

# **SAFEGUARDING ADULTS AT RISK PROCEDURE**

## Adult at Risk Safeguarding Procedure

### Introduction

#### Purpose of the procedure

The purpose of this procedure is to provide a framework for all staff and volunteers within BeyondAutism. It should be used in conjunction with the Adult at Risk Safeguarding Policy, to prevent and reduce the risk of abuse to all adults who use Beyond Autism's services or come into contact with staff or volunteers. The procedure details the steps the individuals and key people are expected to take.

#### Legal requirements

These are detailed in the policy.

#### Areas of responsibility

- **Everyone's responsibility:** safeguarding and protecting adults who use BeyondAutism's services from abuse and neglect is the responsibility of all staff, volunteers, governors and trustees who work for, or represent, BeyondAutism. This includes a responsibility to ensure they are informed and trained to an appropriate level. It has become accepted terminology to refer to the person who initially raises the concern as **the alerter**. This can be anyone.
- All staff, volunteers, Governors, Advisory Board members and trustees are expected to report and discuss any concerns to either the Designated Adult Safeguarding Lead within BeyondAutism or the Chief Executive without delay. The seniority of the Designated Adult Safeguarding Lead should never be a block to anyone raising a concern.
- **At BeyondAutism the Designated Adult Safeguarding Lead is the Executive Head or Deputy Head of School for Tram House School along with Head of Service for Post-19.** The **Designated Adult Safeguarding Lead** has lead responsibility for responding to concerns about the abuse of adults at risk. The Designated Adult Safeguarding Lead will, dependent on the level of seriousness of the concern, brief the Chair of Governors/Chair of Advisory Board of the service and the Chief Executive. On complex or challenging safeguarding matters the Designated Adult Safeguarding Lead will consult with the Chief Executive. The Chief Executive carries the overall responsibility for all safeguarding matters within the charity as a whole.

The **Designated Adult Safeguarding Lead** also has a responsibility to publish online the Safeguarding Policy and Procedure, as well as each year informing all parents/carers that our services have a duty to contact the local authority Adult

Social Care department and/or the police if there are concerns that an adult may be being abused.

- The **Designated Adult Safeguarding Lead** should ensure the alleged victim is made safe, that any staff or volunteer who may have caused harm is not in contact with service users and others who may be at risk, for example, 'whistle-blowers' and to ensure that appropriate information is provided in a timely way.
- **Chief Executive** – has overall responsibility for all safeguarding matters. He/she will also be required to offer consultation to the Designated Adult Safeguarding Lead on any matters which are seen as complex or challenging. The Chief Executive will always brief the Chair of Trustees/Chair of Advisory Board, dependent on the level of seriousness of the concern.

The Designated Adult Safeguarding Lead and Chief Executive have lead responsibility for ensuring all appropriate actions have been taken and for providing staff, volunteers, governors, advisory board members and trustees with the guidance required. The only occasion when one of them should not be informed of a concern is if they are themselves implicated in abuse; in such circumstances staff will always go to the other above named senior member of staff.

- BeyondAutism has a responsibility to make sure that their staff are fit to work with adults at risk. In particular, we should make sure:
  - Safeguarding Adults is taken into account in all appropriate HR strategies, systems, policies and procedures.
  - National safe recruitment and employment practices are adhered to, including the DBS.
  - Staff and volunteers in contact with adults at risk have regular supervision and support to help them identify and respond to possible abuse and neglect.

## Procedure Details

The procedures detailed here are mandatory and must be followed. The flow charts that accompany these procedures constitute the basic outline of the process that needs to be considered; each box on the flow chart has a related paragraph in these procedures. Procedures cannot predict every set of circumstances, and if any member of staff/volunteer is dealing with a safeguarding matter, then they should raise concerns without delay, seek support through supervision and debrief with a senior manager at each stage of the process.

This procedure also aims to make sure that each adult at risk maintains:

- Choice and control
- Safety
- Health
- Quality of life

- Dignity and respect

## Responding to Concerns that an Adult may be Being Abused or Neglected

Also refer to flow chart Appendix 6.

### Recognition of Signs and Indicators of Abuse

Recognition of the signs and indicators of abuse poses considerable challenges for most professional staff who work with adults and who do not deal with protection and safeguarding issues on a day-to-day basis. This is, in part because the notion of adults being at risk of abuse or neglect is one which is relatively new to our society in comparison to the longer term acceptance of concerns of abuse for children and the now well established systems in place. Identifying abuse of adults with disabilities who may also present with a range of behaviours that challenge is not straightforward. It is crucial to effective safeguarding that all staff and volunteers are able to recognise signs and indicators of abuse and this requires acceptance that adults with autism are more likely to be abused than adults without disabilities.

Appendix 1 offers a range of indicators and signs of abuse as well as examining some of the potential blocks to recognition and factors which can inhibit the taking of appropriate steps.

If the member of staff or volunteer believes that an adult is at immediate risk of harm or abuse, they will take immediate and reasonable steps to protect the adult. However, such situations are very rare and in most circumstances, staff will raise a concern following the process below.

### Raising a Concern

Staff will raise a concern by verbally reporting directly to their Designated Adult Safeguarding Lead (or in their absence a DASP) they will then complete an Incident Report on CPOMS. If the member of staff cannot locate the Designated Adult Safeguarding Lead to verbally report the concern, this should not delay the completion of a CPOMS report. As part of the concern raised, staff will make a detailed written account of what they have seen, observed or heard and ensure that this is factual and recorded accurately on CPOMS. CPOMS is configured to ensure that the relevant staff are alerted to the concerns. The member of staff or volunteer who noted and raised the concern is known as the alerter; if the matter is serious, adult social care or the police may wish to speak to the alerter at some point.

### Supporting the Adult at Risk

The adult about whom there is a concern should be supported in a way which does not jeopardise any investigation or criminal prosecution. This means that staff should not ask

leading questions, become emotionally involved in the situation or share their personal opinions or reactions about what has occurred. Decisions about how this will be achieved will be taken at the multi-agency strategy meeting informed by what the adult is saying they need and what would be acceptable to them.

## Recording

The keeping of accurate and prompt recording is fundamental to effective safeguarding and all staff and volunteers have a responsibility to ensure all concerns are recorded appropriately. This requires those who raise concerns to make a written record within **two hours** of raising any concerns.

This record of raising a concern should include:

Who they have concerns about (name of adult at risk/ student)

- In the view of the staff member does the adult at risk have the capacity to understand the concerns and that they may have been abused.
- What has been shared with the adult at risk about the concerns and what response have they made.
- If the adult at risk has capacity to understand the involvement of other agencies what have they said about this.
- Date and time they are making the record.
- Date and time the incident occurred (if this is known).
- What was observed, heard or noted that led to the concern being raised providing an accurate account.
- Source of information (if the concern was not directly observed i.e. a parent informs a member of staff that he/ she has seen abuse indicators).
- Behavioural observations (noting that this is one of the most likely ways in which a member of staff is likely to note concerns).
- If an adult at risk has made an allegation, then there should be written documentation stating the facts based on exactly what the adult said.
- Which senior manager within BeyondAutism has been reported to (in line with these procedures) and what initial actions were agreed.
- This record will be automatically signed and time/dated by the person making the recording and the designated person in the school/Post-19 or recorded using their own assigned CPOMS log in.

When reporting a concern to the local authority, the Designated Adult Safeguarding Lead in conjunction with the service's DSL's and External Safeguarding team will inform the local authority that a written record of the concern is available and will e-mail details of the concerns to the local authority. Any details in relation to the adult concerned must be communicated in a secure way in line with our Data Protection Policy.

If at any stage BeyondAutism or the local authority decide that no further action is to be taken, then the reason for this and who made the decision will be recorded.

All subsequent actions/events following the reporting of a concern should be recorded and attached to the original concern in a chronological order as should any documentation received from the local authority, police or other agencies.

## Confidentiality and Storage of Safeguarding Concerns

In each service the Designated Adult Safeguarding Lead has responsibility to ensure all concerns within their provision are recorded, monitored and secured. The responsibility for concerns that are not about students within the provision are recorded, monitored and secured is the responsibility of the Chief Executive.

All paper records will be kept in a locked cabinet and in a secure place within the main building and will not be taken off the site without the express written permission of the Chief Executive. Access to these records will be strictly limited on a need to know basis and controlled by the Designated Adult Safeguarding Lead and the Chief Executive. Where possible, all documents should be stored securely using CPOMS in the appropriate Document Vault.

Safeguarding records will be kept separately from education files/ records. If a service user transfers to another service, BeyondAutism will provide the new setting with a summary of any outstanding concerns and the names/ contact details of key professionals from other agencies who are aware of the concerns.

Adults at Risk with capacity can, should they choose, request access to anything that is recorded about them. Therefore, anyone recording safeguarding issues should consider this and ensure that records are factual, clear and where opinion is expressed, it should be recorded as such and distinguished from fact.

## Initial Fact Finding

It is reasonable to check some basic facts prior to alerting other professionals. The Designated Adult Safeguarding Lead will always lead on initial fact finding. They may delegate specific tasks of the initial fact finding to staff unrelated to the concerns. Initial fact finding should involve checking files and recent records and clarifying basic facts with key staff including the alerter, as well as discretely asking other staff who have had recent contact with the adult to ascertain if they have any issues or concerns.

Initial fact finding should never involve asking an adult at risk to discuss the concerns or repeat a disclosure or allegation that has been made.

Initial fact finding can lead to the **Designated Adult Safeguarding Lead** deciding that there are no protection concerns that warrant a referral to Adult Social Care or the Police. In such



circumstances, when no further action is being taken, then the decision needs to be recorded.

### Concern that an adult may be at risk of significant harm by staff, volunteers, parents, carers or someone known to the adult

If the concerns and initial fact finding lead to the conclusion that an adult may have been harmed or at risk of significant harm, then the **Designated Adult Safeguarding Lead** will raise an alert to the Adult Social Care Department in the local authority area where the adult at risk lives or in the case of this being a concern about a member of staff or volunteer then Wandsworth Adult Social Care Department will be contacted (within BeyondAutism Post-19 Hammersmith Hub, this should be The London Borough of Hammersmith and Fulham).

### Involving the Adult at Risk

It is important that, prior to making a referral to Adult Social Care or the police, timely consideration has been given to the ability of the adult at risk to understand the concerns, and whether they have an ability to give consent to concerns being raised with other agencies. It is likely that one of the first questions that the local authority is likely to ask is 'Does the adult at risk have capacity?' This refers to capacity as defined under the Mental Capacity (Amendment) Act 2019 which is explained in more detail in Appendix 2.

In brief:

It is always essential in safeguarding to consider whether the adult at risk is capable of giving informed consent. If they are, their consent should be sought prior to making a referral. This may be in relation to whether they give consent to:

- An activity that may be abusive – if consent to abuse or neglect was given under duress, for example, as a result of exploitation, pressure, fear or intimidation, this apparent consent should be disregarded.
- A Safeguarding Adults investigation going ahead in response to a concern that has been raised.

Where an adult at risk, with mental capacity, has made a decision that they do not want action to be taken and there are no public interest or vital interest considerations, their wishes must be respected. This may present challenges at the school, college or in other services, if the adult also asserts they do not want their parents or carers to be informed. The person must be given information, have the opportunity to consider all the risks and fully understand the likely consequences of that decision over the short and long term. If, after discussion with the adult at risk who has mental capacity, they refuse any intervention, their wishes will be respected *unless*:

1. There is a public interest, for example, not acting will put other adults or children at risk.
2. There is a duty of care to intervene, for example, a crime has been or may be committed.

In such circumstance in the above two points, an alert to the Adult Social Care Department must be made. When there are concerns that a crime has been committed, then the police should also be informed. An allegation of abuse or neglect of an adult at risk, who does not have capacity to consent on issues about their own safety, will always give rise to action under the Safeguarding Adults process and subsequent decisions made in their best interests will be made in line with the Mental Capacity Act and Mental Capacity Act *Code*. The Act makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks capacity.

### Raising an Alert

To raise an alert with the Adult Social Care Department will require a lot of information to be shared. This should happen without delay by telephone. All London local authorities now have forms that will also be required to be completed once the telephone referral has been made. The telephone call will require information sharing, which is detailed in Appendix 3, (Checklist for Preparing to make a referral).

The **Designated Adult Safeguarding Lead** will inform the Chief Executive and Chair of School Governors, Chair of the Advisory Board or other as appropriate. The Chief Executive in turn will brief and keep updated the Chair of Trustees as appropriate.

### Information Sharing

An information-sharing protocol is set out in Appendix 7. This protocol recognises that information sharing between organisations is essential to safeguard adults at risk of abuse, neglect and exploitation. Information will be shared within and between organisations in line with the principles set out below.

- Adults have a right to independence, choice and self-determination. This right extends to them being able to have control over information about themselves and to determine what information is shared. Even in situations where there is no legal requirement to obtain written consent before sharing information, it is good practice to do so.
- The person's wishes should always be considered, however, protecting adults at risk establishes a general principle that an incident of suspected or actual abuse can be reported more widely and that in so doing, some information may need to be shared among those involved.
- Information given to an individual member of staff belongs to the organisation and not to the individual employee. An individual employee cannot give a personal assurance of confidentiality to an adult at risk.



- An organisation should obtain the adult at risk's written consent to share information and should routinely explain what information may be shared with other people or organisations.
- Difficulties in working within the principles of maintaining the confidentiality of an adult should not lead to a failure to take action to protect the adult from abuse or harm.
- Confidentiality must not be confused with secrecy, that is, the need to protect the management interests of an organisation should not override the need to protect the adult.
- Staff reporting concerns at work ('whistleblowing') are entitled to protection under the Public Interest Disclosure Act 1998.
- Decisions about what information is shared and with whom will be taken on a case-by-case basis. Whether information is shared with or without the adult at risk's consent, the information shared should be:
  - necessary for the purpose for which it is being shared
  - shared only with those who have a need for it
  - be accurate and up to date
  - be shared in a timely fashion - be shared accurately - be shared securely.

### The Local Authority Decision to Accept or Not, the Concern of an Adult at Risk

Adult safeguarding processes have historically evolved out of serious concerns for adults living in institutional settings; therefore, an Adult Social Care Department may attempt not to accept the nature of the concern, if the abuse is within a family setting. For example, they may attempt to classify the concern as domestic violence. In such circumstances, advice should be carefully recorded and any signposting to other agencies followed without delay. The Designated Adult Safeguarding Lead's role in contributing to the decision to use the safeguarding Adults procedure is detailed in Appendix 5.

If the concerns are accepted as an adult at risk:

- If the adult at risk has capacity, the local authority will arrange to speak with the adult to clarify facts and to find out from them what is happening, discuss the concerns and carry out a risk assessment with them. This will establish if they understand the risk and what help they may need to support them to reduce the risk if that is what they want. The local authority will want to be satisfied that the ability to make an informed decision is not being undermined by the harm they are experiencing and is not affected by intimidation, misuse of authority or undue influence, pressure or exploitation, if they decline assistance.
- If the adult at risk does not have capacity, then their capacity will be appropriately assessed as soon as possible; in safeguarding, this is a process that the local authority will lead on. If it is established that the adult at risk lacks capacity, feedback will be given by the local authority to them and anyone who is acting in their best

interests (for example, a family member, attorney or court appointed deputy), unless they are implicated in the allegation.

## Strategy Meetings

The local authority Adult Social Care Department can decide that there is a need for a strategy meeting. It should be anticipated that the **Designated Adult Safeguarding Lead** from BeyondAutism will be invited to attend.

At the meeting the following should be discussed:

- The wishes of the adult at risk
- Whether an investigation will take place, and if so, how it should be conducted and by whom
- A risk assessment
- An interim protection plan
- A clear record of the decisions
- A record of what information is shared
- An investigation plan with timescales
- A communication strategy
- Whether a child (under 18 years) may be at risk - if so there will be a referral to children's social care.
- The strategy discussion or meeting should take place before any investigation; the exception to this is if a police investigation is required to gather evidence. BeyondAutism should not begin an investigation prior to a decision by the multiagency strategy meeting or discussion.

## Outcomes of Strategy Meeting

There are a wide range of possible outcomes that can come from a strategy meeting, these include:

- That the police are going to investigate - the alerter and the Designated Adult Safeguarding Lead are likely to be interviewed. (If the concerns relate to a BeyondAutism staff or volunteer then they will also be interviewed by the police and this could be under caution.)
- That the local authority is going to investigate - again the alerter and the Designated Adult Safeguarding Lead are likely to be interviewed.
- That BeyondAutism lead its own internal investigation - under such circumstances the local authority will require a range of assurances regarding the protection of adults and the robustness of the process being agreed. There will also be an expectation of full, open and transparent feedback to the local authority.

## Investigation

Guidance on investigations can be found in The London Multi-Agency Adult Safeguarding Policy and Procedures (as agreed at the Dignity, Capacity and Safety Group meeting 2nd December 2015).

## Case Conference

Following any investigation, a case conference is convened by the local authority.

The aim of a case conference is to:

- consider the information contained in the investigating officer's report(s)
- consider the evidence and, if substantiated, plan what action is indicated
- plan further action if the allegation is not substantiated
- plan further action if the investigation is inconclusive
- consider what legal or statutory action or redress is indicated
- make a decision about the levels of current risks and a judgement about any likely future risks
- agree a protection plan
- agree how the protection plan will be reviewed and monitored.

## Possible outcomes for the adult at risk

- Increased monitoring
- Removal from property/support, advice, services
- Assessment/services
- Application to Court of Protection
- Application to change appointeeship
- Referral to advocacy service
- Referral to counselling services
- Guardianship/use of Mental Health Act 2007
- Review of self-directed support
- Restriction/management of access
- Referral to MARAC (London based domestic violence units)
- No further action
- Other

## Possible outcomes for the person alleged to have caused harm

- Criminal prosecution/formal caution
- Police action
- Assessment/services

- Removal from property/support, advice, services
- Management of access to adult at risk
- Referral to *DBS*
- Disciplinary action
- Action by CQC or OFSTED
- Continued monitoring
- Counselling/training
- Referral to court-mandated treatment
- Action under Mental Health Act 2007
- Exoneration
- No further action
- Other

## Protection Plans and Reviews

One outcome of a case conference is the agreement of a protection plan. This could mean that BeyondAutism is requested to provide additional services, monitoring or support as part of the plan. Staff involved with the plan and the adult at risk should have a good understanding as to what the plan involves and the Designated Adult Safeguarding Lead (Safeguarding Adults Lead) should have a written copy of the plan.

The protection plan should be reviewed by the convening of a review meeting.

## Closing a Safeguarding Adults at Risk Process

The Safeguarding Adults process may be closed at any stage if it is agreed that an on-going investigation is not needed or if the investigation has been completed and a protection plan is agreed and put in place.

In most cases a decision to close the Safeguarding Adults process is taken at the case conference or at a protection plan review. The Safeguarding Adults process may close, but other processes may continue, for example, a disciplinary or professional body investigation.

## Workplace Arrangements

If the above procedures relate to a member of staff or volunteer, a decision will need to be made as to whether the member of staff should remain in the workplace or whether they should be suspended until the investigation is resolved. If the member of staff remains in the workplace, safeguards will be put in place to protect the member of staff and the adult at risk involved. The member of staff will be advised to contact their union representative and BeyondAutism will provide support as appropriate. The senior member of staff will keep both the member of staff, the adult at risk and, if appropriate the family, up to date with regard to timescales of meetings and the procedures being put in place.

If BeyondAutism decides that suspension is necessary, then this will be done without prejudice. Suspension should be considered without delay if it is indicated that:

- A staff member has behaved in a way that may have, or has, harmed an adult.
- A staff member has possibly committed an offence against, or related, to an adult or child.
- A staff member has behaved towards an adult/child in a way which indicates she/he is now unsuitable to work with adults at risk or children.
- The Adult Social Care Department or the police are advising suspension.

No formal internal inquiry can start until the police have concluded their processes. Agreement should be obtained in writing from the local authority that an internal inquiry can commence.

At each stage the Designated Adult Safeguarding Lead will need to take HR advice, keep the staff member updated (following agreement with the local authority) and keep the adult at risk (and where appropriate the family of the adult) updated (again following agreement with the local authority).

### Notifying the Disclosure & Barring Service and Professional Bodies

If a staff member is dismissed because of abuse concerns, then BeyondAutism has a legal duty to formally notify the Disclosure & Barring Service (DBS). This also applies if a member of staff resigns as a result of safeguarding concerns being raised. The referral process is fully detailed on the DBS website.

If a staff member is dismissed or resigns because of abuse/neglect concerns, then BeyondAutism has a duty to formally notify the professional body the member of staff belonged to, for example the Teaching Regulation Agency or The Health and Care Professions Council (HCPC).

### Training and Implementing Safeguarding Policy and Procedures

**The Designated Adult Safeguarding Lead** will ensure that all parents/ carers have access to the policy and procedures and an understanding that BeyondAutism has a duty to inform the Adult Social Care Department or the Police, if there are concerns about abuse.

BeyondAutism will ensure that all staff and volunteers have access to all policies and procedures relating to safeguarding and will have access to refresher training annually. All staff and volunteers must have effective training on the recognition of abuse and neglect and how to respond to such concerns.

All new staff will, as part of their induction, be asked to read, and then discuss in supervision, their understanding of the procedures. All new staff/volunteers in the services will have a briefing on the procedures and the role of the Designated Adult Safeguarding

Lead; all new staff in BeyondAutism who are not part of the services' teams will have a similar briefing from the Chief Executive. Senior managers will put in place a process for ensuring all temporary members of staff are briefed on the safeguarding procedures as they start in post.

## Other Issues

### Restraint and physical abuse

Unlawful or inappropriate use of restraint or physical interventions and/or deprivation of liberty is physical abuse. There is a distinction to be drawn between restraint, restriction and deprivation of liberty. A judgement as to whether a person is being deprived of liberty will depend on the particular circumstances of the case, taking into account the degree of intensity, type of restriction, duration, the effect and the manner of the implementation of the measure in question. In extreme circumstances, unlawful or inappropriate use of restraint may constitute a criminal offence. Someone is using restraint if they use force, or threaten to use force, to make someone do something they are resisting, or where a person's freedom of movement is restricted, whether they are resisting or not. Restraint covers a wide range of actions. It includes the use of active or passive means to ensure that the person concerned does something, or does not do something they want to do, for example, the use of keypads to prevent people from going where they want from a closed environment. Appropriate use of restraint can be justified to prevent harm to a person who lacks capacity, as long as it is a proportionate response to the likelihood and seriousness of the harm. BeyondAutism has in place internal practice guidance and the Mental Capacity (Amendment) Act 2019, Mental Capacity Act Code and the Liberty Protection Safeguards (LPS) in respect of adults.

**The transition to adult life, autism and possible safeguarding concerns** the transition that children make through adolescence into adult life can be impeded not only by a disability, such as autism, but also by parents', carers' and providers' responses and methods of coping/responding to the manifestations of behaviours that can arise with the condition of autism.

The coping strategies that worked for a child of 8 or 9 are not likely to be appropriate when the young person is 16 or 18 years old. It is likely that some coping strategies may not only be inappropriate for an adult but are open to misinterpretation and may lead to a young adult with autism being more vulnerable to abuse.

It is therefore essential that parents, carers and staff work collaboratively with young people and young adults with autism to develop safe strategies which are less likely to be misinterpreted or open to abuse.

Last reviewed: Jan 2021

Date of next review: Jan 2022

Review Group: Trustees



## Appendix 1

### Definitions of Abuse and Recognising Signs and Indicators of Abuse Definitions

Adult abuse and neglect are described in the guidance in terms of the following categories:

- Physical
- Domestic
- Sexual
- Psychological
- Financial or material
- Modern slavery
- Discriminatory
- Organisational
- Neglect and acts of omission
- Self-neglect
- Forced marriage
- Exploitation by radicalisers who promote violence

#### Physical abuse

Examples of physical abuse or assault are hitting, pushing, pinching, shaking, misusing medication, scalding, illegal use of restraint, inappropriate sanctions, and exposure to heat or cold and not giving adequate food or drink.

#### Domestic Abuse

This is defined as an incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse by someone who is or has been an intimate partner or family member regardless of gender or sexuality. This might include psychological, sexual, financial, emotional and so called 'honour' abuse and forced marriage.

#### Sexual abuse

Sexual abuse/assault includes the direct or indirect involvement of the adult at risk in sexual activity or relationships which:

- They do not want or have not consented to.
- They cannot understand and lack the mental capacity to be able to give consent to.
- They have been coerced into, because the other person is in a position of trust, power or authority (for example, a care worker). They may have been forced into sexual activity with someone else or may have been required to watch sexual activity. Sexual relationships or inappropriate sexual behaviour between a member of staff and a service user are always abusive and will lead to disciplinary proceedings. This is additional to any criminal action that has been taken. A sexual relationship

between the service user and a care worker is a criminal offence under Sections 38–42 of the Sexual Offences Act 2003.

### **Psychological/emotional abuse**

This is behaviour that has a harmful effect on the person's emotional health and development or any form of mental cruelty that results in:

Mental distress

- The denial of basic human and civil rights such as self-expression, privacy and dignity
- Negating the right of the adult at risk to make choices and undermining their self esteem
- Isolation and over-dependence that has a harmful effect on the person's emotional health, development or well-being.

It is the wilful infliction of mental suffering by a person who is in a position of trust and power to an adult at risk. Psychological/emotional abuse results from threats of harm or abandonment, being deprived of social or any other sort of contact, humiliation, blaming, controlling, intimidation, coercion and bullying. It undermines the adult's self-esteem and results in them being less able to protect themselves and exercise choice. It is a type of abuse that can result from other forms of abuse and often occurs at the same time as other types of abusive behaviour. Behaviour that can be deliberately linked to causing serious psychological and emotional harm may constitute a criminal offence.

### **Financial abuse**

Financial abuse is a crime. It is the use of a person's property, assets, income, funds or any resources without their informed consent or authorisation. It includes:

- Theft
- Fraud
- Exploitation
- Undue pressure in connection with wills, property, inheritance or financial transactions
- The misuse or misappropriation of property, possessions or benefits
- The misuse of an enduring power of attorney or a lasting power of attorney, or appointeeship

## **Modern Slavery**

This encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use coercion and deception to force people into a life of abuse or servitude. There have been a number of cases tried where the victim has been an adult with learning disability.

## **Neglect and acts of omission**

Neglect is the failure of any person who has responsibility for the charge, care or custody of an adult at risk to provide the amount and type of care that a reasonable person would be expected to provide. Behaviour that can lead to neglect includes:

Ignoring medical or physical needs; failing to allow access to appropriate health, social care and educational services; and withholding the necessities of life such as medication, adequate nutrition, hydration or healing.

Neglect can be intentional or unintentional. Intentional neglect would result from:

- Wilfully failing to provide care
- Wilfully preventing the adult at risk from getting the care they needed
- Being reckless about the consequences of the person not getting the care they need.

If the individual committing the neglect is aware of the consequences and the potential for harm to result due to the lack of action(s), then the neglect is intentional in nature.

Unintentional neglect could result from a carer failing to meet the needs of the adult at risk because they do not understand the needs of the adult at risk, may not know about services that are available or because their own needs prevent them from being able to give the care the person needs. It may also occur if the individuals are unaware of, or do not understand the possible effect of the lack of action on the adult at risk.

## **Discriminatory abuse**

Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunity to some groups or individuals. It can be a feature of any form of abuse of an adult at risk, but can also be motivated because of age, gender, sexuality, disability, religion, class, culture, language, 'race' or ethnic origin. It can result from situations that exploit a person's vulnerability by treating the person in a way that excludes them from opportunities they should have as equal citizens, for example; education, health, justice and access to services and protection.

## **Organisational abuse**

Organisational abuse is the mistreatment or abuse or neglect of an adult at risk by a regime or individuals within settings and services that adults at risk live in or use, that violate the

person's dignity, resulting in lack of respect for their human rights. Institutional abuse occurs when the routines, systems and regimes of an institution result in poor or inadequate standards of care and poor practice which affects the whole setting and denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults at risk. Institutional abuse can occur in any setting providing health, education and social care. A number of inquiries into care in residential settings have highlighted that institutional abuse is most likely to occur when staff:

- receive little support from management
- are inadequately trained
- are poorly supervised and poorly supported in their work
- receive inadequate guidance

Ignoring medical or physical needs; failing to allow access to appropriate health, social care and educational services; and withholding the necessities of life such as medication, adequate nutrition, hydration or heating.

Neglect can be intentional or unintentional - intentional neglect would result from:

- Wilfully failing to provide care
- Wilfully preventing the adult at risk from getting the care they needed
- Being reckless about the consequences of the person not getting the care they need.

If the individual committing the neglect is aware of the consequences and the potential for harm to result due to the lack of action(s), then the neglect is intentional in nature.

Unintentional neglect could result from a carer failing to meet the needs of the adult at risk because they do not understand the needs of the adult at risk, may not know about services that are available or because their own needs prevent them from being able to give the care the person needs. It may also occur if the individuals are unaware of, or do not understand the possible effect of the lack of action on the adult at risk.

### **Discriminatory abuse**

Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunity to some groups or individuals. It can be a feature of any form of abuse of an adult at risk, but can also be motivated because of age, gender, sexuality, disability, religion, class, culture, language, 'race' or ethnic origin. It can result from situations that exploit a person's vulnerability by treating the person in a way that excludes them from opportunities they should have as equal citizens, for example, education, health, justice and access to services and protection.

## Organisational abuse

Organisational abuse is the mistreatment or abuse or neglect of an adult at risk by a regime or individuals within settings and services that adults at risk live in or use, that violate the person's dignity, resulting in lack of respect for their human rights. Institutional abuse occurs when the routines, systems and regimes of an institution result in poor or inadequate standards of care and poor practice which affects the whole setting and denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults at risk. Institutional abuse can occur in any setting providing health, education and social care. A number of inquiries into care in residential settings have highlighted that institutional abuse is most likely to occur when staff:

- receive little support from management
- are inadequately trained
- are poorly supervised and poorly supported in their work
- receive inadequate guidance

The risk of abuse is also greater in institutions:

- with poor management
- with too few staff
- which use rigid routines and inflexible practices
- which do not use person-centred care plans
- where there is a closed culture.

## Self-neglect

Is defined as behaviour that results in neglecting to care for one's personal hygiene, health or surroundings and may include such behaviour as hoarding.

## Forced Marriage

Forced marriage is a term used to describe a marriage in which one or both of the parties is married without their consent or against their will. A forced marriage differs from an arranged marriage, in which both parties consent to the assistance of their parents or a third party in identifying a spouse. The guidance contained in the multi-agency practice guidelines, Handling cases of forced marriage (Home Office, 2009), recommends that cases involving forced marriage are best dealt with by child protection or 'adult protection' specialists. In a situation where there is concern that an adult at risk is being forced into a marriage they do not or cannot consent to, there will be an overlap between action taken under the forced marriage provisions and the Safeguarding Adults process. In this case action will be coordinated with the police and other relevant organisations.

## Exploitation by radicalisers who promote violence

Individuals may be susceptible to exploitation into violent extremism by radicalisers. Violent extremists often use a persuasive rationale and charismatic individuals to attract people to their cause. The aim is to attract people to their reasoning, inspire new recruits and embed their extreme views and persuade vulnerable individuals of the legitimacy of their cause. There are a number of factors that may make the individual susceptible to exploitation by violent extremists. None of these factors should be considered in isolation but in conjunction with the particular circumstances of the individual: identity or personal crisis, particular personal circumstances, unemployment or underemployment and criminality. All of these may contribute to alienation from UK values and a decision to cause harm to symbols of the community or the state. The Home Office leads on the anti-terrorism strategy, CONTEST, and PREVENT is part of the overall CONTEST strategy, aiming to stop people becoming terrorists or supporting violent extremism. Local safeguarding structures have a role to play for those eligible for adult protection.

## Appendix 2

### Outline to the Mental Capacity Act and Safeguarding

#### Mental capacity

The presumption is that adults have mental capacity to make informed choices about their own safety and how they live their lives. Issues of mental capacity and the ability to give informed consent are central to decisions and actions in Safeguarding Adults. All interventions need to take into account the ability of adults to make informed choices about the way they want to live and the risks they want to take.

This includes their ability:

- To understand the implications of their situation.
- To take action themselves to prevent abuse.
- To participate to the fullest extent possible in decision making about interventions.

The Mental Capacity (Amendment) Act 2019 provides a statutory framework to empower and protect people who may lack capacity to make decisions for themselves and establishes a framework for making decisions on their behalf. This applies whether the decisions are life changing events or everyday matters. All decisions taken in the Safeguarding Adults process must comply with the Act. The Act says that: '... a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or disturbance, in the functioning of the mind or brain'.

Further, a person is not able to make a decision if they are unable to:

- understand the information relevant to the decision or



- retain that information long enough for them to make the decision or
- use or weigh that information as part of the process of making the decision or
- communicate their decision (whether by talking, using sign language or by any other means as muscle movements, blinking an eye or squeezing a hand).

Mental capacity is time and decision specific. This means that a person may be able to make some decisions but not others at a particular point in time. For example, a person may have the capacity to consent to simple medical examination but not to major surgery. Their ability to make a decision may also fluctuate over time.

### **Principles of the Mental Capacity Act 2005**

An adult at risk has the right to make their own decisions and must be assumed to have capacity to make decisions about their own safety unless it is proved (on a balance of probabilities) otherwise:

- Adults at risk must receive all appropriate help and support to make decisions before anyone concludes that they cannot make their own decisions
- Adults at risk have the right to make decisions that others might regard as being unwise or eccentric and a person cannot be treated as lacking capacity for these reasons.

Decisions made on behalf of a person who lacks mental capacity must be done in their 'Best Interests' and on the basis of a 'Reasonable Belief' and should be the least restrictive of their basic rights and freedoms.

### **Ill treatment and wilful neglect**

An allegation of abuse or neglect of an adult at risk who does not have capacity to consent on issues about their own safety will always give rise to action under the Safeguarding Adults process and subsequent decisions made in their best interests in line with the Mental Capacity Act and Mental Capacity Act *Code* as outlined above. Section 44 of the Act makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks capacity.

### **Consent**

It is always essential in safeguarding to consider whether the adult at risk is capable of giving informed consent. If they are, their consent should be sought. This may be in relation to whether they give consent to:

- An activity that may be abusive – if consent to abuse or neglect was given under duress, for example, as a result of exploitation, pressure, fear or intimidation, this apparent consent should be disregarded.

- A Safeguarding Adults investigation going ahead in response to a concern that has been raised. Where an adult at risk with capacity has made a decision that they do not want action to be taken and there are no public interest or vital interest considerations, their wishes must be respected. The person must be given information and have the opportunity to consider all the risks and fully understand the likely consequences of that decision over the short and long term, also;

The recommendations of an individual protection plan being put in place:

- A medical examination
- An interview
- Certain decisions and actions taken during the Safeguarding Adults process with the person or with people who know about their abuse and its impact on the adults at risk.

If, after discussion with the adult at risk who has mental capacity, they refuse any intervention, their wishes will be *respected unless*:

- There is a public interest, for example, not acting will put other adults or children at risk.
- There is a duty of care to intervene, for example, a crime has been or may be committed.

**Liberty Protection Safeguards (LPS)** (*currently Deprivation of Liberty Safeguards (DoLS)*)  
**The target date for implementation is 1<sup>st</sup> April 2022**

In July 2018, the government published a Mental Capacity (Amendment) Bill, which passed into law in May 2019. It replaces the Deprivation of Liberty Safeguards (DoLS) with a scheme known as the Liberty Protection Safeguards (although the term is not used in the Bill itself).

Key features of the Liberty Protection Safeguards (LPS) include:

- In line with the Law Commission's suggestion they start at 16 years old. (*There is no statutory definition of a deprivation of liberty beyond that in the Cheshire West and Surrey Supreme Court judgement of March 2014 – the ['acid test'](#)*)
- Deprivations of liberty have to be authorised in advance by the 'responsible body'.
  - For NHS hospitals, the responsible body will be the 'hospital manager'.
  - For arrangements under Continuing Health Care outside of a hospital, the 'responsible body' will be their local CCG (or Health Board in Wales).

- In all other cases – such as in care homes, supported living schemes etc. (including for self-funders), and private hospitals, the responsible body will be the local authority.
- For the responsible body to authorise any deprivation of liberty, it needs to be clear that:
  - The person lacks the capacity to consent to the care arrangements
  - The person has a mental disorder
  - The arrangements are necessary to prevent harm to the cared-for person, and proportionate to the likelihood and seriousness of that harm.
- In order to determine this, the responsible body must consult with the person and others, to understand what the person's wishes and feelings about the arrangements are.
- An individual from the responsible body, but not someone directly involved in the care and support of the person subject to the care arrangements, must conclude if the arrangements meet the three criteria above (lack of capacity; mental disorder; necessity and proportionality).
- Where it is clear, or reasonably suspected, that the person objects to the care arrangements, then a more thorough review of the case must be carried out by an Approved Mental Capacity Professional.
- Where there is a potential deprivation of liberty in a care home, the Act allows care home managers – if the local authority felt it was appropriate - lead on the assessments of capacity, and the judgment of necessity and proportionality, and pass their findings to the local authority as the responsible body. This aspect of the Act has generated some negative comment, with people feeling that it might lead to insufficient independent scrutiny of the proposed care arrangements.
- Safeguards once a deprivation is authorised include regular reviews by the responsible body and the right to an appropriate person or an IMCA to represent a person and protect their interests.
- As under DoLS, a deprivation can be for a maximum of one year initially. Under LPS, this can be renewed initially for one year, but subsequent to that for up to three years.
- Again, as under DoLS, the Court of Protection will oversee any disputes or appeals.

The new Act also broadens the scope to treat people, and deprive them of their liberty, in a medical emergency, without gaining prior authorisation.

[NB. The target date for implementation is spring 2020. Prior to then, a revised MCA Code of Practice will be published, which, the sector trusts, will bring clarity to some outstanding questions about how LPS will work in practice.]

Reference: Social Care Institute for Excellence (<https://www.scie.org.uk/mca/dols/practice/lps>)

## Advocates

The local authority lead should consider whether an adult at risk may benefit from the support of an independent advocate. There are two distinct types of advocacy – instructed and non-instructed – and it is important that people involved in the Safeguarding Adults process are aware of which type of advocate is representing the person and supporting them to express their views. Instructed advocates take their instructions from the person they are representing. For example, they will only attend meetings or express views with the permission of that person. Non-instructed advocates work with people who lack capacity to make decisions about how the advocate should represent them. Non-instructed advocates independently decide how best to represent the person. Advocates should be invited to the strategy meeting or case conference, either accompanying the adult at risk or attending on their behalf, to represent the person's views and wishes. Instructed advocates would attend only with the permission of the adult at risk.

### Independent mental capacity advocates (IMCAs)

IMCAs provide one type of non-instructed advocacy. Their role was established by the Mental Capacity Act 2005 to provide a statutory safeguard mainly for people who lack capacity to make important decisions and who do not have family or friends who can represent them to do so. IMCAs have a statutory role in the Safeguarding Adults process.

There is a legal requirement to make a decision about instructing an IMCA for an adult at risk who is the focus of Safeguarding Adults processes where they lack capacity to make decisions about their safety. IMCA instruction may be unnecessary if the adult at risk has adequate alternative independent representation. This could be from another advocate, or from family or friends. It is good practice for the local authority lead to make a decision about the need for IMCA instruction and, if required, to make the instruction to the local IMCA provider. Before making an instruction to an IMCA for Safeguarding Adults, it is necessary to assess the person as lacking capacity for consenting to at least one protective measure which is either being considered or has been put in place. Examples of protective measures may include (but are not limited to):

- Restrictions on contact with certain people
- Temporary or permanent moves of accommodation
- The police interviewing the person or collecting forensic evidence which may support a prosecution

- Increased support or supervision
- An application to the Court of Protection
- Restrictions on accessing specific services and/or places
- Access to counselling or psychology with the aim of reducing the risk of further abuse.

### **Court of Protection**

The Court of Protection deals with decisions and orders affecting people who lack capacity. The court can make major decisions about health and welfare, as well as property and financial affairs. The court has powers to:

- Decide whether a person has capacity to make a particular decision for themselves.
- Make declarations, decisions or orders on financial and welfare matters affecting people who lack capacity to make such decisions.
- Appoint deputies to make decisions for people lacking capacity to make those decisions.
- Decide whether a lasting power of attorney or an enduring power of attorney is valid.
- Remove deputies or attorneys who fail to carry out their duties.

In most cases decisions about personal welfare will be able to be made legally without making an application to the court, as long as the decisions are made in accordance with the core principles set out in the Mental Capacity Act 2005 and the best interests checklist and any disagreements can be resolved informally.

However, it may be necessary and desirable to make an application to the court in a safeguarding situation where there are:

- Particularly difficult decisions to be made
- Disagreements that cannot be resolved by any other means
- On-going decisions needed about the personal welfare of a person who lacks capacity to make such decisions for themselves
- Matters relating to property and/or financial issues that need to be resolved
- Serious healthcare and treatment decisions, for example, withdrawal of artificial nutrition or hydration
- Concerns that a person should be moved from a place where they are believed to be at risk
- Concerns or a desire to place restrictions on contact with named individuals because of risk or where proposed Safeguarding Adults actions may amount to a deprivation of liberty outside of a care home, supported living setting or hospital.

## Office of the Public Guardian (OPG)

The OPG was established under the Mental Capacity Act to support the Public Guardian and to protect people lacking capacity by:

- setting up and managing separate registers of lasting powers of attorney, of enduring powers of attorney and of court-appointed deputies
- supervising deputies
- sending Court of Protection visitors to visit people who lack capacity and also those for whom it has formal powers to act on their behalf
- receiving reports from attorneys acting under lasting powers of attorney and deputies
- providing reports to the Court of Protection the OPG may be involved in Safeguarding Vulnerable Adults in a number of ways, including:
  - promoting and raising awareness of legal safeguards and remedies, for example, lasting powers of attorney and the services of the OPG and the Court of Protection
  - receiving reports of abuse relating to vulnerable adults ('whistle blowing')
  - responding to requests to search the register of deputies and attorneys (provided free of charge to local authorities and registered health bodies)
  - investigating reported concerns, on behalf of the Public Guardian, about the actions of a deputy or registered attorney, or someone acting under a single order from the court
- working in partnership with other agencies, including adult care social services and the police.

## Investigations undertaken by the OPG

The OPG can carry out an investigation into the actions of a deputy, of a registered attorney (lasting powers of attorney or enduring powers of attorney) or someone authorised by the Court of Protection to carry out a transaction for someone who lacks capacity, and report to the Public Guardian or the court.

How the investigation is carried out will depend on the particular circumstances, but will typically involve contact with people and agencies that have contact with the person.

Family and friends and other relevant people who are not implicated in the allegation of abuse often have an important part to play in the Safeguarding Adults process and provide valuable support to the individual and to manage the risk. If appropriate and possible, and where the adult at risk has mental capacity and gives their consent and there are no evidential constraints; family and friends should be consulted. If the adult does not have mental capacity, family and friends must be consulted under the Mental Capacity Act 2005.



### **Vital interest**

If the adult at risk has the mental capacity to make informed decisions about their safety and they do not want any action to be taken, this does not preclude the sharing of information under Safeguarding Adults procedures with relevant professional colleagues. This is to enable professionals to assess the risk of harm and to be confident that the adult at risk is not being unduly influenced or intimidated, and is aware of all the options. This will also enable professionals to check the safety and validity of decisions made. It is good practice to inform the adult at risk that this action is being taken unless doing so would increase the risk of harm.

### **Best interest**

If an adult at risk lacks capacity to make informed decisions about maintaining their safety and they do not want any action to be taken, professionals have a duty to act in their best interests under the Mental Capacity Act 2005. This would automatically trigger a Safeguarding Adults referral.

### **Public interest**

If the adult at risk has the mental capacity to make informed decisions about maintaining their safety and they do not want any action to be taken, practitioners have a duty to share the information with relevant professionals to prevent harm to others. This will automatically trigger a Safeguarding Adults referral.

### **Personal decisions**

The adult at risk will have views about what is an acceptable level of risk to them and about balancing the risks in order to maintain the lifestyle or contacts they wish. There may be a balance to be struck between the benefits of achieving safety and the loss of contact with someone whom they value. A person with mental capacity may choose to live in a situation which is seen as unsafe by professionals, if the alternatives they are being offered are unacceptable to them. They do not, however, have a right to make decisions about the protection other people may need where they may also be at risk from the same person, service or setting. Adults at risk need to be able to make informed choices from the information they are given. In order to do this, they may need support in a variety of ways such as the help of a family member or friend (as long as they are not the person alleged to have caused the harm), an advocate or IMCA, a language interpreter or other communication assistance or aid.

## **Appendix 3**

Wandsworth Adult Social Care useful numbers:

Note if your concerns are about the possible abuse of an adult in their own home, then the call will need to be made to the local authority adult social care service where they reside. If the concern is about the possibly abusive conduct and behaviour of staff or volunteers, then the following numbers should be used: -

<b>If the danger is immediate, always call the police on their emergency number</b>	<b>999</b>
Adult Social Care Access Team	020 8871 7707 accessteam@wandsworth.gov.uk
Community Mental Health Team	020 8767 3411 safeguardingadults@wandsworth.gov.uk
Community Safety Unit (24 hours)	020 3276 2610
Adult Social Care Team (Hammersmith & Fulham)	020 8753 4198 Option 3 <a href="mailto:H&amp;FAdvice.care@lbhf.gov.uk">H&amp;FAdvice.care@lbhf.gov.uk</a> <a href="http://www.lbhf.gov.uk">www.lbhf.gov.uk</a>

## Appendix 4

### Checklist for Preparing to Make a Referral

#### Details of the referrer

- Name, address and telephone number
- Relationship to the adult at risk
- Name of the person raising the alert if different

#### Details of the adult at risk

- Name(s), address and telephone number
- Date of birth, or age
- Details of any other members of the household including children
- Information about the primary care needs of the adult, that is, disability or illness
- Funding authority, if relevant
- Ethnic origin and religion
- Gender (including transgender and sexuality)
- Communication needs of the adult at risk due to sensory or other impairments including any interpreter or communication requirements
- Whether the adult at risk knows about the referral
- Whether the adult at risk has consented to the referral and, if not, on what grounds the decision was made to refer
- What is known of the person's mental capacity and their views about the abuse or neglect and what they want done about it (if that is known at this stage)?
- Details of how to gain access to the person and who can be contacted if there are difficulties

#### Information about the abuse, neglect or physical harm

- How and when did the concern come to light?
- When did the alleged abuse occur?
- Where did the alleged abuse take place?
- What are the details of the alleged abuse?
- What impact is this having on the adult at risk?
- What is the adult at risk saying about the abuse?
- Are there details of any witnesses?
- Is there any potential risk to anyone visiting the adult at risk to find out what is happening?
- Is a child (under 18 years) at risk?

### **Details of the person causing the harm (if known)**

- Name, age and gender
- What is their relationship to the adult at risk?
- Are they the adult at risk's main carer?
- Are they living with the adult at risk?
- Are they a member of staff, paid carer or volunteer?
- What is their role?
- Are they employed through a personal budget?
- Which organisation are they employed by?
- Are there other people at risk from the person causing the harm?

### **Any immediate actions that have been taken**

- Were emergency services contacted? If so, which?
- What action was taken?
- What is the crime number if a report has been made to the police?
- Details of any immediate plan that has been put in place to protect the adult at risk from further harm
- Have children's services been informed if a child (under 18 years) is a risk?

## Appendix 5

### Role of the Designated Adult Safeguarding Lead in Contributing to the Decision to use the Safeguarding Adults Procedure

The Designated Adult Safeguarding Lead must cooperate within the Safeguarding Adults process and play an active role in the decision. They should:

- take part in a strategy discussion or meeting if required
- communicate all the information they have about the potential risk
- be prepared to give advice about an interim protection plan and receive information about what action is planned
- provide the name of the alerter so that they can be contacted by the SAM
- find out from the SAM what they will do next and how and when they will be informed about what will be happening
- agree at this stage what they will tell the alerter and the adult at risk – if possible within the same working day
- feed back to the alerter, thank them for making the alert and make sure the alerter knows how to contact them
- make sure they have the name and contact details of the SAM
- record all conversations, discussions and decisions at this stage
- feedback as required to the Chief Executive and Chair of Governors
- meet any other requirements to provide information internally or to external bodies, for example, Ofsted
- If the Designated Adult Safeguarding Lead does not agree with the decision that has been made, they can ask for an explanation. If the disagreement remains unresolved, a complaint can be made to the relevant local authority complaints officer.

## Appendix 6

### Alerting Action Flow Chart

