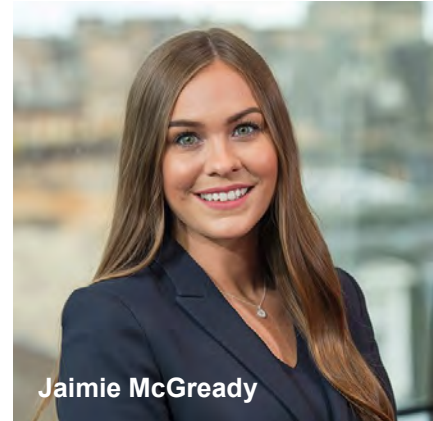


What You Ought to Know About Work-Related Violence in the Care Sector

'You seem very well, things look peaceful. I'm not quite as well, I thought you should know'

Those working in the health and social care sector may not always be 'quite as well' due to their higher risk of experiencing work-related violence – a result of often working in challenging circumstances and caring for people with a variety of complex needs. Since the start of the Coronavirus pandemic, many employers in the care sector have required to address changing risk factors in this respect, occasioned by unexpected alterations to routine or general care.



This is perhaps unsurprising given that adult social workers supporting those with learning disabilities, dementia or other cognitive impairments, have reported rapid deterioration amongst service users who have been deprived of regular contact with friends and family, day centres and other regular sources of human connection due to the pandemic.

The pandemic has undoubtedly presented providers of residential care with a difficult task in trying to balance the need to maintain stable environments with public health concerns and restrictions. It has been recognised by the National Institute for Health and Care Excellence that environmental factors such as restrictive social environments, environments with little or too much sensory stimulation and low engagement levels can be a trigger for those living with cognitive impairments.

Legal Obligations

To some, violence and aggression towards care sector workers may be viewed as an occupational hazard. However, the Health and Safety at Work etc Act 1974 places a legal duty on employers to ensure the health, safety and welfare of employees and others, so far as is reasonably practicable. Employers have a duty to ensure that potential risks of work-related violence are, where practicable, eliminated or sufficiently controlled, therefore, work-related violence should never be disregarded, regardless of industry or sector.

The Management of Health and Safety at Work Regulations 1999 also requires employers to consider health and safety risks to employees and to protect employees from exposure to reasonably foreseeable risks, by carrying out risk assessments and implementing suitable and sufficient control measures. This type of risk includes work-related violence. Risk assessments should consider potential hazards, establish the significance of the risk, identify and put in place control measures and ensure a clear management plan is in place. Employers should also put in place emergency procedures, ensure that employees are provided with relevant information and are sufficiently competent to undertake their role.

What can Employers do?

Employers must ensure that they are doing all that is reasonably practicable to prevent work-related violence. Care home providers should ensure that appropriate risk assessments are in place, including general risk assessments and individualised risk assessments for service users identified as posing an increased risk to others. Systems for recording and exchanging information about service users, such as handovers, care plans and prompts should be used. Safeguarding measures should be put in place to ensure the safety of other service users, and staffing levels should be based on risk.

What You Ought to Know About Work-Related Violence in the Care Sector Cont'd

What can Employers do?

Employers must ensure that they are doing all that is reasonably practicable to prevent work-related violence. Care home providers should ensure that appropriate risk assessments are in place, including general risk assessments and individualised risk assessments for service users identified as posing an increased risk to others. Systems for recording and exchanging information about service users, such as handovers, care plans and prompts should be used. Safeguarding measures should be put in place to ensure the safety of other service users, and staffing levels should be based on risk.

Staff training in de-escalation, observing potential triggers and dealing with challenging situations should be provided. The work environment should also be safe and secure to reduce the risk of aggression. This may involve the installation of security systems or personal alarms for staff. Care Home providers should understand the risk of challenging behaviour and remain alert to its gradual development, recording any factors which may intensify this risk. Concerns should be escalated to the relevant local authority department as soon as possible, particularly where a pattern of violent and aggressive behaviour has emerged.

If an incident does occur, employees should be given a post-incident debrief and counselling services should be offered to any employees who have been involved in or witnessed a violent incident. Employers must ensure that a RIDDOR report is completed within the required timeframe if a reportable injury occurs. In Scotland, a report to the Care Inspectorate will also be required if a violent incident is classed as serious or involves the physical abuse of another service user.

Civil Claims

Employers should also bear in mind that an employee who has been assaulted at work may be entitled to claim for personal injury. This will usually be covered by the companies' Employers' Liability insurance. Employers must not discriminate or terminate the employment of an employee, simply because

they have made a claim for personal or psychological injury. Where a civil claim is made, or the potential for one exists, specialist advice should be sought.

Taking Advice

Now that lockdown restrictions are easing and service users' environments are slowly returning to 'normal', it is hoped that incidences of violent and aggressive behaviour against social care staff, occasioned by the change in routine of service users, will plateau. However, employers should keep their current violence and aggression risk management practices under review as we move towards this new normal environment.

If you require advice on dealing with work-related violence, including HSE or regulatory involvement, BTO's Band 1 ranked Regulatory and Criminal Defence team can provide you with proactive advice to ensure compliance with existing and emerging law; and in defending any criminal proceedings raised for alleged contraventions.

For more information on the issues raised above, please contact:

Jaimie McGready, Solicitor: jmg@bto.co.uk / 0141 221 8012

Vikki Watt, Partner & Solicitor Advocate: vwa@bto.co.uk / 0141 221 8012