

## Query

NCF Practice and Quality Forum members have reported receiving conflicting advice from CQC's central call centre in Newcastle and local inspectors re **Safeguarding /Notifications of death and what has to be reported.**

It varies so I have listed that which I was told:

- Anything reported to a LA must also be reported to CQC
- Others have been advised that reporting to the different parties are triggered by different thresholds being met. Advised this is the case with **notifications of death** too.
- Care homes and home care being told not to report deaths if they occur in hospital.
- Told to report death at home (or Extra Care) only if care worker is present

## Response

In a nutshell, some of the points raised are correct and some not.

- On the first point, there may well be instances where the information exchanged between provider and LA is not relevant to regulation e.g. certain matters related to contract monitoring. In other cases it might be relevant, if it relates to our regulatory work and the provider's delivery of safe, effective, compassionate, high quality care. We seek information from providers prior to inspection and providers also have obligations to report certain issues, but that does not mean every single thing, as not everything will be relevant. In our guidance on a range of issues, we aim to set out the information that we need to perform our role effectively. In addition, we believe that ongoing engagement and communications between providers and CQC inspectors should help sort these matters out amicably and result in an honest exchange of helpful information for the benefit of people who use services.
- On the second point, there are two linked issues here – what must the provider tell CQC about safeguarding issues; and notifications of deaths.

On safeguarding, our role is described in CQC's statement on roles and responsibilities for safeguarding children and adults [here](#).

This sets out expectations of providers as follows:

Providers are responsible for keeping people in their care safe from harm or abuse at all times. Providers are required by law to notify us of serious incidents that occur to people in their care, including the death of a child or adult using their service, abuse or allegations of abuse in relation to a child or adult using their service, or any incident that is reported to, or investigated by, the police. In addition, it would be helpful if providers could inform us when a Serious Case Review or Safeguarding Adults Review is opened by a local authority regarding a child or adult cared for in one of their registered locations. **[note that this latter point is not obligatory, but rather providing us with helpful information to assist us with our work]**

There is a direct link to our notifications process. Under Reg 18(2) of the Care Quality Commission (Registration) Regulations 2009 the provider **must** notify us **without delay** of certain specified incidents which occur whilst services are being provided in the carrying on of a regulated activity, or as a consequence of the carrying on of a regulated activity. This includes "any abuse or allegation of abuse in

relation to a service user". The provider should submit a statutory notification form providing details of the incident, the abuser and the person(s) affected. Notifications can be submitted through the online portal or by email. All notification forms refer the provider to guidance about notifications. We are looking to update and revise our notifications forms and guidance.

- That leads to the third and fourth bullets. There have recently been a number of queries about when notifications should be made when a person using services dies when a regulated activity is not being carried out. Our position, which reflects the legislation, is as follows:

the registered person must notify CQC in a timely manner if a client's death occurred:

- while services were being provided in the carrying on of **any** regulated activity
- or
- as a result of (**or may have been the result of**) the carrying on of any regulated activity.

In addition, deaths that take place during the provision of, or as a result/possible result of, any services that are ancillary to, or are carried on wholly or mainly in relation to, a regulated activity are notifiable because those services are treated as part of the regulated activity (see regulation 3(2) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014).

Deaths which occur as a result of, or which may have been a result of, the carrying on of a regulated activity may take place away from the provider's premises and without staff members being present. This is the case for all types of service and providers must notify us if the above criteria are met. However, if the cause of death is demonstrably unconnected to the regulated activity, there is no requirement to report it to CQC.

The issue about the death of a care home resident in hospital relates to the above. In terms of the provision of regulated activity, the person would be receiving this (personal care along with other regulated activities) from the care home for the time they are resident there. If they are in hospital, it is likely that they are receiving a different regulatory activity (relevant to healthcare needs) and if the death occurred in the hospital, then the hospital would report this under the National Reporting and Learning System, and NHS England would then report this to CQC. It would not, however, be a problem if the provider reported the death of the (former) care home resident in hospital – the notification form contains, in section 3, options to record the place of death, which includes ambulance and hospital.

- The fourth bullet relates back to the above bullets of legal advice – if the care worker was present and regulatory activity was being provided at the time of death, or the result of the carrying on of any regulated activity (which may mean that the care worker was not present) then it would be notifiable. If, however, there was no connection with either of these factors, then the death is not notifiable.