

Our Safeguarding Vulnerable Clients' Policy

Safeguarding is everyone's business

Safeguarding vulnerable clients refers to the activity which is undertaken to protect vulnerable clients who are suffering or are at risk of suffering harm and includes both proactive and reactive measures.

This Safeguarding Vulnerable Clients' Policy must be followed by everyone working within our organisation and promoted by those in leadership positions. Everyone has a duty and responsibility to safeguard our vulnerable clients, to promote their welfare, allow them to live safely and protect them from harm.

The Safeguarding Lead in our organisation is Carolyn Monaghan

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Our Safeguarding Lead has overall responsibility for establishing best practice to reduce the risk of abuse or neglect of our vulnerable clients, providing advice and information about concerns raised, and directing what action should be taken.

Who is a 'vulnerable client'?

The definition of a 'vulnerable client' is problematic, as it is the circumstances which make someone vulnerable.

Although anyone can be subject to abuse or neglect, clients with care and support needs, such as those who have a long term illness or condition, disability or impairment are at particular risk. They may be an adult or child.

People who have communication difficulties, including no or limited speech, English as a foreign language, limited ability to read or write, trouble with reading and writing accuracy and comprehension, and illiteracy, which can be more easily exploited. Those with poor financial literacy may also be subject to abuse.

Social challenges can also make a person vulnerable to abuse, including people living alone or who are socially isolated, suffered an adverse life event, such as bereavement, or who have become reliant on others for care, support or accommodation.

Local authorities in England and Wales have particular duties under the Care Act 2014 and Social Services and Well-being (Wales) Act 2014 towards 'adults at risk', which is defined as an adult who—

- (a) is experiencing, or is at risk of abuse or neglect; and
- (b) has needs for care and support (whether or not the authority is meeting any of those needs); and
- (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

The Children Acts of 1989 and 2004 set out specific duties: section 17 of the Children Act 1989 puts a duty on the local authority to provide services to children in need in their area, regardless of where they are found; section 47 of the same Act requires local authorities to undertake enquiries if they believe a child has suffered or is likely to suffer significant harm.

Section 11 of the Children Act 2004 places a statutory duty on certain agencies to co-operate to safeguard and promote the welfare of children. The local authority's social services department, the police and NHS Clinical Commissioning Group in England or Health Boards in Wales are responsible for child protection policy, procedure and guidance at a local level.

The Social Services and Well-being (Wales) Act 2014 also provides the legal framework for the creation of local safeguarding children boards which co-ordinate and ensure the effectiveness of work to protect and promote the welfare of children. They are responsible for local child protection policy, procedure and guidance.

Recognition of abuse or neglect

Abuse and neglect are forms of maltreatment of a person. Somebody may abuse or neglect a person by inflicting harm, or by failing to act to prevent harm. It may be a single act or multiple acts. A person may be abused in a family or in an institutional or community setting, by those known to them or by a stranger.

A vulnerable person can be put at risk of harm through a variety of actions, inadequate policies, procedures and failures to act.

Below are descriptions of abuse and neglect with indicators to assist in identification as to whether a concern exists:

Physical abuse

Examples of physical abuse would include hitting, slapping, punching, kicking, hair-pulling, biting, pushing, rough handling, scalding and burning, physical punishments, inappropriate or unlawful use of restraint, making someone purposefully physically uncomfortable, involuntary isolation or confinement, over-sedation, force feeding or withholding food or physically restricting the person's movement.

Possible indicators of physical abuse

The individual may present one or more of the following: -

- Cuts, lacerations, puncture wounds, open wounds, bruises, welts, discoloration, black eyes, burns, loss of hair in clumps, fractures, broken bones and skull fractures, without an explanation or inconsistent with the account of what happened, or with the person's lifestyle
- Unexplained falls
- Untreated injuries in various stages of healing or not properly treated
- Poor skin condition or poor skin hygiene
- Dehydration and/or malnourished without illness or related cause

- Loss of weight
- Soiled clothing or bed
- Broken eyeglasses/frames, physical signs of being subjected to punishment or signs of being restrained
- Inappropriate use of medication, overdosing or under dosing
- Failure to seek medical treatment or frequent changes of GP
- Subdued or changed behaviour in the presence of a caregiver
- A person telling you they have been hit, slapped kicked or mistreated

Psychological or emotional abuse

The person may be subjected to behaviour, including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, bullying, blaming, controlling, intimidation, coercion, harassment, verbal abuse, social isolation or withdrawal from services or supportive networks, including preventing someone from meeting their religious and cultural needs. Removing mobility or communication aids or intentionally leaving someone unattended when they need assistance, failing to respect the person's privacy, addressing a person in a patronising or infantilising way, preventing them from expressing choice and opinion and preventing stimulation, meaningful occupation or activities, can also amount to abuse.

Possible indicators of psychological or emotional abuse

- Helplessness
- Hesitation to speak openly particularly when a certain person is present
- Implausible stories
- Confusion or disorientation
- Anger, aggression or tearfulness, without apparent cause
- Sudden changes in behaviour, including insomnia, weight gain or loss
- Emotionally upset, distressed or agitated
- Unusual behaviour (sucking, biting, or rocking)
- Unexplained fear
- Denial of a situation
- Extremely withdrawn and non-communicative or responsive
- A person telling you they are being verbally or emotionally abused

Financial or material abuse

The illegal or unauthorised use of a person's assets, which may include theft, fraud, false representation, internet scamming, exploitation, undue pressure, duress of undue influence in connection with loans, wills, powers of attorney, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits including by power of attorney, deputyship, appointeeship or other legal authority, are all forms of financial or material abuse. Preventing or denying a person from accessing their own money or assets or arranging less care than is needed to save money to maximise inheritance are also abusive actions.

Possible indicators of financial or material abuse

- Signatures on cheques or other documents that do not resemble the person's signature, or signed when the person cannot write
- Any sudden changes in bank accounts, including unexplained withdrawals of money by a person accompanying the holder of the account
- Unexplained withdrawals from a cash machine at a time when the account holder could not have accessed the account
- The sudden inclusion of additional names on the person's bank accounts or benefit payments
- Abrupt changes to, or unexpected creation of a will that leave most or all of the assets to a new friend or only one relative
- An ordinary power of attorney or property and financial affairs Lasting Power of Attorney being obtained after the person has ceased to have mental capacity to manage their own finances and property
- The sudden appearance of previously uninvolved relatives claiming their rights to the person's affairs and possessions
- Unusual concern or interest shown by family or others in the assets of the person and how money is being spent, particularly on the person's care package
- The unexplained sudden transfers of assets to a family member or someone outside the family
- Numerous small sums of cash being 'given' to, or money regularly disappearing after visits from a relative, carer or neighbour
- Numerous unpaid bills, overdue rent, care home bills, public utilities bills etc when there is someone who is supposed to be paying the bills
- Change in living conditions, lack of heating, clothing or food or inability to pay bills/unexplained shortage of money
- Lack of amenities such as TV, personal grooming items, appropriate clothing items, that the person should be able to afford
- a financial attorney 'justifying' the transfer of money to themselves belonging to the donor, as an acceleration of their inheritance, to purchase expensive items, such as cars which they need to carry out their role, charging for their time without proper authority, or because they deserve recompense for the sacrifice they are making as an attorney
- The person allocated to manage financial affairs is evasive or uncooperative
- The lack of financial records kept by a care home, care service, deputy, attorney or appointee
- The unexplained disappearance of funds or valuables such as art, silverware, jewellery or other personal possessions
- Deliberate isolation of the person from their friends and family, resulting in another person having total control

Sexual abuse

This may involve forcing or manipulating a person to take part in any sexual activity without their consent, irrespective of the relationship. It also includes, indecent exposure, sexual teasing or innuendo, sexual harassment, inappropriate looking or touching, sexual photography or recording, forced use of pornography or witnessing of sexual acts.

Possible indicators of sexual abuse

- Bruises particularly to the thighs, buttocks and upper arms and marks on the neck

- Bleeding, pain or itching in the genital area
- Unexplained vaginal or anal bleeding
- Torn, stained or bloody underclothing
- Unexplained venereal disease or genital infections
- Unexplained difficulties in walking or standing
- Incontinence not related to any medical diagnosis
- Marked changes in behaviour, such as self-harming, poor concentration, insomnia, withdrawal, excessive fear or apprehension, or reluctance to be alone with a known individual
- The uncharacteristic use of explicit sexual language or significant changes in sexual behaviour or attitude
- A person tells you that they have been sexually assaulted or raped

Neglect, acts of omission and self-neglect

This may be demonstrated by the ignoring of medical, emotional, religious, cultural, ethnic, social, recreational or physical care needs, failure to provide access to appropriate health, care and support, housing or educational services, the withholding of the necessities of life, such as shelter, food, clothing, medication, adequate nutrition and heating. Self-neglect can involve a wide range of behaviour, such as neglecting to care for one's personal hygiene, health or surroundings.

Possible indicators of neglect, acts of omission or self-neglect

- Dirty, unhygienic, or other health and safety hazards in the person's living environment whether in their own home or in a care home
- Rashes, sores, ulcers, lice, inadequate clothing
- The person is malnourished or dehydrated
- The person has untreated injuries or medical problems
- Poor personal hygiene
- The withholding of medication or over medication
- Lack of assistance with eating and drinking
- Inconsistent or reluctant contact with health and social care organisations
- Accumulation of untaken medication
- Uncharacteristic failure to engage in social interaction
- Inappropriate or inadequate clothing
- A person tells you that they are not having their needs met

Caregiver abuse

A caregiver may be doing their best but cannot provide the level of care and support that is needed. However, there may also be signs that abuse or neglect is deliberate.

Indicators of caregiver abuse

- The cared for person may not be allowed to speak for themselves, or see others, without the presence of the caregiver and (suspected abuser) being present
- Attitudes of indifference or anger towards the cared for person, or the obvious absence of assistance

- The caregiver blames the cared for person (e.g. accusation that the incontinence is a deliberate act)
- Aggressive behaviour (threats, insults, harassment) by the caregiver towards the cared for person
- Previous history of abuse or exploitation by others
- Inappropriate display of affection by the caregiver to the cared for person
- Flirtations, coyness, etc, which might be indicators of inappropriate sexual relationships
- Social isolation from family, or isolation or restriction on the activity of the cared for person by the caregiver
- Conflicting accounts of incidents by family, supporters or the cared for person
- Inappropriate or unwarranted defensiveness by the caregiver
- Indications of unusual confinement (closed off in the room; tied to furniture; changing routine activity)
- Obvious absence of assistance or attendance
- Previous history of abusive behaviour

Stranger abuse

This can include distraction burglaries, bogus trades' people, exploitative 'cold calling' or street robbers who target vulnerable people. It can also include identity fraud, where the perpetrator gains access to the vulnerable person's identification documents and obtains credit cards and loans in their name.

Domestic or family violence

This may be a single 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, and includes: psychological, physical, sexual, financial, emotional abuse; and so called 'honour' based violence, such as Female Genital Mutilation and forced marriage.

Romance abuse

There are increasing stories of vulnerable people being 'groomed' to have a relationship with the perpetrator with the intention of scamming the victim out of money, or marrying them with the intention of inheriting their estate.

Modern slavery

This encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.¹

Discriminatory abuse

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/328096/Moderns_lavery_booklet_v12_WEB_2_.pdf:
https://www.modernslaveryregistry.org/pages/reporting_guidance

Unequal treatment based on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex or sexual orientation (which are known as [‘protected characteristics’ under the Equality Act 2010](#)) is unlawful. Verbal abuse, derogatory remarks or inappropriate use of language, harassment or deliberate exclusion, substandard service provision, denying basic rights to healthcare, education, employment and criminal justice, which are related to a protected characteristic is unlawful. It also extends to denying a person access to communication aids, not allowing access to an interpreter, signer or lip-reader because of a protected characteristic.

Organisational or institutional abuse

Organisation or institutional abuse includes neglect and poor care practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one’s own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.

Possible indicators of organisational or institutional abuse

- Lack of flexibility and choice for people using the service
- Inadequate staffing levels
- People being hungry or dehydrated
- Poor standards of care
- Lack of personal clothing and possessions and communal use of personal items
- Lack of adequate procedures
- Poor record-keeping and missing documents
- Absence of visitors
- Few social, recreational and educational activities
- Public discussion of personal matters or unnecessary exposure during bathing or using the toilet
- Absence of individual care plans
- Lack of management overview and support

Principles upon which this Safeguarding Vulnerable Clients’ Policy is based

This policy is based on English and Welsh Governments policy, which encompasses the following principles

Empowerment	People should be supported and encouraged to make their own decisions and give informed consent.
Prevention	It is better to take action before harm occurs.
Proportionality	The response should be appropriate to the risk presented.
Protection	Support and representation should be provided for those in need.
Partnership	Solutions may require working with safeguarding partners, such as the Office of the Public Guardian (OPG), the Local Authority’s Adult or Children Protection Team, Care Quality Commission, NHS services and the police.
Accountability	Accountability and transparency in delivering safeguarding.

Adults

Chapter 14 of the Care and Support Statutory Guidance to the Care Act 2014 is the English guidance to local authorities on safeguarding.

In Wales, the statutory guidance is contained in relation to Part 7 (Safeguarding) of the Social Services and Well-being (Wales) Act 2014 in volumes 1-6 of 'Working Together to Safeguard People'. It applies to both adults and children.

Children

- A cross government policy document has been published: Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (HM Government, July 2018).
- All Wales Safeguarding Best Practice Supervision Guidance (June 2017)

Confidentiality

The duty of confidentiality is covered in paragraph 6.3 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019, which requires that:

'You keep the affairs of current and former clients confidential unless disclosure is required or permitted by law or the client consents.'

A similar duty applies to firms (paragraph 6.3 of the SRA Code of Conduct for Firms)

Principle 7 of the SRA Principles requires solicitors to act in the best interests of each client.

Paragraphs 3.1 and 3.4 respectively of the Code of Conduct for Solicitors, RELs and RFLs states:

'You only act for clients on instructions from the client, or from someone properly authorised to provide instructions on their behalf. If you have reason to suspect that the instructions do not represent your client's wishes, you do not act unless you have satisfied yourself that they do. However, in circumstances where you have legal authority to act notwithstanding that it is not possible to obtain or ascertain the instructions of your client, then you are subject to the overriding obligation to protect your client's best interests.'

And

'You consider and take account of your client's attributes, needs and circumstances.'

Who is your client?

In some cases where the client lacks capacity to give instructions, you may be taking instructions from an agent such as an attorney or a deputy, if it's within the scope of their authority. The person for whom the attorney or deputy is acting (the principal) is still your client and you must act in the client's best interests. If attorney or deputy may be able to give consent to disclose on behalf of the person from whom they act.

Data Protection Act 2019

The Data Protection Act 2019 and General Data Protection Regulation do not prevent you from disclosing information to safeguard a person from serious harm and falls within the exceptional circumstances when data can be disclosed.

When disclosure must occur

Money Laundering Regulations and Anti- Terrorism legislation set out the circumstances when disclosure must occur. Disclosure can also occur to prevent a crime being committed, such as a family member informing you of their intention to assist in the client's suicide or euthanise them.

Disclosing to safeguard your client

Your duty of confidentiality has to be weighed against your duty of care to protect the client in their best interests. It would be incongruous if you could not disclose information which you hold to safeguard a vulnerable client from harm and then be criticised for breaching the client's confidentiality. However, whether you can act or what action should be taken will involve consideration of the following:

- Whether the client is a child and not in a position to take steps to protect themselves.
- Whether the client has capacity to consent to disclosure of confidential information.
- Whether the client has capacity but because of their circumstances they are not in a position to take steps to protect themselves from harm, for example they are acting under the undue influence, duress or coercion of another person.
- Whether the client lacks capacity and is not in a position to take steps to protect themselves from harm.
- The nature of the safeguarding concern and seriousness of risk of harm happening to the client in the event of no action being taken. For example, if there is a risk to the person's life, immediate action should be taken, or whether other people such as children could also be at risk.

Capacity to consent to disclosure

You will need to assess whether your vulnerable client has mental capacity to consent to the disclosure of your concern and whether you can nevertheless disclose because the law permits or requires you to disclose.

A capacity assessment of the client's ability to consent to the disclosure of information and for action to be taken is governed (for people aged 16 years or over) by the Mental Capacity Act 2005 (MCA 2005).

The MCA 2005 sets out a number of principles for its application, the first three of which act as a starting point for assessing capacity:

- A person must be assumed to have capacity, unless it is established that they lack capacity - Section 1(2)

- A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success - Section 1(3)
- A person is not to be treated as unable to make a decision merely because they make an unwise decision - Section 1(4)

The MCA 2005 Code of Practice provides a comprehensive explanation of how these principles are applied.

Section 2(1) of the MCA 2005 sets out the following two stage test for establishing a lack of capacity:

- (1) the person is unable to make a specific decision at the time it needs to be made
- (2) because they have an impairment or disturbance that affects the way their mind or brain works

An impairment or disturbance in the mind or brain can be temporary or fluctuate and the relevant time for establishing whether one exists is the time the decision needs to be made.

For a person to lack capacity to make the decision must be established on the balance of probabilities that they are unable:

- to understand the information relevant to the decision, or;
- to retain the information, or;
- to use or weigh up the information as part of the process of making the decision, or
- to communicate the decision (whether by talking, sign language, or any other means).

Most importantly, section 3(4) states that the information relevant to a decision includes information about the reasonably foreseeable consequences of deciding one way or the other or failing to make a decision. This may include understanding the available options, any alternatives and that they have a choice.

Responding to disclosures of abuse or neglect

The concern may be raised by the vulnerable client, someone else on their behalf or by those working in your organisation.

Where the concern is raised by the vulnerable client:

- Try to have the conversation in a 'safe place', where they can speak openly.
- Listen carefully to what they tell you, get a clearer picture.
- Give the person your time and your attention: do not stop the person freely recalling significant events.
- If they have specific communication or understanding needs, provide support and information in a way which is most appropriate for them.
- Do not be judgmental or jump to conclusions.

- Reassure the vulnerable client that they have done the right thing in telling you and they have not done anything wrong.
- Assure them that the matter will be taken seriously.
- Ask the person what they would like to happen.
- Explain that steps can be taken to make them safer, and what these steps might be.
- Explore whether they have any immediate protection needs.
- Explain that you cannot promise not to speak to others about the information they have shared.
- Explain that you will speak to your Safeguarding Lead.
- Reassure them that they will be involved in decisions about what will happen next.
- Report the concern to your Safeguarding Lead.
- Make an accurate record of the concern, using the person's own words of what was said, and action taken.

Immediate action to ensure safety

Immediate action may be necessary at any time when working with vulnerable clients, which may include:

- Contacting the police by dialling 999 where you believe a criminal offence is being or will be committed. This covers cases of female genital mutilation (FGM) in people under 18 years.
- Calling an ambulance by dialling 999 or making arrangements for the vulnerable client to be taken to the nearest Accident and Emergency Department where emergency medical attention can be secured.
- Contacting the Forced Marriage Unit by telephoning 020 7008 0151 (Monday to Friday: 09.00 to 17.00) or out of hours: 020 7008 1500 (ask for the Global Response Centre) or email: fmufco.gov.uk, where you believe a marriage is being planned in respect of a person who does not consent or lacks capacity to consent to a marriage.

People within our organisation have a safeguarding concern

Because of your observations of, or information received, you may be concerned about a vulnerable client who has not spoken to you. You should speak to the Safeguarding Lead at any point for advice and information.

It is good practice to ask appropriate questions to the vulnerable client or their family or carers to help clarify vague concerns and take appropriate action.

The risk of ill treatment and neglect by deputies and attorneys

If the person for whom a deputy or attorney acts is refusing care and support, which could have serious consequences, the deputy or attorney should at the very least undertake a capacity assessment of their decision to refuse. If the client lacks capacity to refuse consent to care and support, a referral should be made to the local authority adult safeguarding team.

A deputy or attorney (whether for personal welfare or property and financial affairs) could be found guilty of the offence of ill treatment and neglect under section 44 of the MCA 2005, if they incorrectly assume the client has capacity and allows the client to self neglect.

Local authority's duty to make enquiries

It may be appropriate to make a referral to your local authority's adult or children safeguarding team.

Where a local authority has reasonable cause to suspect that an adult in its area is or maybe an adult at risk, the local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case and, if so, what and by whom.

Where there are child protection concerns, the local authority must make enquiries and decide if any action must be taken under section 47 of the Children Act 1989.

Raising a concern with the Office of the Public Guardian

You can report concerns on a confidential basis, to the Office of the Public Guardian's Investigation Unit which has power to investigate concerns about registered Enduring or Lasting Powers of Attorney and Court appointed deputies.

If concerns are warranted, the Public Guardian can make an application, for the removal of the attorney or deputy.

The Court has wide power to deal with the consequences of abuse, which could include:

- Requiring a deputy or attorney acting under a registered power to provide documents or things in their possession, render accounts and produce records.
- An order prohibiting a specified person from having contact with the abused person.
- An order enabling another person to bring proceedings on behalf of the abused person for example, for recovery in the civil Court, this may involve claims of fraud, coercion, undue influence, lack of capacity, and breach of fiduciary duties.
- Residency orders.
- The appointment of a deputy or replacement deputy.
- Contact orders.

Information required when making a referral

Be prepared to give the following information:

- Your name, telephone number, position and request the same of the person to whom you are speaking.
- Full name and address, date of birth of the vulnerable client.
- Gender, ethnicity, first language, any special needs.

- The names of professionals known to be involved with the vulnerable client/family e.g.: GP, health visitor, care workers.
- The nature of the concern; and foundation for the concern.
- An opinion on whether the vulnerable client may need urgent action to make them safe.
- Your view of what appears to be the needs of the vulnerable client.

Preparing a Safeguarding Plan

It may be appropriate to prepare a Safeguarding Plan, which sets out the vulnerable client's support needs, their wishes, action that is to be taken and by whom, and if the matter is to be referred to an external body, such as the local authority, Office of the Public Guardian, the police or others, the date this occurred and any action taken by that organisation, including no action with the reasons given.

The Safeguarding Plan may include details of any ongoing risks and how these are to be managed. It should be kept under review.

Further information

- Solicitors for the Elderly & C Bielanska: A safeguarding strategy for recognising, preventing and dealing with abuse of adults at risk (June 2019).
- OPG Safeguarding Policy 2017 (updated regularly).
- www.childreninwales.org: an umbrella organisation which provides useful information.
- Law Society Practice Note: Financial Abuse (June 2013).
- Law Society Practice Note: Providing services to D/deaf and hard of hearing people (July 2012).
- Law Society Guidance: Meeting the needs of vulnerable clients (November 2019).