



# **Cumbria LINK Visiting Policy**

September 2008

The Cumbria LINK may, in certain circumstances, enter health and social care premises to observe and assess the nature and quality of services and obtain the views of the people using those services. In carrying out visits, the Cumbria LINK may be able to validate the evidence that they have already collected from local service users, patients, their carers and families, which can subsequently inform recommendations and be fed back to relevant organisations.

Properly conducted and co-ordinated visits, carried out as part of a constructive relationship between the Cumbria LINK and organisations commissioning and/or providing health and social care services, may enable ongoing service improvement. The Cumbria LINK role is not primarily to seek out faults with local services, but to consider the standard and provision of care services and how they may be improved.

The aim of this Code is to provide good practice guidance in respect of Cumbria LINK visits. The Cumbria LINK representatives who are authorised to undertake visits should use the Code when making visits. Those being visited may take the Code into account when deciding if the Cumbria LINK is acting reasonably and proportionately.

The Code is designed to give advice about how the following aims can be achieved:

- that – in relation to the Cumbria LINK visits – the rights of patients, service users, staff and residents are respected and protected as are those of the authorised representatives undertaking the visit;
- that visits are conducted in a spirit of openness and partnership between the Cumbria LINK, the provider of the service and the individuals receiving the service; and
- that the relationship and dialogue between the Cumbria LINK, provider and wider population remains positive and constructive.

The Government has introduced duties on certain commissioners and providers of health and social care services to allow authorised representatives of the Cumbria LINK to enter premises that providers own or control (with some exceptions), to observe the nature and quality of services.

In the context of the duty to allow entry, the organisations or persons concerned are:

- NHS Trusts
- NHS Foundation Trusts
- Primary Care Trusts
- Local Authorities
- a person providing primary medical services (e.g. GPs)
- a person providing primary dental services (i.e. dentists)

- a person providing primary ophthalmic services (i.e. opticians)
- a person providing pharmaceutical services (e.g. community pharmacists)
- a person who owns or controls premises where ophthalmic and pharmaceutical services are provided.
- Bodies or institutions which are contracted by Local Authorities or NHS Trusts,
- Primary Care Trusts or Strategic Health Authorities to provide care services.

## Preparations and practical arrangements

### The legal framework

#### Who from a LINK can conduct a visit?

Under the legislation, certain individuals can be authorised to enter, view and observe, health and social care activities being carried out – these individuals are referred to as ‘authorised representatives’. The Local Government and Public Involvement in Health Act 2007 makes it clear that authorised representatives must only enter and view premises for the purpose of carrying out the activities of the LINK they represent.

Before an individual can be authorised, the Cumbria LINK must have agreed procedures for making decisions about who can be an authorised representative. Regulation 3 of the Local Involvement Networks Regulations 2008 sets out the arrangements for authorised representatives. In brief, representatives can be authorised only if:

- they have undergone a Criminal Records Bureau check, in line with section 113A of the Police Act 1997, and have a certificate to verify this; and
- a ‘nominated person’ of the Cumbria LINK has considered the certificate and is satisfied that the person is suitable to carry out visits. Cumbria CVS will fulfil this role
- they have undergone specific training prior to undertaking any visits

The Cumbria LINK must make publicly available a comprehensive and up to date list of all of its authorised representatives.

In addition, because many health and social care services are now provided by the independent sector, the Government has published legally binding Directions. These Directions place a further duty on those commissioning services to ensure that their contracts with independent providers, made after 1 April 2008, allow for authorised representatives to enter and view, and observe the carrying on of activities in premises, which are owned or controlled by the independent provider.

However, the Government believes that some exclusions from the duty to allow entry are essential. Therefore, the duty to allow entry does not apply in the following circumstances:

- if the visit compromises either the effective provision of a service or the privacy or dignity of any person;
- if the premises where the care is being provided is a person's own home (this does not mean that an authorised representative cannot enter when invited by residents – it just means that there is no duty to allow them to enter);
- where the premises or parts of premises are used solely as accommodation for employees;
- where the premises are non-communal parts of care homes;
- where health and social care services are not provided at the premises (such as offices) or where they are not being provided at the time of the visit (for example when facilities and premises are closed);
- if, in the opinion of the provider of the service being visited, the authorised representative, in seeking to enter and view its premises, is not acting reasonably and proportionately; and/or
- if the authorised representative does not provide evidence that he or she is authorised in accordance with Regulation 4 of the LINks (Duty of Services-Providers to Allow Entry) Regulations 2008.

Finally, an important exclusion for the Cumbria LINK to be aware of is that the duty does not apply to the observing of any activities which relate to the provision of social care services to children.

## Good Practice

### Preparing for a visit

Visits are only one way of gathering intelligence about a service. It is important that the Cumbria LINK has a clear understanding of why it deems it necessary to enter and view a particular care setting. For example, it may be that a visit is prompted by feedback from local service users, patients, their carers and families, which suggests common concerns about performance or aspects of provision.

Before a visit, we would advise that the Cumbria LINK prepares by thinking through the kinds of information it might be helpful for the care provider to have prior to the proposed visit, and to give thought to the aims and structure of the visit.

The Cumbria LINK might consider providing the following information prior to the visit:

- a suggested date and time of the visit and how long it will last;
- the intelligence that has stimulated the visit (note that any patient and user feedback should be anonymised);
- the purpose of the visit;
- the shape and format of the planned visit, for example:
  - identification of staff, service users, and user forums that authorised representatives would like to meet;

- the number and nature of discussions/meetings to take place and whether special requirements will be necessary, such as communication aids or special access to buildings;
- the types of activities and service areas authorised representatives would like to access and observe;
- whether authorised representatives have explanatory leaflets about the Cumbria LINK (including contact information) available for distribution during the visit; and
- whether it would be helpful for staff and/or service users to accompany authorised representatives during the visit;
- the names of the authorised representatives attending the visit.  
**Please note:** careful consideration should be given to the number of representatives visiting an establishment at any one time. We would advise against authorised representatives working alone and would suggest that numbers should be proportionate to the size of the establishment wherever possible. Some care homes are extremely small and large numbers of visitors may unnerve residents and could compromise their privacy and dignity;
- reassurance that authorised representatives will have appropriate identification visible throughout the visit; and
- reassurance that draft findings resulting from the visit will be shared with the provider, together with – where appropriate – relevant residents, users, patients, carers and families or people whose feedback had prompted the visit, prior to them being finalised and shared more widely.

### **Requesting information**

In preparation for, or following, a visit the Cumbria LINK may request information from the relevant providers. The Cumbria LINK may request information from a public body under the Freedom of Information Act. If the Cumbria LINK wants to request information about a service provided by the independent sector but funded by a Primary Care Trust, NHS Trust, Strategic Health Authority or Local Authority, it can do so in line with the legally binding Directions about LINKs and independent providers.

### **Responding to the Cumbria LINK**

We would encourage those being visited to respond to the Cumbria LINK in a spirit of co-operation, while recognising it will not always be possible to meet all the requests.

In those cases, the providers might consider, for example:

- offering alternative times and dates if a request for a visit falls on a day which is not suitable;
- researching specific types of care provision to sufficiently understand methods deployed in different care environments and with different patient and user groups, for example, people with dementia, people with challenging behaviour, people who are close to death, etc;
- agreeing an approach for dealing with matters of concern or complaints raised by individuals on a visit and whether these should be referred to other agencies;

- researching the formal complaints process relevant to that care service, so that authorised representatives can inform service users of it if appropriate; and
- agreeing an approach for collating and writing up notes and producing draft findings from the visit including whether additional concerns or complaints raised during the visit should be included with the overall outcomes and recommendations.

### **Conduct and Behaviour during the visit**

It is expected that the Cumbria LINK authorised representatives will possess certain qualities which help to ensure proficiency in conducting visits. For example, people should demonstrate that they have the ability to listen, that they are sensitive to people's feelings, and are observant, patient and respectful.

It is very important, therefore, that they behave in a responsible, reasonable and proportionate manner as befits their role. They should bear in mind at all times that the needs of service users, residents and patients are paramount and are not to be compromised by the visit. They should also be sure to treat staff with respect at all times.

Authorised representatives can refer to the Cumbria LINK Code of Conduct for further information.

### **Examples of good practice**

Given the importance of personal conduct during a visit, we would advise authorised representatives to:

- treat staff, service users, residents, patients, their carers and families fairly, courteously, and with sensitivity and respect;
- ensure that the dignity and privacy of service users, residents patients, carers, families and staff are maintained at all times;
- be as unobtrusive as possible, and inform staff on duty about what they are doing at each stage of the visit;
- value people as individuals, respecting the different and diverse people they meet;
- exhibit no discriminatory behaviour;
- have respect for individual confidentiality, not disclosing confidential or sensitive information unless there is a genuine and urgent concern about the safety and wellbeing of a user, resident or patient, or if the individual concerned consents to the sharing of the information;
- co-operate with requests from staff, users, residents, patients carers and their families if necessary, and comply with all operational or health and safety requirements;
- give sufficient notice if an agreed date becomes unavailable owing to, for example, staff being unavailable;
- give reasons why a visit request is to be turned down; and/or
- provide an explanation if a visit has to be terminated early.

## **Preparatory work for the Cumbria LINK**

With the support of the Host, authorised representatives should prepare for all visits made to a health or social care setting. The types of activities that the Cumbria LINK might consider undertaking in advance of a visit include:

- thinking through the aim and desired outcomes of the visit;
- establishing whether any other visits are being planned around the same time of the Cumbria LINK visit by, for example, the care regulators (e.g. the Healthcare Commission or the Commission for Social Care Inspection) or Foundation Trust governors. Could the visits be coordinated?
- agreeing how the objectives of the visit will be achieved, for example:
  - by talking to staff, service users, patients – with their agreement
  - including meeting the user forum (where one exists) to hear their views;
  - by observing the general interaction between staff, users and patients and/or
  - by noting environmental aspects of the care setting;
- preparing a pre-visit checklist. The checklist could refer to information about a service which is already in the public domain to build a profile of any issues or concerns which have already been noted such as:
  - comments received by the Cumbria LINK from people with direct knowledge of the service (for example, users or their families, user groups or forums);
  - regulators' monitoring and recommendations;
  - Overview and Scrutiny Committee reviews and recommendations;
  - complaints information;
  - Patient and Public Involvement and/or Patient Advice and Liaison Service intelligence held by the relevant premises being visited; and
  - research into recommended practice/national minimum standards/core standards for the particular service area, numbers of staff, beds, activities, therapies, etc.
- identifying any special support needs necessary to facilitate the visit for example, the use of interpreters, signers, advocates or private rooms;
- identifying whether a specific mix of authorised representatives is appropriate to the setting to be visited (in terms of gender and diversity);
- agreeing and allocating topics of enquiry to visiting representatives in advance;
- deciding whether a particular service or specific aspect of a service should be the focus of the visit and whether the visit needs to be made at a specific time to coincide with certain activities:
- avoid interrupting the effective delivery of health or social care provision; authorised representatives should refrain from making unreasonable demands on staff, users and patients or disrupting services outside the agreed visiting schedule;

- recognise that user, resident or patient needs should always take priority; and
- be guided by staff where operational constraints may deem visiting activities inappropriate or mean that staff are unable to meet the requests of the authorised representative.

### After the visit

This section of the Code deals with what authorised representatives and the Cumbria LINK should consider once the visit has been completed, what to do with the information and with which other organisations the information might usefully be shared.

Authorised representatives should document their findings in writing following the visit. It will be helpful to refer to the pre-visit paperwork and to structure the written report in a way that clearly reflects the reasons for the visit being undertaken and how any information/evidence meets the visit objectives.

Authorised representatives should also make clear the source of their information evidence and the weight assigned to it taking care, of course, always to respect confidentiality. Such sources could include:

- authorised representatives' observations;
- discussions with staff;
- discussions with users;
- comments from carers and/or relatives;
- structured interviews; and/or
- documentation provided by staff/the proprietor.

In addition, it would be considered good practice for the Cumbria LINK, following a visit, to inform the staff that they visited of their findings, setting out detailed and constructive observations and comments. Sometimes, if the Cumbria LINK thinks it appropriate and feasible, it may wish to send the findings to service-users who were involved in the visit.

In all cases, a copy of the draft findings and any recommendations should be sent to the provider who was subject to the visit giving them the opportunity to check for factual accuracy and to allow for any recommendations to be considered. Ideally the Cumbria LINK will allow providers two weeks to respond or another agreed and reasonable period of time. Where the provider raises issues or concerns about the content of the draft, the Cumbria LINK and relevant authorised representative(s) should consider carefully what has been said, and decide whether the draft should be amended. It is also good practice for the Cumbria LINK to share the final version with the provider.

### Using the findings

The Cumbria LINK will be able to use this information to inform the overall picture of services being provided for the local community, what is being done really well, examples of good practice, and whether and how the needs and preferences of the community are being met. It will also help in documenting

recommendations for improvement where things are not so good, or there are gaps in provision.

### **Sharing findings with other organisations**

A key activity of the Cumbria LINK is to make reports and recommendations and, following a visit, the Cumbria LINK may wish to consider when and how it makes any information available to other organisations.

### **Commissioners of Services**

Those who commission services are a principal audience for information the Cumbria LINK gathers. We would expect the Cumbria LINK and commissioners to build good working relationships and agree how best to work together to make sure the intelligence gathered by the Cumbria LINK is fed back in the most effective and appropriate ways so that the needs and preferences of the local community can be effectively relayed to commissioners of services.