

RESUSCITATION NEWSLETTER – OCT 2018

Cardiopulmonary Resuscitation Automated Defibrillators and the Law

Defibrillators give high energy electric shocks to the heart through the chest wall to someone in cardiac arrest. Sudden cardiac arrest (SCA) is a leading cause of premature death, but immediate CPR and use of a defibrillator saves many lives. SCA occurs because the electrical rhythm that controls the heart is replaced by a chaotic disorganised rhythm called ventricular fibrillation (VF). Seconds count, and ambulance services are unlikely to arrive quickly enough to resuscitate most victims.

CHANCE OF SURVIVAL?

- The chance of survival falls by 10% with every minute defibrillation is delayed. Rarely can the LAS provide defibrillation early enough (within 5 minutes).
- To ensure prompt defibrillation someone nearby needs to use a defibrillator to deliver the shock that can save a life.
- Using an AED in this way allows the provision of effective treatment during the critical first few minutes after SCA while the emergency services are on their way.
- Going to the aid of someone in a life-threatening situation is a perfectly natural, human response, which evidence shows improves survival chances.
- Up to 60,000 people die each year in the UK from **sudden cardiac arrest (SCA)**
- Fewer than 1 person in 10 survives if SCA occurs out of hospital.
- Cardiopulmonary resuscitation and the use of an automated external defibrillator significantly improves survival.
- Both can be delivered by untrained members of the public.
- Acting to help someone who has suffered SCA will greatly improve their chance of survival.
- The courts have always looked benevolently on those who have gone to the assistance of others.

PREVENTING DEATHS FROM CARDIAC ARREST

- Estimated annual deaths from cardiac arrest around 60,000 per year in the UK
- English ambulance services attempt resuscitation to about 30,000 patients annually.
- Fewer than 1 person in 10 survives when the SCA occurs out of hospital.
- More bystanders are needed to start immediate cardiopulmonary resuscitation (CPR) in cases of SCA to improve survival.
- CPR and the use of an automated external defibrillator (AED) can significantly increase survival chances in these circumstances if performed **promptly**.

- AEDs are often provided in public places and can be safely used by untrained members of the public while waiting for an ambulance.
- The likelihood of causing harm by performing CPR or using an AED is very small.
- There has never been a reported successful claim against someone who has performed CPR/defibrillation on a person who has suffered cardiac arrest.

Cardiac Arrest is Due to an Abnormality in the Heart's Electrical Rhythm

Most SCAs are due to an abnormality of the heart's electrical rhythm called 'ventricular fibrillation'. The electrical impulses that normally control the heart become chaotic and uncoordinated, the heart stops beating and the circulation of blood stops. Survival requires the SCA to be recognised promptly and defibrillation carried out within a critical time period.

High Energy Electric Shocks Restart the Heart

Defibrillation uses high-energy electric shocks to stop the chaotic heart rhythm and allows the normal, organised, electrical rhythm of the heart to resume. This allows the heart to begin pumping normally again and restore life.

Speed Is Essential

Death following SCA is common because defibrillation isn't provided quickly enough. For defibrillation to be successful, it needs to be carried out within a few minutes of the onset of ventricular fibrillation, although this period can be extended if a bystander provides cardiopulmonary resuscitation (CPR) without delay. CPR keeps the heart moving and enables blood to flow.

Call 999 and Start CPR

This entails recognising that someone may have suffered SCA, calling the emergency services on 999 or 112 (all Europe), and then performing CPR. This basic first aid will maintain an oxygen supply to the brain and other organs and make it more likely that the heart can be re-started by defibrillation.

Keep Doing CPR Until Ambulance Arrives

In the early stages the priority is to provide CPR chest compressions. If a rescuer is unable or unwilling to provide rescue breaths, uninterrupted CPR should be continued.

LEGAL ACCOUNTABILITY

Two Defences

In professional medical practice, there are two defences available to healthcare professionals: 'implied consent' (the assumption that if someone were conscious and able to make a decision, they would consent to the procedure) and 'necessity' (that the treatment is given in the best interests of the patient).

Implied Consent to Save a Life

While the defence of implied consent may not be as clear-cut if the rescuer isn't medically qualified, the defence of necessity is available, provided the rescuer acts reasonably in the circumstances. For instance, it would be reasonable to carry out CPR and use an AED if no healthcare professionals were available.

Mental Capacity Act

Section 5 of the Mental Capacity Act (England and Wales) 2005, which applies to people aged 16 and over, adds weight to the 'implied consent' defence. It suggests that if a passer-by goes to help someone believed to be having a cardiac arrest, they are not committing battery if they reasonably believe the person they are trying to help isn't mentally capable of giving consent for CPR. They can use an AED to save a person's life if they believe it would be in the person's best interests to try resuscitation.

No Legal Obligation for a Bystander to Resuscitate

In the UK, there is no legal obligation for others to help a person in need of resuscitation, provided they were not the cause of the person needing help. But, once a bystander volunteers to help, they are then considered to have a duty of care to assist the person as far as they are able.

Bringing a Person Back to Life Doesn't Create Liability for the Rescuer

Harm cannot be caused to a person in cardiac arrest because they are dead, and without intervention recovery is impossible. An AED will only send shocks if it detects a pattern consistent with a cardiac arrest. An intervention in the case of a cardiac arrest cannot create legal liability because the situation cannot get any worse. Intervention can only improve the outcome.

Duty to Ensure that First Aiders are Well Trained

Third parties, such as first aid trainers, or organisations that provide training, maintain resuscitation equipment or administer the system under which rescuers operate, could potentially be held liable if the training of first aiders or equipment was inadequate leading directly to harm.

Failure to Provide an AED – Risk of a Negligence Claim Under Common Law

There is no UK legislation stipulating that AEDs must be provided in public areas. Not providing AEDs cannot result in a legal claim, but a claim for negligence could be brought if it could be shown that a duty of care had been breached, leading to harm. Since their introduction, the use of AEDs by lay people has been widely recommended in **international resuscitation guidelines**. This has given rise to the concern that failing to provide an AED might lead to a claim for negligence under common law if a member of the public were to suffer a cardiac arrest on the premises. Each organisation should therefore consider assessing the pros and cons of AED provision.

Don't Wait Till Someone Dies

When an employee or visitor to an organisation dies on the premises from a cardiac arrest the organisation is often motivated to purchase an AED – too late- the person could have lived. Families can be traumatised by the omission of simple acts of compassion – CPR and defibrillation.

MORE INFORMATION AND ADVICE FROM THE LAS

How to get a defibrillator and join the accreditation scheme:

Call **020 7783 2366** OR email: ShockinglyEasy@londonambulance.nhs.uk

<http://aace.org.uk/wp-content/uploads/2014/05/ShockinglyEasy-booklet-1.pdf>
www.londonambulance.nhs.uk/calling-us/emergency-heart-care/cardiac-arrest/shockingly-easy-campaign/

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