

Legal Reference

- 1.0 **Regulation 11 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014**

Outcome Statement

- 2.0 **Service users:**
- Are protected from abuse, or the risk of abuse, and their human rights are respected and upheld.
- 2.1 **This is because we comply with the regulations and will:**
- Take action to identify and prevent abuse from happening in the service users home.
 - Respond appropriately when it is suspected that abuse has occurred or is at risk of occurring.
 - Protect others from the negative effect of any behaviour by service users.
- 2.2 It is the intention of the service provider to ensure that staff are not compromised by either the offer of, or the acceptance of, gifts for the services that they perform. To do so would undermine the very purpose of our work and could be seen as institutional abuse of our caring position.
- 2.3 Service users should never feel that they should need to offer gifts or donations in order to be provided with the service that they require.

Policy Statement

3.0 Definition of Abuse

Abuse can manifest itself in many different forms and on some occasions can be unintentional. A standard definition of Abuse is:

“Any action (or lack of action) that causes harm or distress to another. These actions may be deliberate or accidental and include: physical, psychological, neglect, sexual or financial”.

Actions may be the result of an individual, a group of people or be classed as institutional abuse.

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- 3.1 Service users benefit from a service that takes into account relevant guidance set out in the Care Quality Commission as may be from time to time published
- 3.2 Service users are protected from abuse as staff and others are not:
- Able to benefit financially or inappropriately gain from a service user; unless it is in line with their service agreement takes account of other relevant professional guidance.
 - Involved in writing wills or bequests of service users.
 - Able to use property of service users for personal use.
 - Able to borrow money from, or lend money to, service users.
 - Able to sell or dispose of goods belonging to service users for their own gain.
- 3.3 Service users know that where the service looks after their money and valuables:
- Individualised records (including receipts) are kept showing details of all income received, money spent and valuables held.
 - They are not used by the service provider for the running or management of the service.
 - The manager only becomes their agent where there is no suitable person available to undertake that role.
 - They can access their money and valuables in a timely way.

Procedure

- 4.0 There may well be occasions where service users offer small gifts to staff, either at a birthday or Christmas for example. In such circumstances it may easily offend the service user if the gift is refused or returned.
- In such an event, the staff member should inform the manager without delay.
- 4.1 This procedure and policy is intended to protect staff from being placed in compromising or embarrassing situations whilst at the same time safeguarding service users from potential exploitation and abuse.
- 4.2 Any member of staff who is found to have breached this procedure will be subject to disciplinary action.

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- 4.3 If a member of staff is offered a gift from either a service user or their family, they should politely inform the donor that they are not able to receive gifts for the services that they provide and that to accept the gift would be in breach of their contract of employment.
- 4.4 Where a small token is given at times such as Christmas or birthdays, the manager should be informed and a reasoned judgement made as to the acceptability and appropriateness of the gift.
- 4.5 Where gifts are repeatedly offered either by a service user or their family, the manager should be informed and a firm yet polite refusal given. The manager should discuss the situation with the people concerned and stress that it is not acceptable for staff to accept gifts on a regular basis.
- 4.6 Where a service user or their family wishes to make a donation to the service, the manager must be informed without delay in order to discuss the details and reason for the donation.

The manager must be satisfied that the donation is not being made:

As a result of pressure from staff or others.

In an attempt to obtain a better or preferential service from staff.

To defray capital in order to reduce taxation liability or to gain extra benefit funding.

- 4.7 Any donation made to the service should be accepted by the manager who should ensure that a receipt is issued and a letter of thanks sent.

Wills

- 4.8 If any service user asks about making a will, they should be referred to their solicitor or to the local Citizens Advice Bureau.
- 4.9 Where a service user has difficulty in accessing the office of their solicitor outside their home, the manager may make arrangements for the solicitor to visit the service user.
- 4.10 No member of staff should ever recommend the services of any solicitor, advocate, probate lawyer, financial advisor or other legal professional for the purposes of making financial investments or making a will.
- 4.11 Under no circumstances should any member of staff act in any capacity in the preparation, witnessing or act as executor in relation to a service users will.

- 4.12 If a service user indicates that they intend to make a personal bequest to a member of staff, the manager should be informed.
The manager should explain to the service user that staff are not allowed to benefit from inclusion in Wills or receive bequests and may ask the service user to re-consider the bequest but should not try to change the service users decision by applying any form of pressure.
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Service users have the right to use and dispose of their assets as they wish and unless there are reasonable grounds to believe that the service user lacks capacity, there is little that the manager can do to prevent this.
Remember
The Mental Capacity Act clearly states that a person does not lack capacity just because they make an unwise decision, or one that you don't agree with. This includes making decisions that their family may not like or is contra to this procedure.
- It is appropriate that the manager satisfy themselves that the bequest is being made through personal choice and not through coercion or other such circumstance.
- 4.13 It is worth bearing in mind that, whilst service users should be aware of the service providers policy in relation to Wills and Bequests, they are not contractually bound by it as the staff are.
- 4.14 It is a condition of each staff members Contract of Employment that they should not benefit from a service users Will.
- 4.15 Where any member of staff is left a sum of money or any item(s) in a service users will, they should inform the manager without delay.
- 4.16 Under no circumstances should any member of staff seek a bequest or legacy either for themselves or for the service.
- 4.17 The manager should ensure that staff do not become involved in making funeral arrangements for a service user or become involved in the disposal of the estate.
If such a request is received by the service provider, the manager should take appropriate legal advice.

The Following Evidence Will Demonstrate That The Required Outcomes Are Being Met And Relevant Standards Achieved

- 5.0 There is evidence that:
- Staff understand what is, and what is not, allowed under this procedure
 - Records show staff are acting in line with this procedure
 - Donations have been accepted appropriately
 - The manager has written to donors expressing thanks

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Training Required

- 6.0 Staff should never:
- Accept gifts from service users or their families.
 - Suggest that a service user might wish to donate an item or a sum of money to the service.
 - Encourage service users to purchase goods through mail order schemes where either an individual or the service earns commission.
 - Offer to act as executor of a Will.
 - Suggest, tout or solicit for inclusion as a beneficiary from a service users' Will.
 - Benefit from inclusion in a Will

Forms And Referenced Documents For This Procedure

- 7.0 Form 010 – Communication Book