

GUIDANCE FOR SCHEMES WHERE THERE ARE CONCERNS ABOUT THE CONDUCT OR STANDARD OF WORK OF A SHARED LIVES CARER

This draft has been web published for comment from the NAAPS membership. Deadline for comments is 30 April 2009. Comments should be sent to sian@naaps.org.uk or in writing to Sian Lockwood at the NAAPS office.

PURPOSE AND SCOPE

Shared Lives (SL) Schemes are responsible for providing the encouragement and help that SL Carers need to provide a good service to the people that they support. Schemes also have a duty to ensure that SL Carers do their work well and in a way that demonstrates their commitment to the values underpinning Shared Lives.

This guidance is designed to help Schemes ensure that SL Carers maintain good standards of conduct and work. Where there are concerns about the way in which the SL Carer is working, this guidance provides a fair and consistent approach to the alleged failure to maintain standards of conduct or work.

Finally the guidance should be clear about the advice and support the Scheme will give to carers wishing to re-apply to the Scheme if they have been de-approved in the past.

There are common elements to the procedure used where there are concerns about conduct and concerns about standards of work.

There are, however, some significant differences between the two processes and these have therefore been dealt with separately in the guidance.

PRINCIPLES

1. Scheme workers and SL Carers are equally responsible for and committed to upholding standards of work and conduct.
2. There are twenty five statements which set out the skills and knowledge that all SL Carers are expected to possess and the standards to which they are expected to work. Any concerns about standards of work should be expressed in terms of these statements and accompanied by evidence that supports the concern.
3. The Carer Agreement sets out the roles and responsibilities of the SL Scheme and the SL Carer and is a key tool in ensuring good standards of conduct and work in Shared Lives.
4. Minor breaches of the Carer Agreement by the SL Carer or concerns about standards of work should be dealt with informally in the first instance. The aim should be to understand the reasons for the SL

Carer's apparent failure to maintain standards and to identify ways in which the Scheme can support the Carer to do their work well.

5. Where concerns cannot be dealt with informally (because of the seriousness or the continuation of the concern), the Scheme should ensure that the SL Carer understands the nature of the concerns, the procedure that will be followed and the timescales for the process and has an opportunity to put their own side of the story. Note that where there has been an allegation of abuse the Scheme may be constrained in their communication with the SL Carer by local adult protection rules.
6. Carers are self-employed and are responsible for their own livelihood. However, removing their approval removes their ability to have future placements and in effect denies them an opportunity to work. For this reason Panels and Schemes need to approach de-approval of Carers with fairness and equity and any decisions should be based on clear evidence following an agreed process and should never be subjective, unfair or taken lightly. A decision to remove approval can be taken to judicial review and the court will penalise organisations where there is an insufficiently transparent and equitable process in place or where the decision is not sufficiently supported by evidence.
7. A decision to remove approval is made by the Scheme's Registered Manager on the recommendation of the SL Panel (made on the basis of evidence presented in a written report). The SL Carer will have had the opportunity to review the report in advance of the Panel meeting and to submit his/her own response. Both reports will have been made available to panel prior to the meeting. The SL Carer will have the opportunity to present their own side of the story at the panel hearing and has the right to be accompanied by a friend or representative (including a legal representative).
8. The SL Carer has the right to appeal against any decision to remove approval using the procedure outlined in the SL Panel Good Practice Guidance. At any appeal hearing the SL Carer should be able to submit written evidence and should have the opportunity to attend and bring someone to support them, including a legal representative.

CONCERNS ABOUT BREACHES OF THE CARER AGREEMENT

1. Informal Stage

- 1.1 The Scheme Worker has a responsibility to bring any concerns about breaches of the Carer Agreement to the attention of the SL Carer as quickly as possible, as this can avoid the need for formal action.
- 1.2 The Scheme Worker should meet the SL Carer to explain the concerns and offer the opportunity to explain. The Scheme worker should explore with the SL Carer whether there are any underlying reasons for

the breach and anything that the Scheme can do through additional training or support.

- 1.3 Where the SL Carer has no, or insufficient, reasons for the breach the worker may decide to take no formal action but simply state and record their concerns.
- 1.4 Where the breach of the carer agreement is serious or is persistent then the worker may decide that they need to take formal action. In that situation the following procedure will apply:

2 Investigation

- 2.1 The Scheme Worker should carefully investigate the alleged breach of the carer agreement before starting any formal proceedings. The extent of this investigation will depend upon the nature of the breach and may, for instance, be relatively simple for minor breaches of confidentiality and more complicated where the carer or a member of their household has been subject to criminal prosecution.
- 2.2 The investigation should include an informal meeting with the SL Carer concerned. The reason for the meeting should always be made clear.
- 2.3 Should the SL Carer refuse to attend or co-operate with such a meeting, the Scheme Manager will decide whether to arrange a Carer Review on the facts available, without information from the SL Carer.

3 Carer Review Meeting

- 3.1 If, after investigation, the Scheme Manager is satisfied that there is a case to answer, a Carer Review meeting will be held.
- 3.2 The Scheme Manager should contact the Carer to arrange a suitable time for the review meeting. The date, time and place for the meeting should be confirmed in a letter sent or handed to the SL Carer.
- 3.3 The letter will explain the specific allegations against the SL Carer and their right to be accompanied by a friend or representative. It will also say who will conduct the review meeting.
- 3.4 The SL Carer and/or his/her companion have the right to see copies of all relevant documents or records necessary to prepare their case. They will not however have access to information provided in confidence by or to a third party.
- 3.5 The review meeting will be conducted by the Scheme Manager.

4 Conclusions and actions from the Review Meeting

- 4.1 Following the review meeting, the Scheme Manager will decide:

- Whether the SL Carer has breached the terms of the Carer Agreement;
 - The underlying reasons for the breach and any mitigating factors;
 - Whether there is help that the Scheme could provide (eg additional support or training) to enable the SL Carer to avoid further breaches of the Carer Agreement;
 - Whether the breach is so serious and/or persistent as to merit removal of approval.
- 4.2 A copy of the report of the review meeting, including the Scheme Manager's conclusions, will be sent to the SL Carer for his/her comments.
- 4.3 The review report (including comments from the SL Carer) will be presented to the Approval Panel for consideration. The SL Carer has the right to be present at the Panel meeting and to be supported by a friend or representative (including a legal representative)
- 4.4 The Panel recommendations following consideration of the review report may include:
- Continuing approval (where appropriate with identified help from the Scheme)
 - Decreasing approval (if for example the Panel considers that the breach of the carer agreement was the result of over work)
 - Removal of approval
- 4.8 The Scheme Manager's decision about the approval status of the SL Carer will be made in the light of the recommendation by the SL Panel.

5 Appeals

- 5.1 The SL Carer has the right to appeal against any decision to remove approval using the procedure outlined in the Shared Lives Panel Good Practice Guidance.

CONCERNS ABOUT STANDARDS OF WORK

6 Informal Discussion

- 6.1 Any concerns about standards of work should ideally be dealt with informally in the first instance.
- 6.2 The Scheme Worker should meet the SL Carer to explain his/her concerns. This can be done as part of a normal support visit or at a separate meeting.
- 6.3 The Scheme Worker should explain his/her concerns clearly with concrete examples where possible. The SL Carer should be given ample opportunity to state his/her point of view.

- 6.4 If it becomes clear that the SL Carer's conduct has contributed to their poor standard of work then action may need to be taken under the procedure designed to maintain good standards of conduct.
- 6.5 Where there are no obvious conduct implications, the Scheme Worker should explore and agree with the SL Carer ways to help them to improve their work, including learning and development opportunities. The Scheme Worker should agree a date for review of progress and explain clearly the possible consequences of any failure to improve their standard of work.
- 6.6 A record of the meeting should be made by the Scheme Worker and agreed with the SL Carer. Copies should be kept by the Scheme and the SL Carer.

7. Formal Procedure

- 7.1 Where the informal approach has not proved successful or standards of work have been so poor that implications for the person supported are serious, a Carer Review meeting should be held.
- 7.2 The Scheme Manager should contact the Carer to arrange a suitable time for the review meeting. The date, time and place for the meeting should be confirmed in a letter sent or handed to the SL Carer.
- 7.3 The letter will explain the specific concerns about the SL Carer's standard of work and their right to be accompanied by a friend or representative. It will also say who will conduct the review meeting.
- 7.4 The review meeting will be conducted by the Scheme Manager.
- 7.5 At the review meeting the Scheme Manager should:
- Ensure that the SL Carer understands the standard of work that is expected
 - Explain clearly how the standards have not been achieved, with examples
 - State what improvement is expected
 - Provide an opportunity for the SL Carer to state his/her case
 - Identify and agree any actions to help them to improve their standard of work
 - Agree a date to review progress
- 7.4 A copy of the report of the review meeting, including the expectations of the Carer, the actions that will be undertaken by the Scheme to help the Carer to improve their standard of work and the date to review progress, will be sent to the SL Carer for their comment.

- 7.5 Where there is evidence at the next or subsequent review meetings that there has been little or no improvement in the SL Carer's standard of work and that the Scheme has put all agreed actions in place to help the Carer to improve, the Scheme Manager may recommend removal of approval.
- 7.6 A copy of the Scheme Manager's report, including copies of the reports of the Carer Review meetings, will be sent to the SL Carer for their comments.
- 7.7 The Scheme Manager's report (including comments from the SL Carer) will be presented to the Approval Panel for consideration. The SL Carer has the right to be present at the Panel meeting and to be supported by a friend or representative (including a legal representative)
- 7.8 The Panel recommendations following consideration of the Scheme Manager's report may include:
- Continuing approval (where appropriate with identified help from the Scheme)
 - Decreasing approval (if for example the Panel considers that poor standards of work was the result of over work)
 - Removal of approval
- 7.9 The Scheme Manager's decision about the approval status of the SL Carer will be made in the light of the recommendation by the SL Approval Panel.
- 7.10 Only in exceptional circumstances will the SL Carer lose approval as a result of a single example of poor work. Where, however, the actual or potential consequences of the single instance of poor work are extremely serious and a warning is not appropriate approval may be immediately suspended, prior to a report to Panel recommending removal of approval.
- 7.8 The SL Carer has the right to appeal against any loss of approval using the procedure outlined in the Shared Lives Panel Good Practice Guidance.