

# Independent Care Matters

the newsletter for independent care providers in York  
and North Yorkshire

## Great North Care Awards— a celebration of excellence

Issue 15

Summer 2008



The National Railway Museum

The Independent Care Group (ICG) is delighted to announce it is hosting the first **Great North Care Awards** which will celebrate excellence in care in our area.



Supported by **The Royal Bank of Scotland**, the awards will cover all aspects of working in the care sector. The purpose of the awards is to promote best practice and pay tribute to those individuals who have demonstrated outstanding qualities within their field. There are a total of 15 categories representing all aspects of social care. The Awards will culminate in a **dazzling Awards Dinner** to be held at the National Railway Museum in York (above), on **Friday 14th November** (*continued on page 2*).



### Inside this issue:

Great North Care Awards	2
Skills for Care	3
ICG Chair	3
RLB Legal advice on Star ratings	4
Yours letters POVA referrals special	5/6 /7
Seamus Breen - NYCC	7

**Are you providing an excellent service? Do you have marvellous staff members who go the extra mile and deserve recognition?**

**The Great North Care Awards** aim to benefit individuals, organisations and sponsors. By nominating a colleague you will be supporting their dedication and commitment whilst also helping to raise the profile of the care sector as a whole. Organisations who nominate their employees will be demonstrating pride in their hard work and excellence. The awards also present an excellent publicity opportunity. *More details inside.*

Should your nomination be successful, you and your guests will have the chance to

attend a superb gala dinner - what better way to raise the profile of your organisation and motivate your staff!

**Don't miss out on your chance to pay tribute to those people who really do make a difference to the lives of others.** Without people like these, the older people and vulnerable members of our society would not receive the quality care they so deserve. Let's celebrate them!



Great North Care Awards (cont.)—tell us how good you are



**CG Chair Mike Padgham** says 'With these Care Awards we want to ensure that the people who are working hard to improve quality on a daily basis—across the care sector— are put forward for recognition.'



**Award categories**

Here are the Awards categories:

- ★ The Care Employer Award (*more than 350 employees*)
- ★ The Care Employer Award (*fewer than 350 employees*)
- ★ The Care Home Registered Manager Award
- ★ The Home Care Registered Manager Award
- ★ The Care Home Care Worker Award
- ★ The Home Care Worker Award
- ★ The Home Care Worker of a Specialist Service Award
- ★ The Care Recruitment Manager Award
- ★ The Care Team Award
- ★ The Ancillary Worker Award
- ★ The Care Trainer Award
- ★ The Care Innovator
- ★ The IT Innovator
- ★ The Care Home Nutrition Award
- ★ The Outstanding Contribution to Social Care Award

**Working in Partnership**  
**ICG** is working in partnership with North Yorkshire County Council, City of York Council and Skills for Care to make sure that the **Great North Care Awards** are fully supported and recognised in our area

**Categories to cover all types of care**  
The Awards will be representative of all those working within the care sector whether it be with older people or specialist services, residential or home care. From frontline staff such as care workers and managers to people who have made an impact in other ways such as training, nutrition and innovation.

**Judging**  
All shortlisted nominees will be invited to attend an interview with an independent panel of judges.

**Celebration Gala Dinner**  
From here successful finalists will be invited to attend a spectacular gala dinner at the National Railway Museum in York on **14<sup>th</sup> November 2008**, where the winners will be announced. The gala dinner will include a champagne reception, dinner with celebrity presenter and dancing into the night.

**Nomination forms and full details of the categories and criteria will be mailed out within our area in the near future.**

**Sponsors**  
Sponsors—who will make the awards possible—will include the Royal Bank of Scotland, HET Software and iCare Clinical & Care Management,

**If you need more information on how to nominate, book a table or become a sponsor please call Lisa Carr 07973 403 535 or e-mail: [lisacarr1@btinternet.com](mailto:lisacarr1@btinternet.com)**



## Skills for Care— National Minimum Data Set - Social Care Campaign



Over 1200 employers have completed their NMDS-SC in Yorkshire and the Humber. Completion of the data set provides employers with valuable information on their organisation's workforce, enabling them to better plan future service delivery and identify the skills required from their workforce. **The more employers that get involved, the more robust data we collect resulting in a stronger voice for increased resources for our sector.**

From 9 September until 3 October a minibus packed with the latest IT equipment will be stopping off at locations across Yorkshire and the Humber aiming to help those employers who have engaged with the NMDS-SC provide a full completion and help Local Authorities and employers new to the NMDS-SC understand the benefits.

A full list of dates for the Campaign are available on our website: [www.skillsforcare-yh.org.uk](http://www.skillsforcare-yh.org.uk).

**You can complete your NMDS-SC online at [www.nmds-sc-online.org.uk](http://www.nmds-sc-online.org.uk)**

### Skills for Care Funding for Social Care Training

**What is TSI?** The Training Strategy Implementation (TSI) is a contribution to the overall costs of training linked to the National Occupational Standards for Health and Social Care and is distributed by Lead Partners.

**Who can apply?** Any care provider from the voluntary, private, independent and local authorities can apply.

**How much is the funding?** The funding available is unit based and works out at **£80 per NVQ unit** achieved during this year and there is no restriction on the amount of units you can claim.

**What qualifications does TSI cover?** Social Care NVQs and other related units from level 2 through to level 4 Registered Managers Award. Common Induction Standards (CIS) and a single payment to support LDQ induction.

**You can find a list of lead partners on our website [www.skillsforcare-yh.org.uk](http://www.skillsforcare-yh.org.uk)**



For more information on Skills for Care please contact 01904 461 050.

## Message from ICG Chair—Mike Padgham writes

Social Care Providers have had a challenging time over the last decade or so. And the future looks to be equally challenging if not more so.

A little over a year ago we were welcoming a new Prime Minister into Downing Street and at ICG we were hoping that Mr Brown's arrival would signal a shift in the priority social care is given. Indeed, we wrote to Mr Brown to express that wish.

Mr Brown has had a torrid time of late, but social care has moved a little higher up the priority list and whilst it is probably not at the top – the consultation exercise and Green Paper on care funding indicate it is moving in the right direction.

ICG continues to lobby at a local

level too. I am pleased as well that we are sharing the Chair of the new Market Development Board which is a partnership between the Independent Sector, the County Council and the PCT. We have also been asked to comment and sign up to a local Concordat entitled 'Putting People First' in North Yorkshire. In York we have just signed a new three year partnership agreement with the City Council and we were invited to the review of the Council's performance with the Director and CSCI.

Recruitment and retention of good staff into the industry



remains an issue and the soaring cost of fuel provides a day-to-day problem that we all face. But I want to end on a positive note because I feel there is much to be positive about.

We know there are challenges ahead and those challenges are large – for us, for local government, the health service and Government. It isn't going to be easy and success won't come overnight. But as Henry Ford said 'To be successful you must accept all challenges that come your way. You can't just accept the ones you like.'

I am confident that we can and will rise to the challenges of the future.

*Mike Padgham*

## Legal advice from RadcliffesLeBrasseur solicitors

### Star ratings—to agree or disagree, there's the question ...

**M**uch has been written about the new star ratings, and much of it has been critical. Many commentators have expressed views both about the system and what to do if care providers disagree with the rating allocated. As from January 2008 ratings have been included in individual inspection reports and as from April 2008 the ratings began to appear on CSCI's website.

#### Quality Rating Review Service (QRRS)

As a result of these concerns the system for reviewing the rating received has come under close scrutiny. CSCI have implemented a system to review ratings entitled, 'Quality Rating Review Service'



#### Who can request a review?

The CSCI guidance indicates that only people registered with CSCI can request a review. It is clear that the Commission will not accept a request from service users, their relatives or Commissioning bodies.

#### When is it a complaint and not a review?

The guidance notes that a request through the QRRS should not be made where a provider is unhappy with the way an inspector carries out their inspection. Instead the corporate complaints procedure should be used for those concerns.

#### Review—only after other avenues tried

The guidance makes it plain that a request for a review will not be accepted unless attempts have first been made to resolve the matter with the local inspection team.



#### Well done Threshfield Court—for winning Awards for Dementia Care with a difference

The Memory Lane Team at Threshfield Court (near Skipton) has won a Person Centred Innovative Dementia Care Award. The team was selected from among hundreds of nominations across the country at the annual Barchester Care Awards for demonstrating excellence in person centred dementia care. They were also awarded as a special 'butterfly' award presented by Dementia Care Matters.

#### Time scales

After 28 days allowed to complete discussions with the local inspection team a further 7 days are allowed for providers to make a formal request. The request must be set out on a standard form produced by the Commission and copies can be printed off from their website.

A receipt acknowledging the request will be sent within 3 working days. If the request is not accepted the QRRS team will write again within 7 days confirming their refusal to review. CSCI have 28 days in total to consider the request and complete a review where considered necessary. If there is a delay beyond CSCI's control in this time frame, they will let providers know.

#### Who conducts a review?

*It should be noted that any review carried out by the QRRS is completed by an internal arm of CSCI and not an independent body. There is no machinery for challenging the outcome of a QRRS review; it is in effect the end of the line subject to any public law grounds for seeking a judicial review of the decision.*

#### Judicial review?

*Some of the more hawkish writers have suggested that challenging CSCI by means of judicial review is likely to be common. This is perhaps unlikely. There are likely to be few cases where it can be said that the CSCI inspector has acted in a way that could be criticised on the basis that no reasonable inspector could act in that way.*

**by Andrew Parsons and Oliver Donald RadcliffesLeBrasseur (RLB)**

For further information visit the RLB website at: [http://www.rlb-law.com/Repository/42/files/ch67\\_june2008.pdf](http://www.rlb-law.com/Repository/42/files/ch67_june2008.pdf)

See also the CSCI website page on Quality Ratings for care services at: [www.csci.org.uk/professional/care\\_providers/all\\_services/inspection/ratings\\_and\\_reports/star\\_ratings\\_for\\_care\\_services.aspx](http://www.csci.org.uk/professional/care_providers/all_services/inspection/ratings_and_reports/star_ratings_for_care_services.aspx)

**Law firm RadcliffesLeBrasseur specialises in advising providers in the health and social care sector. It operates a free advice line for ICG Members for legal queries related to healthcare on 0207 227 7308.**



Andrew Parsons

## Your letters ...



### POVA referrals—issues for employers

We know that many of our members have struggled with fulfilling their obligations on POVA referrals; complying with employment law; and keeping their businesses functioning.

There is a statutory requirement on providers of care to make a referral to the POVA list where misconduct has caused harm or placed people at risk of harm.

ICG has received a number of letters expressing the very real difficulties of trying to do the right thing.

We do not have room in this Issue to print them all—but the letter below gives a clear picture of the problems. Due to the sensitive nature of this issue we have withheld the writer's identity.



Dear ICG

### When employees are suspected of abuse

I am writing to share some recent experiences from the Domiciliary Care sector in North Yorkshire \ Humber that I think your readers should be aware of.

We acknowledge that procedures for how to deal with Adult Protection situations are essential but it has been our experience that **the current procedures are only really suitable for straightforward cases**. There seems to be very little protection for employers and employees built into them.

The Adult Protection team at Social Services are supposed to be the 'lead agency' in cases of suspected abuse of vulnerable adults but in our experience there is little (if any) sense of urgency from them. They have not 'managed' or 'directed' the cases that we have brought to their attention and there seems to be a lack of common understanding among the Adult Protection team of what the procedures actually consist of.

The strategy meeting that is supposed to take place as a matter of urgency sometimes does not take place at all and when it does, representatives of key agencies within the multidisciplinary team fail to attend, rendering the meeting meaningless.

External agencies such as Social Services, Adult Protection, CSCI and the police are very quick to try to dictate to the Service Provider how to handle employees who are alleged to have abused (Suspend them! Dismiss them!) but have no responsibility for dealing with the consequences of these actions.

#### Suspending the employee

It is worth noting at this point that to suspend an employee on full pay while an allegation is investigated (and to cover that employee's workload) can become crippling expensive when the other parties involved in the investigation have no sense of urgency. We have experienced one investigation that went on for 5 months due to the involvement of social services, the police etc. That's 5 months of full pay for the suspended employee who in this case was eventually dismissed!

It seems that there is a fundamental gap in the process and that the Adult Protection team and CSCi need a better understanding of employment law before they attempt to dictate the actions of care providers.

Providers themselves **MUST** understand that only they have the ultimate decision making responsibility. **There is no defence in an Employment Tribunal to say that "Social Services told me to do it"!**

Employers of care staff must be aware that no-one else is going to have their employees best interests at heart in these cases.

Continued on page 6

## Your letters—POVA referrals



### Letter continued from page 5

**POVA:** Were it not for the HR support in our company and peoples' confidence to stand their ground with Adult Protection and CSCI to protect the interests of their employees, we could have been in serious breach of employment law had we blindly followed the direction of external agencies.

Our company policy is that if (after a full investigation) a member of staff is believed to be guilty of abuse of vulnerable adults, we will make a referral to POVA. If this employee leaves the company before the referral is complete we will still proceed so that future employers will be warned when they carry out a POVA check.

### Protecting the service user/client

The conflicting advice and guidance that has been received from POVA has been shocking. Providers are expected to disclose full details of the incident of suspected abuse in the referral form and are then told that all these details may be seen by the suspected abuser. Even if the information is anonymised, it is impossible to do so in a way that retains the quality of the information but prevents the employee from being able to easily deduce the Service User's identity. This would obviously put the Service User at risk from an individual who knows where they live and possibly how to access their property. It means you are left to decide whether to make the referral to see justice done or protect the Service User. We have experienced Service Users being verbally and physically threatened for blowing the whistle on an abusive carer. The only advice the police could offer was to dial 999 if the Service User felt threatened!

We discovered (in another case) that the employee is not even necessarily contacted by POVA to advise them that a referral has been made against them, not given a chance to defend themselves and not even told when the case against them has been dropped.

It is our feeling that unless the Service Provider is an expert in the Adult Protection procedures, CSCI regulation, criminal proceedings and employment law, they stand little chance of being able to navigate through the process.

### Stressful and expensive

The process of making a POVA referral against an employee can be stressful and hugely expensive in terms of management time and resources. It is not surprising therefore that many Providers do not make POVA referrals when they suspect employees of adult abuse and when the employee leaves they feel that their responsibility ends there. All this does is devolve responsibility to the next employer who has carried out CRB and POVA checks and found no issues. I suspect that there are many serial abusers of vulnerable adults out there who have never been referred to POVA.

### Threats towards staff

Employers are put at risk by making a referral to POVA and having this brought to the employee's attention leading to threats of violence and retribution towards other staff. The advice from the police? Dial 999 if you feel under threat.

**It is no wonder care providers are reluctant to refer staff to POVA when abuse is suspected—when to do so can result in:**

- the Service User being made yet more vulnerable
- staff being threatened / put at risk
- huge cost in management time and resources
- highly stressful to all concerned
- enhanced security measures required i.e. staff cannot stay late in office and should not arrive / leave alone



And then to add insult to injury you are penalised by CSCI inspectors for having made referrals to POVA and for having the courage and sense of justice to do the right thing!

My advice to care providers in this situation is do not be dictated to by anyone. Listen to the advice and guidance offered by all external parties. **Seek your own employment law advice.** Weigh up all the evidence and information available. Make your own balanced decision, ensure that you can justify it and demonstrate how you reached it. Ultimately it is your responsibility to fulfil your duty of care to the Service User, the employee and protect the needs of the business, and no-one else's.

Name and address supplied

## Understanding the complexities of Employment Law

Here at **ICG** we are aware that care providers have to be skilled in so many fields—it is just not possible to be an expert in all of them. With this in mind **ICG** has arranged with **Citation**—specialists in Health and Safety and Employment Law—winners of the Queen's Award for Enterprise—to offer **ICG members 5% discount on their services**.  
Tel Citation on : 01565 650 013.



**David J Hewitt, Head of Employment Law Information at Citation** offers his comments on the issues raised:

*Unfortunately, this is an all too familiar scenario experienced by our Employment Advisors when dealing with clients in the care sector. We are frequently contacted by clients who are torn between complying with the requirements of external agencies on the one hand and complying with their obligations as an employer on the other. Whilst we are unable to advise clients who find themselves in this situation to bypass the requirements laid down by their regulatory bodies, such as CSCI, we are able to provide sound, practical employment law advice to enable them to navigate their way through the red tape and make balanced, well informed decisions relevant to their own business. From the feedback we receive from our clients this is an invaluable part of the service we offer. Clients are able to discuss issues with an experienced Advisor who is on 'their side', enabling them to explore ideas, seek clarity and decide on a fair and reasonable process.*

*We appreciate that disciplinary and grievance matters can be a minefield requiring not only a legal understanding but also a common sense approach, appropriate to the care environment. The final piece of advice to your members has to be not to 'dial 999' but to direct that call to an experienced personnel and employment law advisor.*

**If you have any comments to make on problems you have experienced in making POVA referrals—please contact ICG. Contact details on back page.**

**ICG has invited Seamus Breen—newly appointed Assistant Director Commissioning and Partnership at North Yorkshire County Council to write for us:**

**Seamus writes:** I am delighted to be back working in North Yorkshire after four years with the Department of Health and Care Services Improvement Partnership (CSIP).

Within days of arrival I had an opportunity to host with Mike Padgham the first Market Development Board, which is the title we have given to our new Partnership arrangement between the Local Authority and the Independent Sector. I feel it is important we have a robust Partnership arrangement as we are, together with Health and Social Care, but particularly Social Care, going to face challenging times ahead.

The constant big theme across all recent policy documents requires us to consider the continuous reform and transformation of Health and Social Care, led by the **Personalisation of Services**, as shaped by people needing support. We are required to become more efficient with Social Care and its Partners expected to deliver a 3% efficiency year on year. This is not surprising given the announcement about consultation on the future funding of Social Care. We are also expected to make an increased effort to shift the focus from acute provision to Early Intervention and Prevention in Community settings. The focus will be less on inabilities and services and more on outcomes for people and Communities. All of us, whether we are Commissioners or Providers, will be expected to give evidence of how we have listened to and responded to the voice of people who use our services. Frontline staff are expected to spend less time on assessment and more time on solution finding, with more people taking control of their own care through self assessment and individual budgets. The focus of performance management will be more on 'place' and less on individual organisations. We are expected to put people first, not the needs of organisations.

As well as presenting many challenges to us, this agenda has inherent risks for organisations and providers. Expectations are changing and the question we have to be able to answer is if people had money in their pocket and more choice, would they buy what we have on offer?

I am looking forward to working very closely with ICG during what I have no doubt will be a major transformation period in the Social Care market place.



**Seamus Breen**



*The voice of independent care providers in York and N Yorkshire*

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ICG represents independent care providers in York and North Yorkshire including care home providers for all client groups, domiciliary care agencies, supported living and extra care housing providers, and day centres in the private and voluntary parts of the independent sector.

*Independent Care Matters* is sent to all care providers in York and North Yorkshire, all City Councillors, all County Councillors, CEs of North Yorkshire and York PCT, Borough and District Councils, NHS Trusts, local MPs and MEPs and senior managers at NYCC & CYC.

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