

## 01 Background



The reason for this briefing is:

- An incident where an agency member of staff, employed to work with adults with care and support needs (ACSN). Proved to be unsafe. A subsequent safeguarding enquiry discovered that the member of staff had been posing as someone else. The CQC advised that, when using agency staff, employers still have the responsibility for checking that staff are 'fit and proper'
- A number of safeguarding alerts involving agency care staff or nurses, with allegations including neglect and omissions of care
- To raise awareness with care providers to understand their responsibilities when using agency staff, in line with legislation and guidance.

## Why it matters 02

To ensure the safety of residents and service users, service providers must assure themselves that anyone working in their service is competent and safe to do so. This includes staff who are employed via agencies.

It is the law that persons employed for the purposes of a regulated activity are 'fit and proper'. This is defined as: "(a) be of good character, (b) have the qualifications, competence, skills and experience which are necessary for the work to be performed by them, and (c) be able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the work for which they are employed."

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## Questions to consider

- Are your practice and processes for using of agency staff robust? Always?
- Do you record actions taken to evidence safe use of agency staff?
- Are you confident you are compliant with the CQC regulations?

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## Information

All services using agency staff must provide the staff with access to their organisational policies and processes to ensure that they understand their responsibilities when working with ACSN.

## 06 What to do



- Use an agency you are confident complies with the above; establish your requirements for fit, proper staff
- Check written references and DBS, if in doubt about fitness to practice speak to the agency to obtain details of previous employers
- Where possible, request agency staff whose competence is already established
- Raise a safeguarding alert where there is an allegation of abuse or neglect, report any practice concerns to the agency and/or professional body
- Observe practice



Responsibilities of the care provider include:

- Policy & procedures for managing adult abuse, or the risk of abuse including whistleblowing procedures
- Satisfying themselves that agency staff have been recruited appropriately (including reference checks and Disclosure and Barring (DBS) checks) and are inducted and trained and provided with ongoing supervision
- Checking the online NMC website to ensure nurses are registered

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## Background

### Protection from fire and prevention of future deaths

Several tragic deaths of residents within care homes have led to the Coroner making recommendations about the appropriate levels of fire safety within care facilities. Are these deaths avoidable? – Yes. The issues need urgent consideration and action by care home

Registered Managers, nominated individuals and care teams, to identify critical risks associated with individuals

The Fire Safety Order 2005 requires the identification of individuals at risk as part of the fire safety risk assessment for the premises and to take appropriate action to remove or reduce the risk.

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## Questions to consider

Is the individual a smoker?  
Are emollients being applied? Does this product contain paraffin? If Yes?  
Share the risks with:  
Individuals  
GP/Nurse Prescriber  
Family member  
**ACT; CONSIDER AN ALTERNATIVE PRODUCT**

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## What to do

This increased risk of fire posed by smoking whilst using flammable emollient creams is so significant that it must be avoided.

Fire retardant covers, bedding or clothing for smokers must always be provided.

There must be sufficient numbers for items to be laundered at the correct temperature.

***This is the responsibility of the care home owing a duty of care for the health, safety and wellbeing of individuals who may be at heightened risk.***

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## Why it matters

A personal risk assessment for each resident is critical for their own safety and that of other residents and staff. This will assess the needs of the individual in conjunction with care workers and family and consider their habits, physical and mental capacity, and their environment. The risk assessment should be recorded and considered as part of their care plan, other assessments and personal evacuation plans, and kept under review.

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## Information

Coroner's advice is that you must consider the risk posed by individuals smoking on your premises, particularly if the person at risk has limited mobility. This follows inquests into the deaths of high-risk smokers with mobility problems from burn injuries as a result of matches or cigarettes dropping on to clothing or bedding.

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Emollient creams are used to treat dry skin conditions and some patients are often in bed for lengthy periods due to illness or impaired mobility. Certain creams can be highly flammable (e.g. those that are paraffin-based) and pose a significant risk in the event of a fire. The fire risk posed by the use of such emollient creams is significantly increased when the user is smoking. The individual's bedding and clothing can also become impregnated with cream, increasing flammability and the risk to the user.

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Following recent fire deaths in Lancashire the Coroner highlighted that the use of such creams should be risk assessed and action taken to reduce the harm. The use of emollient creams must be considered in your fire risk assessment to ensure that all reasonably practicable steps are taken to reduce the risk of a fire and its likelihood of occurring.  
<http://www.nrls.npsa.nhs.uk/patient-safety-videos/paraffin-based-skin-products/>

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# Emollients and Smoking

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## **FIRE SAFETY**

### **BRIEFING NOTE - RESIDENTIAL & NURSING CARE**

#### **INDIVIDUAL FIRE RISK ASSESSMENTS BEING INCLUDED UNDER THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005 IN THE FIRE RISK ASSESSMENT**

#### **Background**

##### **Fatal Fire in Lancashire**

An incident occurred in a residential nursing home near Preston where a Male person aged 69 died after smoking whilst covered in emollients. The episode happened on 27<sup>th</sup> December 2015 at 07:45.

This tragic event follows on from fatal fires in London, Surrey and West Sussex.

*The Coroner's reports are summarised on the following pages below.*

#### **Introduction**

##### **Care Homes – protection from fire and prevention of future deaths**

Several tragic deaths of vulnerable residents within care homes have led to the Coroner to make recommendations about the appropriate levels of fire safety within care homes.

The Fire & Rescue Services believe that some of these deaths were avoidable - and believe that the issues need urgent consideration and action by care home Directors and owners to identify critical risks associated with individual clients.

##### **Fire Safety Law**

The Regulatory Reform (FS) Order places a duty on the responsible person to carry out a suitable a sufficient FRA (Fire Risk Assessment).

Article 10 Principle of prevention to be applied specified in Part 3 of Schedule 1 appears to have been laid out in a descending order of possible application with “avoiding risks” seen as the most ideal and “instructions to employees” as the least favourable option. This train of thought is similar to that laid down in the H&S guidance insofar as it is better to avoid risks than to simply address the problem with additional protective measures.

## Regulation 28 Coroners reports

### London: Rita Dexter Deputy Commissioner

#### *Death of Mrs Parle*

In 2010 a dementia patient smoked in her bedroom where her nightwear came into contact with a naked flame.

#### *Matters of Concern*

- *Art 9(1); Failure to make a suitable and sufficient assessment of the risks to which relevant persons are exposed.*
- *Art 11(1); Failure to effectively; plan organise, control, monitor and review the preventative and protective measures.*

### Surrey: Michael Burgess Assistant Coroner.

#### *Death Vera Lillian Steele*

In 2012 a heavy smoker was taken into the Garden. She was still in her night dress with a blanket over her legs. Whilst the carer was gone she dropped a lit match onto her lap.

#### *Matters of Concern*

- *Obtain a fire apron or smock*

### West Sussex: Ian Christopher Wilkinson Assistant Coroner

#### *Death of Mr B*

In 2015 a pipe smoker was taken into a conservatory. He had his pipe lit and the staff left him alone, the presumption was that he was wearing a fire retardant smock, this was not the case and he set himself on fire. Smoke Detection alerted the staff and he was extinguished. Additionally he was covered in paraffin based cream that is also flammable

#### *Matters of Concern*

- *Centraben emollient cream is paraffin (24%) based product and does not display any fire risk warning on the bottle.*
- *Diprobase emollient cream is paraffin (21%) based product but contains fire hazard warning but had not been examined.*

- *NPSA (National Patient Safety Agency) reported in 2007 on paraffin based products but focused on 50% plus content or emulsifying ointments.*
- *NPSA commissioned the HSE to undertake fire hazard testing with SOFT WHITE PARRAFFIN. It is not clear that subsequent cases have occurred or been highlighted.*
- *There is little information conveyed or publicised about the two products.*
- ***Risks should be assessed and action taken***

### London: Dr Fiona Wilcox Coroner

#### *Death of Mrs Rosina Mary McDonald*

In 2015 a mental health patient had a fire in her bedroom as a result of 2 modified cigarette lighters.

#### *Matters of Concern*

- *Current guidance is insufficient relating to RAs in Residential Care;*
- *Not required to take into account individual risk factors.*
- *Recorded in individual care plan*
- *Do not account for persons access to fire sources*
- *Include appropriate control measures*
- *Reviewed according to decline in cognitive behaviour*

### **Individual Fire Risk Assessments of residents**

Individual fire risk assessments for each resident are critical for their own safety and the safety of other residents and staff. A risk assessment will assess the needs of the individual in conjunction with care workers and family and consider their habits, physical and mental capacity, medication and their environment. This should be recorded and must also be considered alongside their care plan, other assessments and personal evacuation plans.

The Mental Capacity Act 2005 provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for themselves. Everyone working with and/or caring for an adult who may lack capacity to make specific decisions must comply with this Act when making decisions or acting for that person. This is particularly important when working with individuals where there is reason to doubt mental capacity in understanding fire safety and risks.

The Mental Capacity Act is intended to be supportive of people who lack capacity, not restricting or controlling of their lives. It aims to protect people who lack capacity to make particular decisions, but also to maximise their ability to make decisions, or to participate in decision-making, as far as they are able to do so.

The five statutory principles are:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done or decision made, on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Where there is reasonable belief to doubt an individual's capacity relating to fire safety, it is good practice for staff to carry out a proper assessment of a person's capacity to make decisions. The findings of the assessment must be recorded within the care records.

This is critical where residents are known to be smokers and/or may be in possession of ignition sources such as lighters and matches as these add greatly to the risks of a fire starting. From this information care and sheltered home operators and other responsible persons must identify the appropriate control measures and additional equipment to best manage the risk of fire and protect individuals at greater risk. These could include:

- Supervision of smoking (only allow gas lighters, NO matches), or the removal of such ignition sources. Including the control of cigarettes.
- Fire retardant nightwear and bedding (protection apron or smock could be worn or draped).
- Additional smoke detection and telecare systems;
- Water mist or sprinkler systems.

All healthcare staff involved in the prescribing, dispensing or administration of paraffin-based skin products are also reminded that bandages, dressings and clothing in contact with paraffin-based products, for example white soft paraffin, white soft paraffin, liquid paraffin or emulsifying ointment are easily ignited with a naked flame or cigarettes.

***Any risks identified and measures put in place should be recorded in the significant findings of the fire risk assessment. These should be regularly reviewed particularly where there is a decline in cognitive ability or mobility.***