Introduction

The National Minimum Standards for Domiciliary Care Agencies contains a section called “Safe Working Practices”, and lists most of the legislation on health and safety in England. This legislation is important, and must be fully understood and fully observed in order to provide protection for the care worker and the client.

The agency has an overriding responsibility for safeguarding the health and safety of all of its workers whilst at work. However, in the field of domiciliary care, the client’s home is the care workers “workplace”, for much of the time. While the worker is in a client’s home, the agency shares with the client or their representatives the responsibility for health and safety.

In general, the agency is responsible for giving adequate training and information to its workers and for developing safe working procedures in relation to the work to be performed. Much of the training and many of the procedures will be applicable across all the home care work of an organisation but the variability of clients’ homes means that very individual risks and procedures may also have to apply in each one.

The client will generally be responsible for the condition of the “workplace” itself and for co-operating with agreed safe working procedures. In practice, the agency are likely to be far better informed about the requirements of health and safety and are expected to assist and advise clients accordingly. It must also be recognised that domestic premises are not primarily designed as workplaces and that alterations or improvements which would be considered routine in a factory or office environment may either be impractical or unaffordable in the client’s home.

Where a risk cannot be eliminated by practical changes in the client’s home, the agency and the client must agree a ‘safe system of work’ - a procedure for that specific task which will minimise the risk.

In a normal work situation the issue of responsibility does not arise. Lifting equipment provided by the employer, for example, comes under the management of the employer, and it is he who is responsible for its selection, appropriateness, maintenance, etc.

Along a similar theme, a domiciliary care agency may be asked to use equipment which has been provided by someone else (for example by a charity, or a local authority) and the lines of responsibility are not as clear. Equally, a client’s faulty kettle is not the responsibility of the agency, yet the care worker employed by the agency may be asked to use it, and exposing himself/herself to danger.
In such cases the responsibility of the agency, in general terms, is clear-cut, even when in practical terms, individual responsibilities may be harder to fathom. The clear unambiguous responsibility of the agency must be to respect its overriding duty to protect the health, safety and welfare of its employees, and those who come into contact with the services the agency provides (e.g. clients).

Thus, all of the legislation referred to applies to the agency, but responsibility for certain tasks may be someone else’s. Of course if something is unsafe, then it must be either made safe, or not used (e.g. the kettle above).

**Whilst the provision of care is a primary duty of the agency, and its raison d’etre, it is never to be care provided which, at the same time, exposes care**

And so on