

Choked to death– Care Sector HSE Prosecution.

NAP- 10895 QCS

The care sector is large and can be complex. Part of this sector are care homes. The service that the care homes provide is valuable, enabling those being cared for to live their lives as comfortably and independently as possible. It is important that risks to both those being cared for, and to the care workers themselves, are sensibly and proportionately managed. Care homes have significant legal duties which require them to protect the health, safety and welfare of their staff, service users and anyone else who may be affected by their activities. Failure to meet these duties can result in extremely serious, harmful, consequences for any individuals at risk, as well as serious financial and legal costs for any businesses and its directors.

Recent news from the Health & Safety Executive should serve as a reminder to all care home owners and care home providers that it is vital to ensure that clear instructions, information and adequate training for your employees have been provided to ensure safety and health to those being cared for.

A care home company has been fined following an incident when a resident choked to death on a jam doughnut. The resident had previously suffered from a stroke and had been diagnosed with dementia. She had been assessed as being at high risk of choking and consequently was on a 'minced and moist/fork mashable' diet. A jam doughnut is unsuitable for someone on this diet and should not have been given to her. She died as a result of choking on the doughnut.

Employers, including care homes and care home providers, have a responsibility to devise safe methods of working and to provide the necessary information, instruction and training to their workers in the safe system of working.

The HSE's investigation found that staff who gave out snacks at the care home, had not been properly trained and did not have awareness of food that was suitable for each diet. They regularly gave this resident food, which was not suitable for her diet, in breach of their own risk assessment.

The care home company pleaded guilty to breaching Section 3(1) and Section 33(1)(a) of the Health and Safety at Work etc. Act 1974. They were fined £640,000.

The Health and Safety at Work etc. Act 1974, places general duties on employers to conduct their undertakings in such a way as to ensure, so far as is reasonably practicable, that persons other than themselves or their employees are not exposed to risks to their health or safety. Employers are required to carry out a suitable and sufficient risk assessment relevant to their activities under the Management of Health and Safety at Work Regulations 1999. In addition to the risk assessment, if required, relevant safe systems of work should be undertaken. Employees should be provided with adequate training and information to ensure they are competent, and risk can be reduced to an as far as reasonably practicable level.

To ensure that employees have received all necessary health and safety training, care homes should undertake a training needs analysis to identify the training required for each role within their organisation. If suitable training had been in place prior to the incident, the sad death of a resident could have been avoided.

