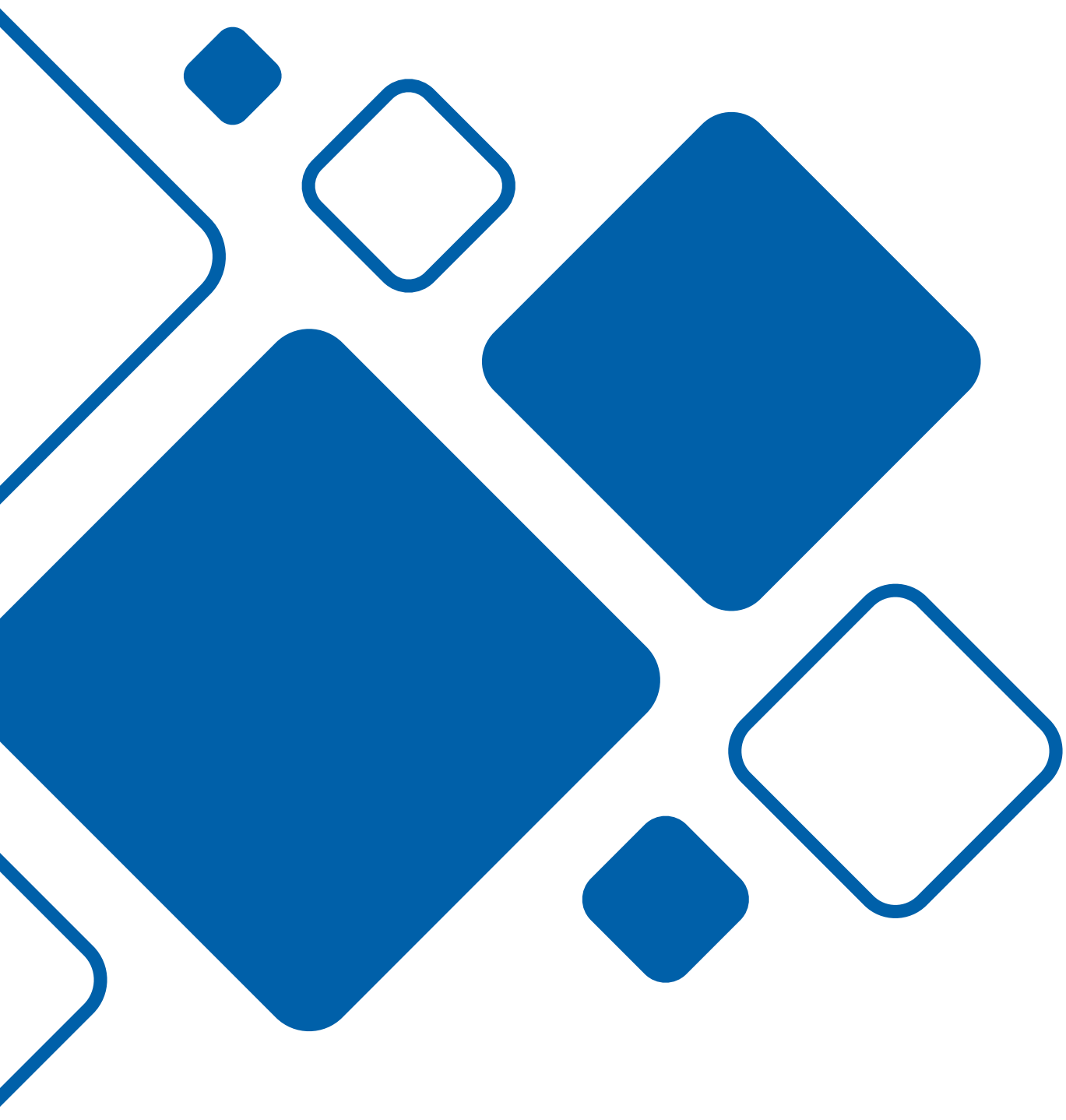
NURSDOC

POLICY NUMBER: **79**

POLICY TITLE: **ADULTS SAFEGUARDING**

WHO MUST ABIDE BY THIS POLICY? **ALL TEMPORARY WORKERS**



ADULTS SAFEGUARDING

THE PURPOSE OF THIS POLICY

People's well-being is at the heart of the care and support system under the Care Act 2014, and the prevention of abuse and neglect is one of the elements identified as going to make up a person's well-being. Local authorities also have safeguarding responsibilities for carers and a general duty to promote the well-being of the wider population in the communities they serve. Safeguarding duties apply regardless of whether a person's care and support needs are being met, whether by the local authority or anyone else. They also apply to people who pay for their own care and support services.

ADULTS SAFEGUARDING

An adult with care and support needs may be:
- An older person
- A person with a physical disability, a learning difficulty or a sensory impairment
- Someone with mental health needs, including dementia or a personality disorder
- A person with a long-term health condition
- Someone who misuses substances or alcohol to the extent that it affects their ability to manage day-to-day living

This is not an exhaustive list. In its definition of who should receive a safeguarding response, the legislation also includes people who are victims of sexual exploitation, domestic abuse and modern slavery. These are all largely criminal matters, however, and safeguarding duties would not be an alternative to police involvement, and would only be applicable at all where a person has care and support needs that mean that they are not able to protect themselves.

Adult safeguarding duties apply in whatever setting people live, although there are differences for prisons and bail hostels.

They apply regardless of whether or not someone has the ability to make specific decisions for themselves at specific times. There may be times when a person has care and support needs and is unable to protect themselves for a short, temporary period – for example, when they are in hospital under anaesthetic. People with care and support needs are not inherently vulnerable, but they may come to be at risk of abuse or neglect at any point due to:

- Physical or mental ill-health
- Becoming disabled
- Getting older
- Not having support networks
- Inappropriate accommodation
- Financial circumstances or
- Being socially isolated.

There are no eligibility criteria for adult safeguarding services. If an adult at risk of being abused or neglected cannot keep themselves safe from abuse or neglect because of their care and support needs, then the local authority's safeguarding duty applies. If they are able to protect themselves, despite having care and support needs, then a safeguarding response may not be appropriate. Local authorities are responsible for looking at any safeguarding concerns raised with them about any adult who has care and support needs and deciding whether it is necessary to carry out an enquiry. This should include the person themselves, whose own wishes and preferences should be acted on as far as possible, in keeping with the principles set out in 'Making Safeguarding Personal2'.

The role of staff is to help people to make choices and support them to manage any risks. Staff should also recognise that others can help to keep people safe, and an intervention from statutory services is not always required. For example, relatives, housing staff or health professionals could all have a key role to play.

WHAT IS ABUSE?

Abuse is defined as: 'a violation of an individual's human and civil rights by any other person or persons 'Abuse may be physical, psychological, sexual, neglect or acts of omission. It may involve people taking money without permission, or not looking after someone properly.

It may include poor care practices, bullying or humiliating, or not allowing contact with friends and family. Abuse often involves criminal acts. Abuse can be a single act or may continue over a long period.

It can be unintentional or deliberate, but will result in harm to the victim, either physically, emotionally or in its effect on the person's well-being or development

IS SELF-NEGLECT A SAFEGUARDING ISSUE?

Self-neglect can be a complex and challenging issue for practitioners to address, because of the need to find the right balance between respecting a person's autonomy and fulfilling their duty to protect the adult's health and well-being. Both perspectives can be supported by human rights arguments. The Care Act 2014 statutory guidance makes clear that self-neglect is a form of abuse or neglect, if the person concerned has care and support needs.

However, although self-neglect in some circumstances may be raised as a safeguarding concern, it is usually likely to be dealt with as an intervention under the parts of the Care Act dealing with assessment, planning, information and advice, and prevention. It is vital to establish whether the person has capacity to make decisions about their own well-being, and whether or not they are able or willing to care for themselves (see section below also). An adult who is able to make choices may make decisions that others think of as self-neglect.

If the person does not want any safeguarding action to be taken, it may be reasonable not to intervene further, as long as:

- No-one else is at risk
- Their 'vital interests' are not compromised – that is, there is no immediate risk of death or major harm
- All decisions are fully explained and recorded
- Other agencies have been informed and involved as necessary.

Risk and capacity assessments are likely to be useful. The legislation makes clear that adult safeguarding responses should be guided by the adult themselves, to achieve the outcomes that they want to achieve.

Carrying out an assessment may be difficult, if the person is reluctant. The Department of Health advises (in statutory guidance on the implementation of the Care Act 2014) that care staff should record all the steps they have taken to complete an assessment of the things that a person wants to achieve and the care and support that they need. Research indicates that intervening successfully depends on practitioners taking time to gain the person's trust and build a relationship, and going at the person's own pace.

If it is impossible to complete the assessment, or if the person refuses to accept care and support services, practitioners should be able to show that they have tried, and that information and advice has been made available to the person on how to access care and support and how to raise any safeguarding concerns. All decisions, and the considerations that have led to them, should be recorded in light of the person's wishes and their particular circumstances. Records should be able to show that whatever action was taken was reasonable and proportionate.

The Mental Capacity Act 2005 (MCA) is an essential tool to support decision-making in health and social care. The MCA and the Care Act work together to promote the empowerment, safety and well-being of adults with care and support needs. Section 44 of the MCA prioritises people's safety by making wilful neglect or mistreatment of an adult who lacks capacity to make decisions a criminal offence.

There is nothing in the Care Act that replaces or undermines the MCA when it comes to making decisions with or on behalf of adults who lack capacity. The principles of the MCA remain as important as ever. Both the Care Act and Mental Capacity Act should enable individuals to maintain their independence and exercise as much control as possible over their lives and any care and support they receive. This is just as relevant in adult safeguarding enquiries as in other areas. Practitioners should make sure they have a good understanding of the MCA, and put into practice its five key principles:

Assume that a person has capacity to make decisions, unless there is evidence otherwise.

- Do all to maximise a person's capacity.
- Unwise or eccentric decisions do not in themselves prove lack of capacity.
- If making a decision for or about a person who lacks capacity, act in their best interests.
- Look for the least restrictive option that will meet the need.
- Assume that a person has capacity to make decisions, unless there is evidence otherwise.

- Do all to maximise a person's capacity.
- Unwise or eccentric decisions do not in themselves prove lack of capacity.
- If making a decision for or about a person who lacks capacity, act in their best interests.
- Look for the least restrictive option that will meet the need.

To support this practitioners should make available any help and support that a person may need to make a specific decision - this could include help with communication or, wherever possible, making sure that the person is spoken to at a time when they are best able to make the decision for themselves.

It is important to be aware that there will be some safeguarding situations where the person may appear to be mentally capacitated, but is in fact subject to duress or coercion by another person. If this is the case, MCA procedures may not cover the particular situation.

Professionals from a range of disciplines will need to work with the person, to explore options that may be available to keep them safe. Supporting people who are subject to coercion is often complex and challenging work. If the situation cannot be resolved in other ways, practitioners may need to apply to the inherent jurisdiction of the High Court. The Court has power to prevent certain people contacting, or persuading vulnerable people on certain issues, even if the vulnerable person has capacity.

The MCA makes clear that it is the practitioner's role to establish whether a person lacks capacity in relation to a specific matter at a specific time, following the two-stage test set out in the Act. In relation to safeguarding, you may need to consider whether, for example, the person has the capacity to decide about their own situation, or whether they can refuse consent for information to be shared in any safeguarding enquiry.

During a safeguarding investigation there will be numerous important decisions that need to be made. It is essential to thoroughly explore issues of consent, capacity and best interests in each case.

MENTAL CAPACITY ACT 2005 DEPRIVATION OF LIBERTY SAFEGUARDS (DOLS)

There will be occasions during safeguarding investigations, when decisions may involve the need to deprive someone of their liberty (in their best interests) for care or treatment.

Deprivation of liberty Safeguards apply to hospital or 24 hr care settings.

COMPLAINTS AND SAFEGUARDING

If through the complaints procedure an allegation of abuse is received it will immediately be diverted to an investigation under the Safeguarding Adult Procedures. The complaints service will advise the complainant of this in writing. However the complainant can complain about the outcome of the Safeguarding investigation under the Complaints Policy

FORMS OF ABUSE

Physical Abuse
Physical abuse includes: hitting, slapping, pushing, kicking, squeezing, shaking, pinching, misuse of any medication, undue restraint, or force feeding.

Sexual Abuse
Sexual abuse includes: sexual assault, rape or other sexual acts, the inappropriate touching of the individual's sexual areas, or coercion into the viewing of pornographic materials. Compelling, inciting or facilitating a person, with impaired capacity for choice to engage in sexual activity without consent is an offence under the Sexual Offences Act 2003.

Psychological Abuse
Psychological abuse includes: threats of harm, abandonment, f social contact or family networks, isolation, humiliation, shouting, bullying, name calling, intimidation, harassment, or the denial of or withdrawal from required services.

Financial or Material Abuse
Financial or material abuse includes: withholding of money or possessions, intentional mismanagement of the person's finances or property, theft, fraud, exploitation and stealing person's money.

Neglect and Acts of Omission
Neglect or acts of omission include: the failure to access appropriate services for recognised needs, avoidance of required health care, ignoring physical care needs, withholding of adequate nutrition, clothing or warmth, exposing the person to unacceptable risk, lack of action to provide or ensure adequate supervision.

Discriminatory Abuse
Includes: any acts that use hurtful language, cause harassment or similar treatment of the individual because of their race, sex, age, disability, faith, culture or sexual orientation. Such abuses are increasingly being recognised as hate crimes.

Institutional Abuse
Institutional abuse includes: the use of systems, routines, practice or care that neglect individual needs and create an imbalance and control within a managed setting such as residential/nursing care or day services.

Domestic Abuse
People may think of domestic abuse only as a physical assault by a man on a woman, but it can take many different forms. The definition used in Nursdoc is: 'any incident of threatening behaviour, violence and abuse (psychological, physical, sexual, financial or emotional) between people who are or have been intimate partners or family members, regardless of gender'.

This definition includes forced marriage and abuse within same sex relationships.

Domestic abuse is very common and affects one in four women in their lifetime. Although most victims of domestic abuse are women and most abusers are men, domestic abuse can affect anyone.

Domestic abuse is a pattern of controlling and aggressive behaviour that is used to maintain power and exert control on victims, including many forms such as physical assault, bullying, sexual abuse, rape and threats. In addition it may include destructive criticism, pressure tactics, disrespect, breaking trust, isolation and harassment. Domestic abuse may apply to relationships other than those of partners and include sibling and intergenerational relationships (parents–offspring).

Forced Marriages
Forced marriages include: one or both spouses not consenting to the marriage and some element of duress is involved. Duress includes feeling both physical and emotional pressure. Some victims of forced marriage are tricked into going to another country by their families.

Victims fall prey to forced marriage through deception, abduction, coercion, fear, and inducements. A forced marriage is considered to be domestic abuse and an abuse of human rights.

There have been reports of vulnerable adults with mental and physical disabilities being forced to marry. Some individuals do not have the capacity to consent to the marriage. Some individuals may be unable to consent to consummate the marriage – sexual intercourse without consent is rape

Safeguarding in Prisons
HM Prisons and Probation services are the primary respondents to any allegations of abuse from prisons.

Safeguarding Children
Under the Children Act 2004 everyone has a responsibility, whilst undertaking their normal duties, to have regard to the need to safeguard and promote the welfare of children and young people and for ensuring they are protected from harm. This includes work carried out in relation to assessments and reviews of vulnerable adults and carers, provision of services, and in relation to safeguarding vulnerable adults' processes.

PREVENT/RISK OF RADICALISATION

Vulnerable adults may be at risk of radicalisation by a range of groups and any such risks identified should be managed through the safeguarding process. The Prevent strategy4, published by the government in 2011, is part of an overall counter-terrorism strategy named 'CONTEST'.

The aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism, simply expressed within the Act as to "prevent people from being drawn into terrorism".

'The Prevent strategy has three specific strategic objectives:

1. Respond to the ideological challenge of terrorism and the threat we face from those who promote it

2. Prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support; and

3. Work with sectors and institutions where there are risks of radicalisation that we need to address.' (PREVENT Consultation document page 8)

Whilst prevention has been part of strategy and guidance for some years, Section 21 of the Counter-Terrorism and Security Act 2015 (the Act), which is currently before Parliament, seeks to place a duty on specified authorities (including NHS Trusts*) to 'have due regard, in the exercise of its functions, to the need to prevent people from being drawn into terrorism'.

The health service has been identified as a key partner in preventing vulnerable people being radicalised although healthcare organisations are expected to be involved in delivering objectives 2 and 3 only.

Healthcare professionals may meet and treat people who are vulnerable to radicalisation, including children.

Working Together to Safeguard Children 2010 states:

"Experience suggests that young people from their teenage years onwards can be particularly vulnerable to getting involved with radical groups through direct contact with members, or increasingly, through the internet. This can put a young person at risk of being drawn into criminal activity and has the potential to cause significant harm" People with mental health issues may be easily drawn into being radicalised for various causes. There is no obvious profile of a person likely to become involved in terrorist-related activity, or single indicator of when a person might move to support extremism. Vulnerable individuals who may be susceptible to radicalisation can be patients and/or staff. All staff must escalate a concern and have confidence that each issue will be taken seriously, handled appropriately and that, where necessary, specialist advice will be available.

RECORD KEEPING

Record keeping is an important element of safeguarding work. All staff must ensure that they keep accurate written recordings of their work. The details should be Factual Accurate Concise Ethical and Relevant. It is essential when passing information to other agencies that the information given is factual and not opinion. The AMIGOS record now contains the key safeguarding forms and documentation that must be completed.

Good record-keeping is central to effective safeguarding, even if 'safeguarding' is not the explicit theme. It is particularly important when you are assessing a person's capacity to make their own decisions.

People benefit from records that promote good communication and high-quality care. Failing to keep accurate records of decisions and actions taken can put people at risk.

The term 'records' covers various types of documents, including:

- Case notes
- Any statements that the person has made about their wishes
- Care plans
- Risk and other assessments (such as Mental Capacity Act 2005 assessments)
- Incident reports
- Safeguarding referrals and enquiries
- Medication records and administration sheets
- End-of-life care plans or advance decisions
- Referrals to other organisations and professionals
- Handover documents
- Staff supervision and training records
- Complaints

All records must be written clearly, and in a manner that can be easily understood by others. They must be accessible to everyone who needs to see them. Any records that contain personal information should be kept in secure storage that is only accessible to those who have authorisation to access these records. Case notes should always be written in a way that respects the person's dignity.

Practitioners should record decisions and actions that they decided not to take, as well as ones they did, explaining the rationale in each case. It should also be very clear what is factual information.

INFORMATION SHARING AND CONFIDENTIALITY

Legally staff can share confidential information with the service users consent. If the information is in the public interest it is legal to share the information without the service users consent. Staff should always record the reason for disclosing information and whether disclosure was made with or without consentinion.

FAILURE TO SHARE INFORMATION

Confidentiality is a serious consideration for all public services but within the confines of Safeguarding arrangements information can be safely shared. Responsible information sharing plays a key role in enabling services to protect victims of adult abuse and in extreme cases saves lives.

Articles 2 and 3 of the Human Rights Act 1998 place an obligation on public authorities to protect people's rights to life and their freedom from torture, inhumane and degrading treatment. Meeting these obligations may necessitate lawful information sharing. However, all information sharing should be done on a case by case basis. In all cases, the worker involved should discuss the proposal to share information with, and seek approval from, their Line Manager. The reasons for sharing information, what information is shared and who this has been shared with should be recorded.

Responsible Safe Guarding Manager:
Leanne Harris 0330 555 5000

NURSDOC