

Number 29

Untoward and serious incidents

CARE HOMES BRIEFING

Untoward incidents in care homes and hospitals range from the relatively common (but nonetheless important to review) falling incidents through to serious incidents that involve a potential prosecution or the death of a resident.

Healthcare providers' risk management and clinical governance procedures will include an untoward incident reporting policy and the regulations made under the Care Standards Act¹ require incidents to be reported to the regulator, be it CSCI for care homes or the Healthcare Commission for units registered as hospitals.

Many incident policies involve the interviewing of the staff involved in an incident as witnesses. However where there is the possibility of a criminal investigation or prosecution, care should be taken to liaise with the police before undertaking these investigations because of the risk of harming the police investigation and the potential effect this may have on the administration of justice. In extreme cases the home's investigation could in itself amount to a criminal offence. Legal advice should be sought in such circumstances and contact established with the police. The need to review the cause of incidents to prevent repetition is obvious but this needs to be done in a careful structured manner.

Serious incidents potentially raise several issues including:

- a) the possibility of criminal charges including health and safety issues
- b) Care Standards Act and registration issues
- c) Inquests
- d) compensation claims
- e) PR issues and media interest with the consequent potential financial implications
- f) Disciplinary action

To assist healthcare providers, RadcliffesLeBrasseur have developed several services to assist when serious incidents occur:

Services

1. **Checklist** and easy aide memoire for the key steps to consider when an incident occurs. A copy is enclosed with this briefing but further copies for display in your units are available from RadcliffesLeBrasseur;

¹ Regulation No 37. Care Standards Regulations 2001

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2. **24 hour advice** - urgent advice is available from our solicitors 24 hours a day. Where necessary a solicitor can quickly come to the unit to assist with the issues arising from the incident.

24 hour telephone number: 07802 506306

3. **Advice and support** - we have significant experience and expertise in dealing with incidents that arise in the healthcare industry and their implications. Our solicitors can advise from the outset on the investigation, liaison with the police and regulator, and potential legal consequences.
4. **Inquests** - where an incident has led to the death of a resident, this is often a difficult time for the staff involved. We have developed a special inquest service to cover such situations².

Andrew Parsons
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For more information on Care Home Law contact Andrew Parsons at RadcliffesLeBrasseur on 020 7227 7282, or email: andrew.parsons@rb-law.com.

Out of office emergency advice available 24hrs on 07802 506 306.

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

Future editions can be received by email. Please e-mail: marketing@rb-law.com or telephone 020 7227 7476.

² A leaflet covering this service is available from julia.worton@rb-law.com