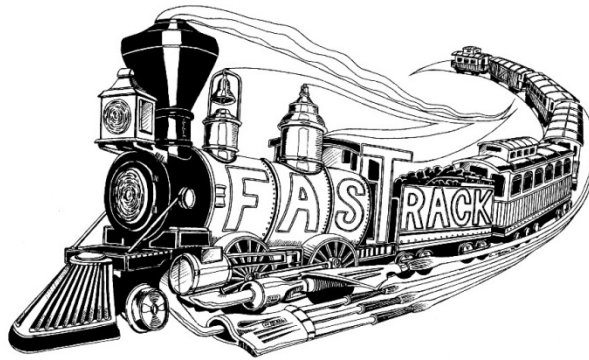




**LEVEL 2 DIPLOMA**  
**IN**  
**HEALTH AND SOCIAL**

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**Candidate Name.....**



## **The Name of the Game is to Train**

### **FOREWARD**

*The Jet Qualification and Credit Framework Modules are designed to Inform, Educate and Probe the Candidates Knowledge and Understanding of the subject matter to confirm their competence on the subject*

This programme module is designed to help the candidate in several ways.

- To aid the understanding of what the criteria is asking for
- To give advice and guidance as to what is required
- To gain definitions to help the candidate understand the wording that underpins the criteria
- To give relevant answers to the specific questioning
- Information has been collected from previous NVQ training which still has validity as specific training needs and is specific to the subject matter.

I wish you well with your training.

John Eaton RMN, RGN, RN (New York) DipRSA D32/33/34/36



# QUALIFICATIONS AND CREDIT FRAMEWORK

## QCF Health and Social

### *Level 2 Diploma in HSC (adults) Mandatory Group A*

#### SHC 24 INTRODUCTION TO DUTY OF CARE

Level 2

Credit value 1

Learning outcomes are the black on white overview statements that *'The learner will:'* The Assessment criteria (1.1 et al) is what after the assessment *'The learner can:'*

### 1. UNDERSTAND THE MEANING OF DUTY OF CARE

#### 1.1 *Define the term 'duty of care'*

A duty of care is a requirement that a person act 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

#### 1.2 *Describe how the duty of care affects own work role*

I Always act in the best interests of the clients & their care needs

I let no act or omission on my part be detrimental to their care

I act within my competence and decline to take on something if you do not believe that you can safely expedite it.

- I keep my knowledge & skills up to date
- I provide service at the standard of the reasonable person
- I know what must be done to ensure that the service can be provided safely
- I keep accurate records as appropriate
- I only delegate work or accept it when it is safe to do so
- I protect confidential information except where it conflicts with public interest or safety.

Every health worker has a duty of care not just towards clients but to themselves and their colleagues. It can be applied to every aspect of work, from duties to undertake to equipment that may need to carry out working safely

If I have concerns about a client's care needs not being met, a colleague's competence or equipment that may have a detrimental effect on client or staff care I would raise concerns and make them known.

I would document my concerns & keep a copy for my own records.

If I remain unhappy or do not feel that my concerns are being listened to, I would go higher.

If my manager asks me to do something and I don't feel competent to do so – I speak out.

It is acceptable to say that I am unable to carry out an instruction because I have not been trained or I don't feel you can do it safely.

Client safety & needs must come 1st, 2nd & 3rd. Things can and do go wrong

Confidentiality can be breached in the correct circumstances. When uncertain, I seek advice.

A duty of Care is a right and an expectation for all staff and clients. If I have concerns regarding any aspect of client / staff care or safety I can speak out.

- If I am not being listened to, document my concerns & go higher, give deadlines for responses to letters.
- Document, document, document & keep your own records.

### *Final Thoughts*

*"Our lives begin to end the day we become silent about things that matter."*

*Martin Luther King Jnr*

## **2. BE AWARE OF DILEMMAS THAT MAY ARISE ABOUT DUTY OF CARE AND THE SUPPORT AVAILABLE FOR ADDRESSING THEM**

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

As care workers, we aim to help people live independently. That means encouraging them to make decisions for themselves. When someone in our care decides to do something that we think is unsafe, we face a dilemma (a difficult choice between two decisions).

If we stop them doing it, are we denying them the right to take risks?

If we let them do something dangerous, are we failing in our duty of care?

Common Induction Standard 5 (Principles for implementing duty of care) says that care workers must know how to address dilemmas that arise between an individual's rights and the duty of care.

*The Human Rights Act 1998 states the following are human rights:*

- the right to life
- freedom from torture and degrading treatment
- freedom from slavery and forced labour
- the right to liberty
- the right to a fair trial
- the right not to be punished for something that wasn't a crime when you did it
- the right to respect for private and family life
- freedom of thought, conscience and religion, and freedom to express your beliefs
- freedom of expression
- freedom of assembly and association
- the right to marry and to start a family
- the right not to be discriminated against in respect of these rights and freedoms
- the right to peaceful enjoyment of your property
- the right to an education

- the right to participate in free elections

As stated above a *duty of care* is a requirement that a person act toward others and the public with watchfulness, attention, caution and prudence that a reasonable person in the circumstances would. If you take a human right as being a *right* to freedom of expression, yet someone may say things that are unflattering, rude, argumentative, racist and other objectionable, illegal or immoral statements.

The role of the carer may be to intervene to stop someone who believe they have a right to say what they wish with another's right not to hear such expressions

- You must treat your individuals with respect, whatever their life choices and beliefs.
- You must not unfairly discriminate against individuals by allowing your personal views to affect adversely your professional relationship with them or the treatment you provide or arrange
- If carrying out a particular procedure or giving advice about it conflicts with your religious or moral beliefs, and this conflict might affect the treatment you must inform your manager without delay.
- You must not express to your individuals your personal beliefs, including political, religious or moral beliefs, in ways that exploit their vulnerability or that are likely to cause them distress
- You must make the care of your individual your first concern

### **Personal beliefs and the carer-individual relationship**

Personal beliefs and values, and cultural and religious practices are central to the lives of carers and individuals.

Individuals' personal beliefs may be fundamental to their sense of well-being and could help them to cope with pain or other negative aspects of illness or treatment. They may also lead individuals to ask for procedures which others may not feel are in their best interests, or to refuse treatment which is.

All carers have personal beliefs which affect their day-to-day practice. Some carers' personal beliefs may give rise to concerns about carrying out or recommending particular actions for individuals.

This guidance explores the ways we expect carers to approach some of the issues arising from their own personal beliefs and those of their individuals. It attempts to balance carers' and individuals' rights - including the right to freedom of thought, conscience and religion, and the entitlement to care and treatment to meet care needs - and advises on what to do when those rights conflict.

### **Individuals' personal beliefs**

Trust and good communication are essential components of the carer-individual relationship. Individuals may find it difficult to trust you and talk openly and honestly with you if they feel you are judging them on the basis of their religion, culture, values, political beliefs or other non-medical factors. For some individuals, acknowledging their beliefs or religious practices may be an important aspect of a holistic approach to their care. Discussing personal beliefs may, when approached sensitively, help you to work in partnership with individuals to address their particular treatment needs. You must respect individuals' right to hold religious or other beliefs and should take those beliefs into account where they may be relevant to treatment options. However, if individuals do not wish to discuss their personal beliefs with you, you must respect their wishes.

## **Examples of situations where individuals' personal beliefs may affect care**

### **Refusal of blood products by Jehovah's Witnesses**

Many Jehovah's Witnesses have strong objections to the use of blood and blood products, and may refuse them<sup>1</sup>, even if there is a possibility that they may die as a result.

You should not make assumptions about the decisions that a Jehovah's Witness individual might make about treatment with blood or blood products. You should ask for and respect their views and answer their questions honestly and to the best of your ability. You must seek guidance and inform others who may have an interest in this situation such as your managers, it will be their decision to inform others as appropriate.

Many people within the Jewish and Islamic faiths consider male circumcision to be essential to the practice of their religion; they would regard any restriction or ban on male circumcision as an infringement of a fundamental human right. Others, including those who campaign against the practice of male circumcision, strongly believe that, because circumcision carries risks, it is wrong to perform the procedure on children who are not old enough to give informed consent, unless it is undertaken to address a specific clinical condition.

### **Carers' personal beliefs**

Your first duty as a carer is to make the care of your individual your first concern. Individuals are entitled to expect that you will offer them good quality care based on your clinical knowledge and professional judgement.

You must not allow any personal views that you hold about individuals to prejudice your assessment of their care needs or delay or restrict their access to care. This includes your view about a individual's age, colour, culture, disability, ethnic or national origin, gender, lifestyle, marital or parental status, race, religion or beliefs, sex, sexual orientation, or social or economic status.

You should not discuss your personal beliefs with individuals unless those beliefs are directly relevant to the individual's care. You must not impose your beliefs on individuals, or cause distress by the inappropriate or insensitive expression of religious, political or other beliefs or views. Equally, you must not put pressure on individuals to discuss or justify their beliefs (or the absence of them).

Individuals have a right to information about their condition and the options available to them. You must not withhold information about the existence of a procedure or treatment because carrying it out or giving advice about it conflicts with your religious or moral beliefs.

You must be open with individuals - both in person and in printed materials such as practice leaflets - about any treatments or procedures which you choose not to provide or arrange because of a conscientious objection, but which are not otherwise prohibited.

If your post involves arranging treatment or carrying out procedures to which you have a conscientious objection, you should explain your concerns to your employer or contracting body. You should explore constructively with them how to resolve the difficulty without compromising individual care, and without placing an unreasonable burden on colleagues.

You have an overriding duty to provide care for individuals who are in need of medical treatment, whatever the cause of that care need. It is not acceptable to seek to opt out of treating a particular individual or group of individuals because of your personal beliefs or views about them.

## 2.2 *Explain where to get additional support and advice about how to resolve such dilemmas*

*Additional Support may come from:*

- *Families and friends of the individual*
- *Colleagues*
- *Peers*
- *Senior carers*
- *Managers*
- *Registered managers*
- *Advocates*
- *Care Standards Inspectors*
- *Social workers*
- *Community Psychiatric Nurses*
- *Health Visitors*
- *Doctors*
- *Police*
- *Local Counsellors*
- *Members of Parliament*

## **3. KNOW HOW TO RESPOND TO COMPLAINTS**

### 3.1 *Explain why it is important that individuals know how to make a complaint*

The following section addresses the matter of how residents and/or their relatives and representatives can make complaints about anything which goes on in the home, both in terms of the treatment and care given by staff or the facilities which are provided. It deals with complaints procedures within the home relating to matters between the resident and the proprietor or manager.

Complainants may also make their complaints directly to the Care Quality Commission

Whilst it is recognised that having a robust and effective complaints procedure which residents feel able to use is essential, this should not mean that the opportunity to make constructive suggestions (rather than complaints) is regarded as less important. Making suggestions about how things might be improved may create co-operative relationships within the home and prevent situations where complaints need to be made from developing. However, it is important to remember that many individuals do not like to complain – either because it is difficult for them or because they are afraid of being victimised. If a home is truly committed to the principles outlined in earlier sections of this document, an open culture within the home will develop which enables residents, supporters and staff to feel confident in making suggestions and for making complaints where it is appropriate without any fear of victimisation. The QCA will look to the quality assurance process and service user survey (Standard 33) for evidence of an open culture.

### **Complaints**

Individuals and their relatives and friends are confident that their complaints will be listened to, taken seriously and acted upon.

The registered person ensures that there is a simple, clear and accessible complaints procedure which includes the stages and timescales for the process, and that complaints are dealt with promptly and effectively.

The registered person ensures that the home has a complaints procedure which specifies how complaints may be made and who will deal with them, with an assurance that they will be responded to within a maximum of 28 days.

A record is kept of all complaints made and includes details of investigation and any action taken.

The registered person ensures that written information is provided to all individuals for referring a complaint to the QCA at any stage, should the complainant wish to do so.

### **3.2 Explain the main points of agreed procedures for handling complaints**

## **COMPLAINTS POLICY**

### **Policy Statement**

Meadow Court believes that if a client wishes to make a complaint or register a concern they should find it easy to do so. It is Meadow Court policy to welcome complaints and look upon them as an opportunity to learn, adapt, improve and provide better services. This policy is intended to ensure that complaints are dealt with properly and that all complaints or comments by clients and their relatives, support workers and advocates are taken seriously.

The policy is not designed to apportion blame, to consider the possibility of negligence or to provide compensation. It is not part of Meadow Court's disciplinary policy.

Meadow Court believes that failure to listen to or acknowledge complaints will lead to an aggravation of problems, client dissatisfaction and possible litigation. Meadow Court supports the concept that most complaints, if dealt with early, openly and honestly, can be sorted at a local level between just the complainant and Meadow Court. If this fails due to either Meadow Court or the complainant being dissatisfied with the result the complaint will be referred to the Care Quality Commission/General Social Care Commission and legal advice will be taken as per necessary.

### **Aim**

The aim of Meadow Court is to ensure that its complaints procedure is properly and effectively implemented and that clients feel confident that their complaints and worries are listened to and acted upon promptly and fairly.

### **Goals**

The goals of Meadow Court are to ensure that:

- clients, support workers, users and their representatives are aware of how to complain and that the Meadow Court provides easy to use opportunities for them to register their complaints
- a named person will be responsible for the administration of the procedure
- every written complaint is acknowledged within five working days
- all complaints are investigated within 28 days of being made
- all complaints are responded to in writing by Meadow Court within 28 days of being made
- complaints are dealt with promptly, fairly and sensitively with due
- regard to the upset and worry that they can cause to both staff and clients.

The named complaints manager with responsibility for following through complaints for the Meadow Court is John Eaton



Meadow Court believes that, wherever possible, complaints are best dealt with on a local level between the complainant and Meadow Court. If either of the parties is not satisfied by a local process the case should be referred to the General Social Care Commission

## **Complaints Procedure**

### **ORAL COMPLAINTS**

- All oral complaints, no matter how seemingly unimportant, should be taken seriously.
- Front line staff who receive an oral complaint should seek to solve the problem immediately.
- If staff cannot solve the problem immediately they should offer to get Meadow Court manager to deal with the problem.
- All contact with the complainant should be polite, courteous and sympathetic. There is nothing to be gained by staff adopting a defensive or aggressive attitude.
- At all times staff should remain calm and respectful.
- Staff should not accept blame, make excuses or blame other staff.
- If the complaint is being made on behalf of the client by an advocate it must first be verified that the person has permission to speak for the client, especially if confidential information is involved. It is very easy to assume that the advocate has the right or power to act for the client when they may not. If in doubt it should be assumed that the client's explicit permission is needed prior to discussing the complaint with the advocate.
- After talking the problem through, Meadow Court managers or the member of staff dealing with the complaint should suggest a course of action to resolve the complaint. If this course of action is acceptable then the member of staff should clarify the agreement with the complainant and agree a way in which the results of the complaint will be communicated to the complainant (i.e. through another meeting or by letter).
- If the suggested plan of action is not acceptable to the complainant then the member of staff or Meadow Court manager should ask the complainant to put their complaint in writing to the Meadow Court and give them a copy of Meadow Court's complaints procedure.
- In both cases details of the complaints should be recorded in the Complaints Book, the client's file and in the home records.

### **SERIOUS OR WRITTEN COMPLAINTS**

#### 1. Preliminary steps:

- when a complaint is referred on to a Meadow Court manager or is received in writing it should be passed on to the named complaints manager who should record it in the Complaint Book and send an acknowledgment letter within two working days; the complaints manager will be the named person who deals with the complaint through the process
- if necessary further details are obtained from the complainant; if the complaint is not made by the client but on the client's behalf, then consent of the client, preferably in writing, must be obtained from the complainant
- a leaflet detailing Meadow Court's procedure should be forwarded to the complainant
- if the complaint raises potentially serious matters, advice should be sought from a legal advisor to Meadow Court; if legal action is taken at this stage any investigation by Meadow Court under the complaints procedure should cease immediately
- if the complainant is not prepared to have the investigation conducted by Meadow Court they should be advised to contact the General Social Care Commission and be given the relevant contact details.

## **2. Investigation of the complaint by Meadow Court:**

- immediately on receipt of the complaint Meadow Court should launch an investigation and within 28 days Meadow Court should be in a position to provide a full explanation to the complainant, either in writing or by arranging a meeting with the individuals concerned
- if the issues are too complex to complete the investigation within 28 days, the complainant should be informed of any delays.

### **Meeting:**

- if a meeting is arranged the complainant should be advised that they may if they wish bring a friend or relative or a representative such as an advocate
- at the meeting a detailed explanation of the results of the investigation should be given and also an apology if it is deemed appropriate (apologising for what has happened need not be an admission of liability)
- such a meeting gives Meadow Court the opportunity to show the complainant that the matter has been taken seriously and has been thoroughly investigated.

### **Follow-up action:**

- after the meeting, or if the complainant does not want a meeting, a written account of the investigation should be sent to the complainant, this should include details of how to approach The General Social Care Commission if the complainant is not satisfied with the outcome
- the outcomes of the investigation and the meeting should be recorded in the Complaint Book and any shortcomings in Meadow Court procedures should be identified and acted upon
- Meadow Court should discuss complaints and their outcome at a formal business meeting and Meadow Court complaints procedure should be audited by Meadow Court manager every six months.