hear well become frustrated because they do not understand what is being said.
- Cultural differences – People who do not have English as their first language become frustrated because they are not able to communicate. In some cultures it is not appropriate to touch or be too close and if this is not understood then this can cause conflict.
- Religious Beliefs – In some religions it is not appropriate for a woman to speak to a man.
- Stereotyping – It is important not to make assumptions about groups of people.
- Mental Capacity Act – People with fluctuating capacity can become agitated because of their confusion.



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#### **Difficult situations:**

- Misunderstanding of own role and boundaries
- Individual not enabled to be as independent as they may wish
- The first day in a care home causing anxiety
- Pain
- Losing your hearing aid or spectacles

#### **3.5 b Describe how communication can be used to solve problems and reduce the likelihood or impact of confrontation.**

##### **Listening effectively**

Communication is a two-way process. This may sound obvious, but a great deal of communication is wasted because only one of the parties is communicating. Think about setting up communication between two radios – when a link is established, the question is asked “Are you receiving me?” and the answer comes back “Receiving you loud and clear”. Unfortunately, human beings don’t do this exercise before they talk to each other!

If no one is listening and receiving the information a person is trying to communicate it is just a waste of time. Learning how to listen is a key task for anyone working in care.

You may think that you know how to listen and that it is something you do constantly. After all, you are hearing all sorts of noises all day long – but simply hearing sounds is not the same thing as actively listening.

For most people, feeling that someone is really listening makes a huge difference to how confident they feel about talking. You will need to develop ways in which you can show people you are listening to what they are saying.

##### **Using body language**

Although you may think that you do most of your communicating by speaking, you may be surprised to learn that over 80 per cent of what you communicate to others is understood without you speaking a word. Body language, or non-verbal communication, is the way in which we pick up most of the message people are trying to give us – and some that they’re not!

The messages are made clear by such things as facial expression, or maintaining eye contact; leaning forwards when you are listening: or having an open and relaxed posture.

Your body language will let people know that you are really listening to what they are saying. Practise your listening skills in just the same way you would practise any other skill – you can learn to listen well.

Always:

- Look at the person who is talking to you
- Maintain eye contact, without staring
- Nod your head to encourage the person to talk and show that you understand
- Use “aha”, “mm” and similar expression which indicate that you are still listening



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- Lean slightly towards the person who is speaking – this indicates interest and concern
- Have an open and interested facial expression, which should reflect the tone of the conversation – happy, serious, etc.

### Using verbal communication

Body language is one key to effective listening, but what to say in reply is also important. You can back up the message that you are interested and listening by checking that you have understood what has been said to you. Using sentences beginning “So ...” to check that you have got it right can be helpful. “So ... you were happy with the service before the carer was changed?”

You can also use expressions such as “So what you mean is...” “Or “So what you are saying is ... “

Short but encouraging phrases used while people are talking can show concern, understanding or sympathy. Phrases such as “I see”, “Oh dear” “Yes” or “No” or “Go on” all give the speaker a clear indication that you are listening and want him or her to continue.

### Using questions

Sometimes questions can be helpful to prompt someone who is talking, or to try and move a conversation forward. There are two different kinds of questions. Questions that can be answered with just “yes” or “no” are closed questions. “Would you like to go out today” is a closed question.

An open question needs more than “yes” or “no” to answer it. “What is your favourite kind of activity?” is an open question. Open questions usually begin with:

- What
- How
- Why
- When
- Where

Depending on the conversation and the circumstances, either type of question may be appropriate. For example; if you are encouraging someone to talk because he or she has always been quiet but has begun to open up, you are more likely to use open questions to encourage him or her to carry on talking. On the other hand, if you need factual information or you just want to confirm that you have understood what has been said to you, then you may need to ask closed questions.

One of the main points to remember when listening is that you must limit the amount of talking that you do. You are supposed to be listening, not speaking. Some DON'Ts for good listening are as follows.

- Don't interrupt
- Don't give advice even if asked



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### **3.5c Describe how to assess and reduce risks in confrontational situations.**

#### **Ways in which people communicate**

By supporting people to communicate effectively you reduce the risk of confrontation.

#### **More than talking**

Any relationship comes about through communication. In order to be an effective care worker, you must learn to be a good communicator. You will have to know how to recognise what is being communicated to you, and to be able to communicate with others without always having to use words.

#### **Signs and signals**

When we meet and talk with people, we will usually be using two language systems. We will use a verbal or spoken language, and non-verbal communication or body language.

Effective communication in care work requires the ability to analyse your own and other people's non-verbal behaviour. Our bodies send messages to other people – often without us meaning to send those messages. Some of the most important body areas that send messages are shown on the next page.

#### **The eyes**

We can guess the feelings and thoughts that another person has by looking at their eyes, often called “the windows of the soul”. We can sometimes understand the thoughts and feelings of another person by eye-to-eye contact. Our eyes get wider when we are excited, or when we are attracted to or interested in someone. A fixed stare may send the message that the person is angry. Looking away is often interpreted as showing boredom in European cultures.

#### **The face**

Faces can send very complex messages and we can read them easily – even in diagram form.

Our faces often indicate our emotional state. When a person is sad, he or she may look down, there may be tension in the face, and the mouth will be closed. The muscles in the person's shoulders are likely to be relaxed, but his or her face and neck may show tension. A happy person will have wide-open eyes that make contact with you, and will smile.

#### **Voice tone**

If we talk quickly in a loud voice with a fixed tone, people may see us as angry. A calm, slow voice with varying tone sends a message of being friendly.

#### **Body movement**

The way we walk, move our heads, sit, cross our legs and so on send messages about whether we are tired, happy, sad or bored.



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### **Posture**

Sitting with crossed arms can mean “I’m not taking any notice”. Leaning back or to one side can send the message that you are relaxed or bored. Leaning forward can show interest.

### **Muscle tension**

The tension in our feet, hands and fingers can tell others how relaxed or how tense we are. If people are very tense their shoulders might stiffen, their face muscles might tighten and they might sit or stand rigidly. A tense face might have a firmly closed mouth with lips and jaws clenched tight. A tense person might breathe quickly and become hot.

### **Gestures**

Gestures are hand and arm movements that can help us to understand what a person is saying. Some gestures carry a generally agreed meaning of their own within a culture. When people are excited they may move their arms or hands quickly.

### **Touch**

Touching another person can send a message of care, affection, power over them or sexual interest. The social setting and other body language usually helps people to understand what touch might mean. Care workers should not make assumptions about touch: even holding someone’s hand might be interpreted as trying to dominate.

### **Proximity and personal space**

The space between people can sometimes show how friendly or intimate the conversation is. Different cultures have different assumptions about how close people should be (their proximity) when they are talking.

In Britain, when talking to strangers we may keep an arm’s length apart. The ritual of shaking hands indicates that you have been introduced – you may come closer. When you are friendly with someone you may accept the person coming even closer to you. Relatives and partners may not be restricted in how close they can come.

Personal space is very important issue in care work. A care worker who assumes it is acceptable to enter a service user’s personal space without asking or explaining may be seen as being dominating or aggressive.

### **Face-to-face positions (orientation)**

Standing or sitting face to face can send a message of being formal or being angry. A slight angle can create a more relaxed and friendly feeling.

### **Responding to others**

How do you work out what another person might be feeling? Look at a person’s facial expression. Much of what you will see will be in his or her eyes, but the eyebrows and mouth also tell you a lot about what someone is feeling.





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Notice whether someone is looking at you, or at the floor, or at a point over your shoulder. Lack of eye contact should give a first indication that all may not be well. It may be that the individual is not feeling confident. He or she may be unhappy, or feel uneasy about talking to you, you will need to follow this up.

Look at how a person sits. Is he or she relaxed and comfortable, sitting well back in the chair, or tense and perched on the edge on the edge of the seat? Is he or she slumped in the chair with the head down? People who are feeling well and cheerful tend to hold their heads up whereas a nervous person who feels unsure and worried is likely to reflect that in the way he or she sits or stands. Observe hand and gestures carefully, someone twisting his or her hands, or fiddling with hair or clothes is signalling tension and worry. Frequent little shrugs of the shoulders or spreading of the hands may indicate a feeling of helplessness or hopelessness.

### **Giving out the signals**

Being aware of your own body language is just as important as understanding the person you are talking to.

During conversations we need to be aware of all the above and be able to pick up on any signs that the person we are talking to is getting frustrated or angry. Then we can alter our approach to prevent a confrontational situation occurring.

### **3.5d Demonstrate how and when to access support and advice about resolving conflicts.**

See Observation Log.

For this outcome and assessment criteria you will be observed in the workplace as part of your normal work duties. However the opportunity for you to demonstrate this during your induction period may not arise. Therefore the use of simulation/role play using scenarios is permitted.

### **3.5e Explain the agreed ways in working for reporting any confrontations.**

Confrontations may occur in any aspect of your working role with individuals. It is important that you understand your organisational policy and procedures in dealing with such areas as reporting and recording requirements and your organisation's whistleblowing procedures.

### **Policies**

Accident and Incident Reporting

Challenging Behaviour

Grievance

Whistleblowing