

Haringey Multi- agency Safe Guarding Adults Policy and Procedure

Version V1	Status Draft	Author Denise Sourris Interim Business manager Adult Services Olive Komba-Kono Adult Protection Coordinator Adult Services
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Safeguarding Adults Policy and Procedure

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1. Foreword:

“Abuse is a violation of an individual’s human and civil rights by any other person or persons.”¹

People living in Haringey have the right to live a life free from abuse and neglect. It is the responsibility of each agency in Haringey working with vulnerable adults to ensure that these adults are protected from any type of abuse. Each agency has a responsibility to assess when a vulnerable adult may be at possible risk of harm and to work and to work with them, their families and any carers to reduce this risk.

This document represents a collaboration between the agencies in the Borough with a responsibility for working with vulnerable adults: statutory, health, the policy the voluntary sector and the private sector, to provide a joint policy framework by which we work in partnership to safe guard vulnerable adults from abuse. The policy and procedures are based on ‘No Secrets’² and ‘A National Framework of Standards for good practice and outcomes in Adult Protection work.’³

Haringey Adult Services are responsible for the co-ordination and development of the policy and procedures for safeguarding vulnerable adults in their local community. This policy would however be ineffective without input and ownership from all partner agencies.

Haringey’s multi-agency safeguarding adults’ policy and procedures represents the commitment across the agencies in Haringey to promote a safer Haringey.

2. Policy

2.1 Introduction:

¹ No Secrets – Department of Health (2000)

² No Secrets – Department of Health (2000)

³ A National Framework of Standards for good practice and outcomes in Adult Protection work.³ ADSS 2005

This document sets out the policies and procedures Haringey Council staff need to adhere to with relation to Safeguarding Vulnerable adults from abuse. The policies have been developed to promote good practice requirements across the different agencies in the Borough.

Effective communication and an understanding of each agencies roles and responsibilities are crucial to the implementation of this policy. These policies and procedures have not been developed in isolation; they represent a unified approach to safeguarding adults across Haringey.

As a statutory organisation Haringey Council has a duty of care to promote the best interest of all the Adults it supports. Haringey's Multi-agency Safeguarding Adults Policy and Procedures exist so that any suspected abuse of a vulnerable adult is reported; vulnerable adults at risk are protected from further abuse; clear guidance and support is provided to those reporting abuse; procedures and guidance are in place for those investigating alleged abuse; ensure that effective monitoring and recording systems are in place to collect evidence; promote the rights of vulnerable adults and protect them from abuse and ensure that there is a robust assessment process in place that will safeguard adults from abuse.

2.2 Vulnerable Adults Statement of the Rights

Abuse exists in various forms and can be perpetuated by one or more people. Whatever the abuse or the setting, abuse is not acceptable and a violation of a persons basic human right.

There are people living in Haringey who may be at greater risk of abuse because of their age, the nature of their disability or circumstances. Some adults are unable to live their life without the assistance of others. Each Adult living in Haringey has the right to receive support and live a life free of abuse and neglect.

Haringey Safeguarding Adults Partnership has a Zero-Tolerance Policy to abuse. In no circumstance is abuse accepted or tolerated. All agencies across Haringey will work in collaboration to ensure that this policy is adhered to.

Vulnerable Adults in Haringey have the **Right to:**

- Safety and the provision of adequate care and support. Including protection from all forms of violence including physical punishment, intimidation, belittling, and lack of respect, harassment and sexual assault.

- Independence.
- Make decisions about their own life, even if this may involve activities where there is an element of risk.
- The protection of the law, including the right to money and property that is legally theirs.
- Lead a life free from discrimination and have their own rights upheld regardless of ethnic origin, sexuality, impairment or disability, age and religion or cultural background.
- Privacy.
- Appropriate information about keeping themselves safe and exercising their rights.
- Advocacy and assistance in making decisions regarding their abuse, where their Mental Capacity would prevent them from fully participating in the investigations.
- Be involved in all necessary decision making in the event of abuse, including the right to decide how to proceed and who they decide to confide in.
- Decline the intervention of statutory organisations after having made an informed decision regarding their circumstances, where risk has been identified.
- Report any abuse and/or neglect and for that allegation to be recorded and taken seriously, including the right to call the police in circumstances where a crime has been committed.
- Bring a formal complaint under the relevant complaints procedures if they are not satisfied with the initial investigations.

2.3 Multi-agency statement of Commitment:

All agencies and organisations that worked in partnership to develop the Multi-agency Safeguarding Adults Policy and Procedure in Haringey are committed to making sure it is effective by:

- Raising awareness that vulnerable adults can be subjected to abuse.
- Giving a clear message that preventing abuse from happening, or protecting a vulnerable adult from further abuse if abuse has taken place is **everyone's** responsibility.
- Making sure that Safeguarding Adults policies and procedures are widely available and easily understood, especially by those people they are designed to help.
- Promoting best practice to minimise abuse through the collaboration of all agencies/organisations.
- Making sure that all staff have sufficient knowledge and understanding of their roles and responsibilities in regard to Haringey's Multi-agency Safeguarding Adults Policy and Procedures through the relevant training for implementing the procedures in their work.
- Promoting the early recognition of abuse and prevention of further abuse.

- Making sure that there is consistent and effective response to any concerns, allegations or disclosure of abuse. Supporting staff in reporting and investigating allegations of adult abuse.
- Contributing towards Safeguarding adult's investigations, Strategy Meetings and Safeguarding plans.
- Making sure that, where intervention is necessary, staff pursue action in a way that causes the least disruption to the vulnerable adult's way of life.
- Preventing the risk of the abuse reoccurring.
- Recognising that adults identified as vulnerable have a right to confidentiality.
- Working in a preventative manner to protect vulnerable adults from abuse and/or neglect.
- Making sure that if during a Safeguarding Adults Referral or Investigation, any concerns about the safety and well-being of a child or young person arise these concerns should be referred immediately to Haringey Councils Children and Young People's Service.

2.4 Purpose:

In Haringey, the Haringey Safeguarding Adults Board is tasked with responsibility of ensuring that vulnerable adults are free from abuse and neglect. This multi-agency policy and procedure is the framework by which the board's strategies are implemented across the Borough. This policy does not stand alone and should be read in the context of other local operational procedures, the legislative framework and good practice requirements set out by regulators. The framework provides a good practice guidance to local agencies that have a responsibility to investigate and take action when a vulnerable adult is believed to be suffering abuse.⁴

This policy and procedure should provide all staff working in voluntary, community, statutory and private agencies/organisation throughout the Borough the means to identify incidences of abuse and be able to respond in a way that safeguards that adult, in line with the good practice requirements. Each agency has a responsibility to respond sensitively and coherently to reported incidents or allegations of abuse/neglect. It is imperative that there is a consistent approach across the Borough.

The primary aim for all agencies is to prevent abuse. Where preventative strategies fail, agencies should ensure that robust procedures are in place and are closely followed in dealing with incidents of abuse.

2.5 Scope:

⁴ No Secrets": DOH 2000- Section 1.5

This policy and procedure applies to staff working in: Haringey Council Adult, Culture and Community Services, Haringey Partnership Trust, Haringey Primary Care Trust, Haringey Mental Health Trust, Haringey Police, Haringey Legal Services, Commission for Social Care Inspection, The Probation Service, The Crown Prosecution Service, Haringey Ambulance Service NHS Trust, the Fire and Rescue Service and contracted and independent providers of care.

This policy and procedures applies to all vulnerable adults, resident in the London Borough of Haringey, aged 18 and over.

2.6 Policy Framework:

The Department of Health and Home Office issued the publication “No Secrets: Guidance on developing Multi-Agency Policies and Procedures to Protect Vulnerable Adults from Abuse” in March 2000. Haringey’s Safeguarding Adults Policy adheres to the contents of “No Secrets”.

Haringey is currently working towards meeting the 11 standards set out in the Association of Director of Adult Social Services (ADASS): “A National Framework of standards for good practice and outcomes in Adult Protection work”. The 11 standards are:

Standard 1: Each local authority has established a multi-agency partnership to lead Safeguarding Adults work.

Standard 2: Accountability for and ownership of Safeguarding Adults work is recognised by each partner organisation’s executive body.

Standard 3: The Safeguarding Adults policy includes a clear statement of every person’s right to live a life free from abuse and neglect, and this message is actively promoted to the public by the Local Strategic Partnership, the Safeguarding Adults Partnership, and its member organisations.

Standard 4: Each partner agency has a clear, well-publicised policy of Zero Tolerance of abuse within the organisation.

Standard 5: The “Safeguarding Adults” partnership oversees a multi-agency workforce development/training sub-group. The partnership has a workforce development/training strategy and ensures that it is appropriately resourced.

Standard 6: All citizens can access information about how to gain safety from abuse and violence, including information about the local Safeguarding Adults procedures.

Standard 7: There is a local multi-agency Safeguarding Adults policy and procedure describing the framework for responding to all adults “who is or may be eligible for community care services” and who may be at risk of abuse or neglect.

Standard 8: Each partner agency has an internal set of guidelines, consistent with the local multi-agency “Safeguarding Adults” policy and procedures, which set out the responsibilities of all workers to operate within it.

Standard 9: The multi-agency Safeguarding Adults procedures detail the following stages: Alert, Referral, Decision, Safeguarding Assessment Strategy, Safeguarding Assessment, and Safeguarding plan, Review, Recording and Monitoring.

Standard 10: The safeguarding procedures are accessible to all adults covered by the policy.

Standard 11: The partnership explicitly includes service users as key partners in all aspects of the work. This includes building service-user participation into its membership, monitoring, development and implementation of its work; training strategy; and planning and implementation of their individual safeguarding assessment and plans.

2.7 Defining who is at risk:

What is the definition of a Vulnerable Adult?

A Vulnerable Adult is any adult over the age of 18 “who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation”.⁵

The term “community care services” in this document includes all social and health care services in any context. This includes adults with Mental Disability, Physical Disability, Learning Disability, Illness and Frailty.⁶

The term “harm” should be taken to include not only ill treatment (including sexual abuse and forms of ill treatment that are not physical), but also the impairment of, or an avoidable deterioration in, physical or mental health. It should also be taken to include the impairment of physical, intellectual, emotional, social or behavioural development.⁷

For young people or children under the age of 18, who may be at risk of abuse, or significant harm, Haringey’s Safeguarding Children Procedures should be referred to.

There will be certain circumstances when it will be appropriate for the Children and Young People’s Directorate to work jointly with Adult Services to

⁵ No Secrets”: DOH 2000: Section 2.3

⁶ (“No Secrets”: DOH 2000: Section 2.4)

⁷ No Secrets”: DOH 2000 Section 2.18

safeguard a young person, for example a young person who is aged 17 years old and is in transition.

2.8 What constitutes Abuse?

Abuse can take place in a number of different ways and in any setting. Fundamentally abuse violates an individual's human and civil rights.⁸

Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.⁹

Abuse can constitute "a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress to a vulnerable adult".¹⁰

Abuse of a vulnerable adult may be obvious e.g. where this is a visible injury, but in many instances the evidence may be subtle.

Abuse is an ill treatment that causes significant harm and can result in the deterioration of a person's physical, emotional, social or behavioural development. Neglect and poor professional practice can be considered abuse. This may take the form of isolated incidents of poor practice through to ill treatment or gross misconduct.

2.9 Definitions of Abuse:

The definitions of Abuse found in this policy are in accordance with "No Secrets" definitions.

Physical Abuse: includes hitting, slapping, pushing, kicking, misuse of medication or inappropriate sanctions or restraint.

Sexual Abuse: includes rape and sexual assault or sexual acts to which the vulnerable adult has not consented, or could not consent or was pressured in to consenting.

Psychological Abuse: including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.

⁸ ("No Secrets": DOH 2000- Section 2.5)

⁹ ("No Secrets": DOH 2000- Section 2.6)

¹⁰ ("No Secrets": DOH 2000- Section 2.6)

Financial or material abuse: includes theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.

Neglect and acts of omission: includes ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating;

Discriminatory abuse: includes racist, sexist, that based on a person's disability, and other forms of harassment, slurs or similar treatment.

Other types of abuse could include:

Institutional Abuse: including neglect and poor professional practice: this can range from isolated incidents of poor or unsatisfactory professional practice to pervasive ill treatment or gross misconduct. It includes the mistreatment or abuse by a regime or individual/s within an institution e.g. a hospital, care home or day centre. It occurs where the individual's wishes or dignity are consistently or repeatedly compromised to ensure the smooth running of an institution or organisation. Any types of the abuse mentioned above can occur within institutions and could include poor care standards, misuse of medication, inappropriate restraint, lack of privacy etc.

Peer Abuse: including abuse of one vulnerable adult by another vulnerable adult, both of whom are service users within a care setting.

2.10 Indicators of Abuse:

An indicator of abuse should not be taken to mean that abuse is or has occurred. Indicators of abuse should act as a trigger for a robust assessment of the individual's circumstances and situation. Allegations of abuse need to be substantiated with evidence. It is therefore essential that care is taken not to entirely depend upon these indicators. Missing these indicators on the other hand could have serious consequences for the vulnerable adult. Indicators of possible abuse need to be used as tools to support professional practice and judgement.

The following warning signs are good indicators of abuse:

- Bruises, falls and injuries
- Signs of neglect such as clothes being dirty, malnutrition
- Poor care either at home or in residential or nursing home or hospital
- Changes in someone's financial situation: problems with their finances, depletion of funds, change in ownership etc.
- Changes in behaviour such as loss of confidence, anxiety, aggression.

2.11 Who can be Perpetrator?

Anyone potentially could be a perpetrator of abuse. Anybody in any relationship with a vulnerable adult, who exploits their position of trust, could be the perpetrator of abuse.

Vulnerable Adults can be abused by a wide range of people including:

- Family
- Friends
- Neighbours
- Professional staff
- Paid carers
- Informal carers
- Volunteers
- Other Service Users
- Associates
- People who deliberately exploit vulnerable people
- Strangers.

The roles, powers and duties of the various agencies in relation to the alleged perpetrator will vary.¹¹

2.12 The Carer as Alleged Perpetrator:

Carers provide support to sick and disabled people that saves the state approximately £57 billion every year.¹² However it is also important to recognise that a carer may also be a perpetrator of abuse. Raising such awareness will help to ensure that carers will receive assistance and support to reduce the likelihood of them committing an abusive act.

It may be that the carer's response or attitudes indicate that something is the matter. The abusive behaviour may stem from an individual response to a given situation rather than as a result of the situation itself.

There are various factors that could affect the relationship to breakdown between a carer and the vulnerable adult. The factors include:

- Dependency on the vulnerable adult (e.g. financial)
- Alcohol/substance misuse
- Conflicting responsibilities
- Poor family relationships over the years
- Low income/ poor housing/ financial difficulties
- Carer had to change his/her lifestyle
- Isolation/ no family support/ no support from other agency/ no social life
- No personal private space
- Caring responsibility has been imposed
- Carer has abused in the past or has been abused
- Personal ambition is affected
- Carer under extreme stress

¹¹ No Secrets: DOH 2000- Section 2.12

¹² Carers UK 2002, Without Us: Calculating the value of carers' support

- History of Mental health problems

Abuse can manifest in various ways and include:

- Silence in the home
- Lack of consideration of vulnerable adult's needs
- Refusing the vulnerable adult to have an opinion
- Aggression or volatile behaviour
- Carer rejecting other help
- Carer shows apathy, withdrawal, depression, hopelessness or suspicion
- Not allowing the vulnerable adult to be visited without the carer present;
- Any of the other types of abuse already listed

Aggravating factors could include:

- Reversal of the usual parent/child roles
- Incontinence or difficult behaviour, especially if perceived as deliberate
- Communication problems e.g. hearing, speech or memory
- Violence is the norm
- Vulnerable person is rejecting or ungrateful;
- Disturbed sleep
- Carer feels exploited
- Carer feels guilty about expressing their feelings around the caring role
- Carer experiences a cultural conflict in their caring role
- Carer lacks the knowledge required to provide appropriate care

2.13 Circumstances in which abuse can happen:

Abuse can take place in any context.¹³

.Abuse can occur in the following settings:

- Nursing Home
- Residential Care Home
- In Hospital
- Day care centre
- In a custodial situation
- In their own home
- In other places assumed as being safe
- In public places
- Living alone or with a relative.

2.14 When abuse constitutes a crime:

¹³ No secrets: DOH 2000- section 2.14)

Various definitions of abuse are actions that may constitute a criminal offence. Such actions include: assault (whether physical or psychological), sexual assault (including rape), theft, fraud or other forms of financial exploitation, discrimination on grounds of race, gender or disability and false imprisonment. In this respect, vulnerable adults are entitled to the protection of the law in the same way as other members of the public.

Criminal acts carried out by strangers are not usually defined as abuse but in some cases it may be appropriate to use Haringey's Multi-agency Safeguarding Adults Policy and Procedures to ensure that the vulnerable adult receives the services and support that they need.

In addition to this the Mental Capacity Act 2005 which came in to force in April 2007, introduces a new criminal offence of ill treatment or neglect of a person who lacks Mental Capacity (e.g. Adults suffering from dementia)

When reports about alleged abuse suggest that a criminal offence has been committed, it is important as part of Haringey's Safeguarding Adults procedures, to immediately refer the incident to the police as a matter of urgency. The police will advise on the necessary further action, level of urgency and the process for undertaking any subsequent criminal investigation.

Criminal Investigation by the Police must be prioritised. Through the Safeguarding Adults process, liaison with the police may allow for other action to take place whilst the criminal investigation continues. However it may be that no action is taken by the Council because the police need to complete their own investigation and any action could jeopardise that investigation. The decision must be made in liaison with the police, who will advise what action should be taken.

Criminal Offences are dealt with by the State- the Police investigate and then in liaison with the Crown Prosecution Service decisions are made whether or not to prosecute. The Crown Prosecution Service has to apply two tests- whether there is a realistic prospect of conviction, and if so, whether it is in the public interest to proceed.

2.15 Domestic Violence:

Although not formally classified as a type of abuse, all staff must be aware that adult abuse can occur within a domestic context. There can be overlap between Safeguarding Adults incidents and cases of domestic violence.

Domestic violence has been defined as "any incident threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been in a relationship together, or between family members, regardless of gender or sexuality"¹⁴

¹⁴ Metropolitan Police Racial and Violent Crimes Task Force

“Causing or allowing the death of a child or vulnerable adult” has now become a criminal offence. The perpetrator and victim do not need to co-habit in order for an allegation of domestic violence to be made because: “a person is to be regarded as a “member” of a particular household, even if he does not live in that household, if he visits it so often and for such periods of time that it is reasonable to regard him as a member of it.”¹⁵

2.16 Child Protection:

There will be cases where Domestic Violence or abuse of a vulnerable adult also involves a child, or puts a child at risk of significant harm. In these situations a referral should be made to the Haringey Child Protection Referral and Assessment Team on 020 8489 1856/1805/1806 (Hornsey)

Or

02084895402/5403/5404 (Tottenham).

If there are children in a household and there is concern/evidence of Domestic Violence, the welfare of the child must always be paramount. That child or children may themselves be subject to violence or other forms of harm. Children who witness Domestic violence are at risk of significant harm, in that this is a form of psychological abuse and should be logged via a referral to the Children and Young People’s directorate on the afore mentioned telephone numbers. Should a referral be made concerning the welfare of a child or children it is good practice to inform the parents/carers that a referral has been made? There are circumstances where that information may put the child at greater risk of harm, or in some instances of Domestic Violence could further harm the adult. Extra care should be taken in these cases and a professional judgement should be made about the best interest of the child and safety of the adult. For further information on such circumstances it may be useful to consult the London Child Protection Procedures which can be found at www.londonscb.gov.uk.

Young people in transition who are considered to be at risk of significant harm will be supported through the Children and Young Peoples service via the Safeguarding Children Protocols. Adult Services will work jointly with the Children and Young People’s Service to ensure that the young person is safeguarded and effective transition plans are in place.

Where a Child is Looked After by the Local Authority, and is in transition to Adult Services, The Looked After Children Procedures will run in parallel to the Transition planning. Any safeguarding issues will be worked jointly via the Children and Young People’s Service and Adult Services. The young person (s) will be subject to children safeguarding protocols until that young person (s) is made safe. Once a child is over the age of 18 this procedure should then be followed. It should not be assumed that if a child or young person has

¹⁵ Domestic Violence, Crime and Victims Act, 2004

been subject to child protection concerns they will automatically be considered as subject to safeguarding adult's procedures. Each case should be assessed in line with these procedures and risk properly identified and recorded with actions planned.

2.17 Risks Arising From Self Neglect

In cases where there is risk arising from significant neglect due to capacity then the Haringey Multi-agency Safeguarding Adult Policy and Procedure should be applied. In particular, if a vulnerable adult does not have the capacity to meet their needs, or consent to services/care that will ensure those needs are met due to: mental health, a brain injury or learning disability. The procedure should also be followed if a vulnerable adult does have mental capacity but has refused essential services, without which their health and safety needs can not be met.

In cases where a vulnerable adult does have capacity, then that adult has the right to make their own choice about the care they wish to receive or not receive. All endeavours should be made to provide that person with as much relevant information as possible to assist them in making an informed choice.

Where agencies are unable to implement services to reduce or remove risks the reasons for this should be fully recorded and maintained on the person's file, with a full record of the efforts and actions taken by the agencies to assist and help the vulnerable adult.

The vulnerable adult, carer or advocate should be fully informed of the services offered and the reasons why the services were not implemented. There is a need to make clear that the person can contact the relevant agency at any time in the future for services. In cases of high risk, consideration should be given to arrangements for monitoring and where appropriate making proactive contact to ensure that circumstances do not deteriorate to an unacceptable degree.

If an individual does not have mental capacity due to the state of their mental health or a brain injury, the Mental Capacity Act 2005 protocols need to be followed. In Haringey Council, these protocols set out the steps that a professional needs to take in relation to the legislation. The key action is a referral to an Independent Mental Capacity Advisor (IMCA) Service. Haringey Council currently uses Rethink as its IMCA service. The IMCA will act as the individual's independent advocate throughout the safeguarding investigation to promote the individual's wellbeing and safety.

2.18 Prevention of Abuse: The Responsibility of all agencies.

The primary aim of all the care agencies/organisations within Haringey (Police, Adult Services, Commission for Social Care Inspection, Day Centres,

care homes, private organisation and any other care provider) is to prevent abuse. Each agency has a duty to ensure that policies and procedures are based on a strategies for prevention as much a possible.

Each agency must provide accessible information available to users, carers and the general public on how to raise a concern or make a complaint.

Staff need to be aware of safeguarding adults' procedures. Safeguarding Adults should feature in induction and training packs for staff at a level that is commensurate with their role in the Safeguarding Adults process. Safeguarding Adult training should be mandatory training across each agency. All staff should be made aware that abuse can occur and what processes are in place to keep vulnerable adults safe.

Procedures need to be in place across each agency that deal with disclosure of abuse by a vulnerable adult. Those procedures need to be compatible with this Haringey Multi-Agency Safeguarding Adults Policy and Procedures.

Assessing vulnerability and identifying possible risks relating to abuse should be integrated into each agencies assessment and risk assessment framework. This should not be seen as a separate exercise but as part of a holistic assessment process. Good communication should be fostered, to promote an open culture in an organisation. Staff should communicate effectively with service users, carers and ensure that managers and senior managers are made aware of any concerns.

Staff across all the agencies should have access to all relevant policies and procedures which will enable them to carry out their work to the best interest of the service user and carer. It is essential that staff are made aware of the importance of keeping accurate, factual and contemporaneous records. All information should be recorded in a sensitive non judgemental manner keeping in mind service users and carers have access to their records under the Freedom of Information Act 2000. Any record kept about a service user may be also be used in the court arena as a legal document.

Safe recruitment procedures and practices need to be in place for all staff across each agency. This should include agency staff, staff bank, sessional staff, student volunteers and any other staff/people working with vulnerable adults or children. Work references should be obtained prior to the employment commencing, candidates should be subject to an enhance Criminal Record Bureau (CRB) check, that is cross referenced with the Protection of Vulnerable Adults (POVA) register. Where a profession is regulated, for example social workers are regulated through the General Social Care Council (GSCC) and nurses are regulated via the Nursing and Midwifery Council (NMC), agencies should ensure that candidates are properly registered with their respective regulators and are not subject to any conduct proceedings or suspended from the register.

Clear procedures should be in place for 'whistle blowing' or addressing allegations or concerns against staff, volunteers or any other person working

on behalf of that agency. These procedures should be accessible to all staff and the public. They must promote the safety and welfare of vulnerable adults. Furthermore agencies must guarantee that staff and service users, using these procedures appropriately, will not prejudice their own positions and prospects.

Agencies must have robust systems that can evidence that Safeguarding Adults guidance is followed when staff are suspended or dismissed. Professional bodies should be informed of the suspension or dismissal. Codes of Conduct for all staff should be in place setting out what is expected of all staff and the minimum standards that should be upheld at all stages. There should also be clear guidance in place informing staff about what is not acceptable and how the agency will deal with such behaviour/ lapse in standards.

What is considered an inappropriate relationship between a paid carer/ professional and service user?

As a professional employed to provide care and support to a service user or carer, there is a duty of care to promote the welfare and safety of that service user/carer. It is therefore appropriate to maintain a professional boundary at all times.

Having a sexual or close personal relationship with a service user is not acceptable behaviour. This is because of the inherent power imbalance that is present in a professional support relationship. The Sexual Offences Act 2003 recognises this imbalance and makes it illegal for a paid carer to have a sexual relationship with a service user who may have a mental health condition or is in a care setting. Other offences may be committed even if the professional thinks that the relationship is “consensual”.

In order to safeguard vulnerable adults from this potential abuse each agency should have clear procedures in place for staff to report their concerns about interactions between a service user before it progresses.

There may be cases where a service user carer makes advances or would like to have an intimate relationship with the professional. As a professional, there is a duty to maintain boundaries and to report any such advances directly to a line manager. The relationship should be managed so as not to alienate the service user/ carer. It is the professional’s responsibility to ensure that the relationship remains within the boundaries professionalism.

Any such incidences should be clearly recorded; evidencing what action has been taken to safeguard the vulnerable adult. It may be appropriate to offer the member of staff or the service user additional counselling and support.

When can intervention be justified?

When an alert outlining an allegation of abuse is first received, the extent or seriousness of the abuse may not always be clear. It is therefore important when considering appropriateness of intervention to approach reports or allegations with an open mind. When assessing risks involved in the case, the following factors should be considered:

- the vulnerability of the individual
- the Mental Capacity of the individual
- the nature and extent of the abuse
- the length of time it has been occurring
- the impact on the individual
- the risk of repeated or increasingly serious acts involving this or other vulnerable adults.¹⁶

Once the assessment has highlighted the level of risk involved in the case and a decision has been made that professional intervention is required in order to safeguard that vulnerable adult, the intervention should be based on the following principles:

- Once an individual makes an informed decision about his or her circumstances, where risk has been identified, and a choice is made to decline the intervention of a statutory authority, then his or her wishes must be respected. The decision to override such a decision can only be made once a statutory obligation exists to intervene.
- Intervention is necessary to reduce the risk and the intervention is accepted by the individual, the professional should pursue a course of action that reduces the risk in the least disruptive way to the individual.
- The vulnerable adult must be given relevant information and advice that will assist that individual in making an informed decision. The information should always be presented in a format that is appropriate to that individuals needs.
- Staff will document their decisions that must take in to account the welfare of the vulnerable adult and their civil liberties.
- The needs of the carer must be considered.
- If possible, a link will be maintained with that vulnerable adult in case the situation becomes intolerable and swift action is needed.

The degree of abuse that would justify intervention builds on the concept of 'significant harm' introduced in The Children Act 1989.

Confidentiality:

The Data Protection Act 1998 sets out the guidelines by which each agency should maintain confidential information.

¹⁶ No Secrets Section 2.19

Each agency will have a set of protocols and procedures on how staff should handle confidential information that is sensitive and not in the public domain.

There are circumstances in which it is imperative that staff share and exchange relevant information in order to progress a vulnerable adult enquiry or investigation. The information shared is done so in order to safeguard a vulnerable adult from potential abuse. That information is however shared between agencies that are involved in that persons care, or involved in safeguarding that individual. The information should still be treated as confidential and is still covered by data protection.

Whenever possible, it is good practice to obtain the consent of the individual concerned before sharing any information about that person. This should preferably be in writing and is dependant on that individual having the mental capacity to consent to disclosure. There are circumstances in which it is necessary to disclose information without consent of the individual concerned. This may be necessary in the public interest, where a failure to disclose information may expose an individual or others to significant risk of serious harm or to prevent criminal activity.

All those providing information should take care to distinguish between fact, observation, allegation and opinion. It is important that should any information exchange be challenged, in respect of a breach of confidentiality or, for example, as a breach of the Human rights Act, the information can be supported by evidence.

Information Sharing:

As outlined above, confidential information can be shared with the consent from the person providing it, or to whom it relates. Confidential information can be shared without consent if this can be justified to be in the public interest. A clear record should be maintained whenever information is shared, outlining the reasons the information was shared.

It is good practice to share concerns that may arise with the individual concerned and their carer(s), and to obtain the consent of the individual to share the information with other agency pertinent to that individuals care. There will be exceptions, where sharing that information may further jeopardise that individuals safety, or place them or other individuals at risk. If informing or sharing the concerns with the individual impedes the investigation, then it is appropriate not to share that information. A decision not to share information or obtain consent from an individual to share information that is about them, should not be taken lightly and must done to safeguard that adult or in the interest of public protection. Such a decision should be agreed with a manager/senior manager in the agency and must always be recorded and evidenced on the service user's records.

The Data Protection Act 1998 allows personal data to be processed without the consent of the individual, when the processing is for the prevention or

detection of a crime. “No Secrets” also suggests that sharing personal or sensitive information regarding a service user, ideally informed consent should be sought, but if this is not possible and other vulnerable adults are at risk, it may be necessary to override this requirement.

A public interest to share information can arise in cases:

- Where there is evidence that a child, young person or adult is suffering, or at risk of, significant harm.
- Where there is reasonable cause to believe that a child, young person or adult is suffering, or at risk of significant harm.
- To prevent significant harm to children and young people or serious harm to adults.
- With legal staff for court proceedings
- With the T police in the detection or prevention of crime.

Shared information must be adequate, relevant and not excessive in relation to the purpose for which it is held and must be held no longer than is necessary for that purpose.

Each Haringey agency/ organisation (Police, Social Services, Care Homes, Care Agencies, Day Centres, NHS, and PCT etc.) is responsible for maintaining their own records on work with Safeguarding Adult cases. Each agency must also have a policy stating the purpose and format for keeping the records and for their destruction.

This policy seeks to set out the proper level and line of communication to be adhered to when any partner agency seeks to obtain from another agency confidential information concerning clients and records

Consent:

The Mental Health Act 1983 defines consent as:

“The voluntary and continuing permission of the adult to agree a course of action or inaction, based on an adequate knowledge of the purpose, nature, likely effects and risks of the proposed action or inaction including the likelihood of its success and any alternatives to it. “

Permission given under unfair or undue pressure is not ‘consent’.

Staff should wherever possible seek the consent of an individual before sharing any information about them. There will be circumstances when it is not possible to seek consent or may place the individual or other individuals at risk by doing so.

Practitioners should not seek consent if by doing this they might:

- Place a child, young person or adult at increased risk of serious harm
- Prejudice the prevention or detection of a serious crime

- Prejudice the safeguarding investigation
- Lead to unjustified delay in making enquiries about allegations of significant harm

Capacity

Capacity is related to the ability of an individual to make decisions. In order to be capable of making a decision the individual should be able to demonstrate the ability to:

- understand the information relevant to the decision
- retain that information
- use or weigh that information as part of the decision making process
- communicate that decision (using whatever form of communication is appropriate to that individual)

All adults are presumed to have legal capacity unless there is clear evidence to the contrary: "A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success."¹⁷

Capacity should be considered throughout any assessment process. It should also be noted that an individual's needs, circumstances and capacity may change and are not fixed. Therefore where a person may assume to have capacity and the beginning of a safeguarding investigation, there may be occasions where that capacity may be diminished at various stages throughout the process. If this is the case, a re-assessment/review should take place taking into account any changes to that individuals overall needs and wellbeing.

See Appendix 2: Capacity guidance for more information on Mental Capacity

Lack of Capacity

In the case that an individual is unable to make an informed decision or lacks the capacity to recognise or acknowledge risk, then statutory authorities may need to be involved in accordance with these procedures. It is however important to remember that in any case where mental capacity is in question; the Haringey Multi-agency Safeguarding Policy and Procedures should be followed in parallel with the Mental Capacity Act protocols. A referral to IMCA should always be made if there is a question around an individual's mental capacity.

Any intervention must be proportionate to the risk and must be carried out in a way that is least disruptive to the individual's way of life. Before proceeding

¹⁷ Mental Capacity Act 2005: Section 1(3)

with statutory intervention the safeguards that may be provided by carers and other significant people must be explored. The decision about assessing risk is a joint responsibility between the relevant agencies involved.

In some cases A Mental Health Act assessment may need to be considered.

Best Interest

Where a vulnerable adult is judged to lack capacity in relation to a specific decision, this decision should then be made in that individual's 'best interest'.

When making a 'best interest' decision the following factors must be considered:

- Any past and current wishes and feelings of the individual concerned; including any written statement or choice directives.
- The individual's beliefs and values, including: any religious or cultural beliefs likely to influence that individual if they had capacity.
- Other factors that the individual would be likely to consider if they were able to do so, e.g. a sense of family obligation.
- The views of others considered appropriate to approach e.g. carers
- The recommendation of the IMCA

Roles and Responsibilities:

Roles of Individual Haringey Agencies:

The Haringey Safeguarding Adults Board MUST:

- Include representatives from Haringey Adult Services, Haringey PCT, the Police, the Voluntary and Private Sectors and The Probation Service.
- Meet quarterly. The meeting must be chaired by the Assistant Director, Adult Services Haringey Council.
- Oversee the development and approval of multi-agency policies and procedures in respect of Safeguarding Adults.
- Establish systems to monitor and review Safeguarding Adults policies and procedures and ensure these are promoted across all Haringey agencies.
- Ensure the publication and distribution of documentation to support the Vulnerable Adult Process and increase public awareness of abuse and neglect of Vulnerable Adults.
- Identify and secure funding to support the implementation of the Vulnerable Adult Process.
- Ensure that the Safeguarding Adults Policies and Procedures reflect the needs of all communities in Haringey.
- Ensure links with other areas of policy and good practice guidance, both locally and nationally.
- Ensure the development and implementation of the training strategy.

- Oversee the development of research links to ensure that information is available on current practice and trends which can support service improvements.
- Oversee and be informed by the monitoring of referrals and outcomes of allegations of abuse to the Department of Adult Social Care. To ensure that this information is used to promote good practice and to respond to government and other bodies requests for reports on activities.
- Ensure the development and implementation of serious cases Multi-agency review system and to ensure that agencies implement all recommendations arising from these reviews.
- Produce an annual report on Safeguarding Adults work in Haringey.

Statutory Agencies (which include the Services provided by: Haringey Council, the Police, the Mental Health Trust, Primary Care Trust, and other government services with a statutory responsibility to vulnerable adults) MUST:

- Have clear guidelines in place that set out the roles and responsibilities for all staff in relation to Safeguarding Adults.
- Supervise and monitor staff working with vulnerable adults to ensure that best practices are being adhered to.
- Raise public awareness regarding the abuse of vulnerable adults. A clear message should also be given that this is everyone's responsibility.
- Make sure that all staff and volunteers are appropriately trained in Safeguarding Adults. The training should be correlated to people's roles.
- Ensure that the relevant reports and information are prepared for Strategy Meetings, Case Conferences and Review Meetings as set out in these procedures.
- Maintain clear, accurate records of any safeguarding adult concerns. Any action taken should be clearly outlined and monitored.
- Share information in accordance with the local and national agreement on a need-to-know basis, when it is in the best interest of the vulnerable adult.
- Contribute to investigations acknowledging the requirements of confidentiality and data protection.
- Participate in the joint working arrangements as defined in this policy.
- Implement preventative and/or supportive action to vulnerable adults in accordance with this policy and within their role.
- Establish and implement robust and consistent practises in relation to employing staff and in the selection of volunteers by ensuring that an enhanced CRB check is done and that this is then cross-referenced with the Protection of Vulnerable Adult register.
- Attend the Safeguarding Adults Board Meetings, where appropriate
- Provide an annual report to their own Management Board.

Haringey Adult Services MUST:

Haringey Multi- agency Safe Guarding Adults Policy and Procedure

- Investigate allegations of abuse
- Liaise with advocacy services
- Complete needs assessments for vulnerable people and their carers.
- Contribute to Strategy Meetings and Case Conferences as per these procedures as lead agency, where appropriate.

The Haringey Safeguarding Co-ordinator within Adult Services MUST:

- Co-ordinate the Safeguarding Adults Policy
- Contribute to Safeguarding Adult investigations and casework as per these procedures
- Monitor and record the outcome of each Safeguarding Adults referral
- Maintain the Safeguarding Adults Register
- Co-ordinate Serious Case Reviews
- Co-ordinate the Multi Agency Risk Management and Assessment Procedures (MARMAP)
- Collate and report to the Department of Health, CSCI and other national policy makers all relevant information monitored under this policy.
- Produce an annual report.

Haringey Council Contracts Department MUST:

- Participate in investigation when they occur setting where services have been purchased or commissioned.
- Focus their investigation on the standards required in the provision of services outlined in the contract.
- Attend Multi-agency Strategy Meetings and Strategy Review Meetings prior to any investigation and must carry out any actions agreed to at the meeting.

It is the responsibility of the Placing Authorities to:

- Provide support to the vulnerable adult and plan their future care needs.
- Nominate a link person for liaison purposes during the investigation. They will be invited to attend any Safeguarding adults Strategy Meeting and/or may be required to submit a written report.

The police MUST:

- Pursue criminal proceedings where appropriate.
- Protect people in vulnerable situations.
- Contribute to Safeguarding Adult investigations and casework as per these procedures.
- Allocate a named Safeguarding Adults Link Officer for each division.
- Provide advice and possible action throughout the whole Safeguarding Adults process.

National Health Service Professionals (Including hospitals, GPs, Primary Care Trust and the Mental Health Trust) MUST:

- Ensure evidential investigations of medical examinations are undertaken, with the consent of the person involved.
- Ensure services are delivered in line with these procedures.
- Contribute to Safeguarding Adults investigations and casework as per these procedures.
- Investigate any allegation of abuse in a health based service under the Serious Untoward Incident Procedures.
- Contact the Director of Haringey Adult, Culture and Community Services in such cases whether they occur in the community or on a Haringey Hospital Site to discuss how the investigation will be conducted. This contact must be made by the Director of Clinical Governance or such equivalent.
- Contact Director of Clinical Governance or equivalent if an allegation of abuse in a hospital comes to the attention of Adult Services. The contact must be made by the Assistant Director of Adult Services or equivalent.

The Commission for Social Care Inspection (CSCI) MUST:

- Regulate care services
- Contribute any knowledge of services and regulatory standards for the Multi-agency assessment.
- Investigate all allegations relating to residential or nursing homes or regulated domiciliary care agencies in Haringey.
- Examine any general issues concerning the care of residents in a care home rather than just the particular circumstances and needs of the individual adult who is the focus of concern of Adult Services and other agencies.
- Be responsible for registering and inspecting nursing agencies.
- Inform Adult Services when reports are received that one or more service users may be or are at risk of abuse or neglect within registered establishments or their own homes.
- Carry out investigations independent of those carried out by Adult Services or the Police.
- Work jointly with Adult Services or National Health Services where service users require a response under these procedures.
- Work in partnership with other agencies. CSCI will however not suspend its own statutory enforcement responsibilities pending the outcome of another (e.g. criminal) process where to do so would run counter to the safety and well-being of the people who use the service. In such circumstances the CSCI will aim wherever possible to coordinate actions to preserve evidence and avoid impeding each other investigations or enforcement action.
- Attend Strategy Meetings and Case Conferences in respect of regulated services.
- Keep other agencies informed of any enforcement action taken by the CSCI on any regulated service.

Independent Providers of Domiciliary, Day Care, Residential Care, Nursing Care and Hospital Care MUST

- Have established procedures in place for safeguarding Vulnerable Adults in line with those outlined in the appropriate Care Standards Act, Regulations and National Minimum Standards. These must comply with this Multi-agency Safeguarding Adults Policy and Procedures.
- Report incidents of abuse to either the CSCI or the Health Care Commission, where appropriate. (These two agencies will be joint in 2008)
- Notify their local CSCI area office of any allegation of abuse or any other significant incidents under the Care Standards Act 2000.
- Provide information and assistance to investigating officers
- Contribute to Safeguarding Adult investigations and casework as per these procedures
- Deliver services in line with these procedures.

Supporting People and Supported Housing MUST:

- Receive reporting forms from service providers for each incident or allegation of abuse at their services (be it accommodation or floating support services based)
- Inform the Safeguarding Adults Coordinator of each reported incident (including incidents or suspicions of abuse identified by Supporting People Team members)
- Attend Strategy Meetings and Case Conference where necessary
- Inform the Safeguarding Adults Co-ordinator of any enforcement actions taken on any Supporting People Service.
- Contribute to Safeguarding Adults investigations and casework as per these procedures.
- Monitor cases of abuse within Supporting People services
- Ensure all service provides comply with Supporting People standards regarding protection from abuse.
- Provide or Commission support services to meet eligible needs as identified through completing assessments and through following these procedures.

Complaints Officers must:

- Inform a relevant manager that a complaint has been received which may indicate that a vulnerable adult is subject to abuse. This should be done in line with operational policies in place within the agency and this procedure. Local Authorities and Health Trusts have statutory Complaints Procedures in place.
- Inform the relevant regulatory body (i.e. CSCI or Health Care Commission) if a complaint is received indicating the abuse of one or more vulnerable adults concerning a service subject to regulation.
- Notify the relevant contract or commissioning manager if a complaint is received that indicates abuse of one or more vulnerable adults has taken place in commissioned or contracted service.

- Ensure that action under the Haringey Multi-agency Safeguarding Adults procedure takes precedence in the event of a complaint leading to a Safeguarding Adults enquiry.
- Attend Multi-Agency Strategy Meetings or discussions prior to any investigation and will be expected to carry out any actions agreed at the meeting.
- Inform the complainant of the suspension of the complaints procedures until the outcome of the Safeguarding Adults investigation has been decided.
- Ensure that the complainant can receive a response to the original complaint through the statutory complaint procedure after the Safeguarding Adults Enquiry.

Key Roles in Agencies relating to Safeguarding Procedures

The Haringey Multi-Agency policy identifies distinct roles in the Safeguarding of Vulnerable Adults in each individual organisation and their roles in the procedures:

Lead Officer for Safeguarding Adults Work:

- This is a role all statutory agencies should identify.
- The lead should be responsible for ensuring the agency has an up to date Safeguarding Adults Policy and that it is accessible to staff and is in line with Haringey's Multi-Agency Policy and Procedures.
- Ensure that training is available at the different levels for relevant staff.
- Co-operate with the audit process and participate fully in the Safeguarding Adults Board Meetings.
- Produce an annual report for their agency's own management Board.
- Be at a senior level in their respective organisation to ensure that Safeguarding Adults policy and practice is owned at the highest level within each organisation.

The lead agency (which is usually Haringey Council, Adult Services) is responsible for:

- Co-ordinating the investigation of any allegation or suspicion that a vulnerable adult is subject to abuse
- Acting as the contact point for collating any information about the victim and the perpetrator of abuse and the circumstance surrounding the alleged incident (s) of abuse.
- Taking the lead in deciding who should be interviewed, at what time and how, ensuring Achieving Best Evidence protocols are followed.
- Deciding who would be the most appropriate person to carry out the investigations at the Strategy Meeting. It is the role of Adult Services to

ensure that the process of the investigations follows the agreed Multi-Agency Policy and Procedures.

- Sharing information with other relevant agencies within legal and professional restraints where investigations are carried out by other agencies.
- **NO** Agency should take action (except in an emergency) without first consulting the lead agency.

When the police are the Lead Agency it is important to remember that:

- Where the police decide to investigate a crime in relation to the alleged abuse of an adult, the police shall act as the lead agency in the conduct of the investigation.
- No action should be taken in relation to the investigation without their agreement. This applies to all other investigations, including disciplinarys or investigations carried out by CSCI or Adult Services.
- All investigations involving the police are governed by the legal requirements of PACE (the Police and Evidence Act). This means that all police enquiries have to conform to certain standards in terms of interviewing practice, the involvement of appropriate adults and the collection and analysis of evidence.
- The police can advise other agencies on the likely impact of PACE requirements.
- It is crucial to the success of the criminal prosecution of an abuser that the police are involved at the earliest possible stage.
- Where the police are involved in the investigation in view of a possible prosecution they will take responsibility for leading their own investigation and all activities linked to the collection of evidence. Where this is the case, it will be important for the Social Worker/ Care Manager, Team Manager and the police officer to work together to co-ordinate the overall investigation.

When another agency is the lead agency it may be

- Appropriate for an agency that is outside of Adult Services to carry out the investigation because:
 - The alleged abuse occurred in a health based service or on a hospital site and a Assistant Director (or equivalent) has agreed that the allegation is investigated by hospital or health staff under their Serious Untoward Incident Procedures.
 - The incident of abuse requires specialist knowledge for example identification of non-accidental injury or allegations of financial abuse by a council employee.
- The level of abuse is minor and can be properly addressed by staff from another agency e.g. a domiciliary care provider investigating a minor allegation against a care worker.
- The vulnerable adult is more likely to confide in other professionals who they trust.

Failure to Investigate:

If a statutory agency (police, Adult Services or Health), do not investigate an allegation of abuse, other agencies or concerned parties (i.e. family, friends etc) have the right to make a formal complaint using the complaints procedures in place within those statutory organisations.

Such complaints should always be brought to the attention of the Haringey Multi-Agency Safeguarding Adults Board. The complaint should be followed up in writing, outlining how the complaint is being investigated. There should also be an appropriate plan of action in place to ensure that support is provided to the Vulnerable Adult and these procedures are being correctly implemented.

There may be cases where one organisation or agency does not believe another organisation is fulfilling its obligations to investigate or contribute to the investigation. In such instances, a complaint or discussion should initially be made with the manager of that team or section.

If a satisfactory reply is not received the complainant should:

- Consult with their own manager
- Consider with him/her addressing the complaint to a more senior manager until a more satisfactory outcome is received.
- Inform the Haringey Safeguarding Adults Co-ordinator of the difficulties faced in completing a full investigation.

Any failure of an agency to investigate or contribute effectively to an investigation of alleged abuse may have serious consequences for a vulnerable adult. In the worst case scenario it may even result in the death of that vulnerable adult, which may lead to a criminal investigation.

It is therefore always imperative to escalate any concerns to a senior manager in the organisation, if there is no response from a team or unit manager.

3. Procedures:

This section of Haringey's Multi-agency Safeguarding Adult's Policy and Procedures refers to the actions that should be taken by staff in all organisations within Haringey that are signatories to this document and provide a service to vulnerable adults over the age of 18.

ALERT

Who can raise the Alert?

An alert can be raised by anyone who has witnessed abuse taking place, has been told about abuse or neglect taking place, or suspects that abuse or neglect is taking place. It is that individual's duty to report the allegation to the relevant agency. The alert can be raised by any individual in any agency.

The alleged victim themselves may make a disclosure outlining the abuse they have been subjected to. Or a referral may come from another service user, relative or carer.

A paid care worker, volunteer or other visitor may observe behaviour that causes concern. It may be that the standard of care that a particular organisation provides may be putting people at risk or a service users challenging behaviour or actions may themselves be a concern for the safety of other service users.

All partner organisations should use the Haringey Multi-agency Safeguarding Adults Alert Form to report and record any concerns about the safety of a vulnerable adult. In certain circumstances an agency may be required to use their own internal form, for example where a crime has been committed the police will report it using the appropriate forms.

Members of the public can contact the Initial Contact Service on 020 8489 1400 to report any concerns or allegations of abuse concerning a vulnerable adult.

Alerts raised by staff that may concern a service or other staff in an organisation, about suspected abuse of a vulnerable adult or adults, must always be examined. It may be necessary to use other procedures such as disciplinary or whistle blowing procedures in parallel with the Multi-agency safeguarding Adult procedures.

How should you respond to the disclosure of information by the Vulnerable adult?

If a vulnerable adult discloses allegations that they are being abused, as a professional, you must always listen carefully in a non judgemental manner. Don't interrupt or stop that individual telling their story. You must not question them directly on the details, as this may jeopardise gathering evidence at a later stage in line with "Achieving Best Evidence"¹⁸

All allegations of abuse should be taken seriously. It is important that you try and not to show shock or disbelief and that you remain calm. Be empathetic; assure the person that the complaint or allegation will be taken seriously. Assure the person that it was not their fault and that they did the right thing by disclosing what happened to them.

¹⁸ Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses including Children Home office 2002

You should also be aware that the vulnerable adult may not realise they are being abused and therefore not realise the significance of what they are saying.

In some instances a person may make an allegation of abuse some years after the abuse had taken place. This could be due to the trauma of the abuse or simply the person may be blaming themselves, whatever the reason, it should not cast doubt on the reliability of the allegation.

You should not promise complete confidentiality. Explain that you have a duty of care to report what you have been told to a line manager and that the concerns may be shared, especially if other vulnerable adults are at risk.

One of the products of abuse, in many cases is a lack of control. It is therefore important that the alleged victim is given some of that control back. Ways in which you can do that is by keeping them informed of the actions you will be taking to protect and support that individual. If appropriate refer that individual to this procedure, which will outline what they can expect from a Haringey Agency.

How can an Alert be made?

An Alert can be raised by telephone, visit, email or fax.

A Haringey Alert Safeguarding Adults Multi-agency Alert form must be completed and sent back to the relevant agency (as shown on the form).

Where can you find a copy of the Haringey Safeguarding Adults Multi-Agency Alert form?

A copy of the Haringey Multi-agency Safeguarding Adults Alert Form can be found at http://www.haringey.gov.uk/alert_form-november_2006.doc or can be requested from the Initial Contact Service by telephoning 020 8489 1400.

How must you complete the Alert Form?

- You **must** complete all parts of the Alert form
- If any part is left incomplete you **must** be able to justify the reason for it
- Always make sure that you have provided sufficient information in order for the allegations to be efficiently investigated.
- Always ensure that all personal details are completed
- Make sure that the Alert form is legible and that it is filled out either in pen or typed
- Ensure that the Alert form is always signed and dated.
- Any opinions need to be identified as opinion and not fact, as they are assumption not always based on concrete evidence

What information needs to be given on the Alert Form?

Personal Information of vulnerable Adult:

- Personal details
- The current situation in which they are living
- Details of their family or significant other people
- Mental capacity/disability/ sensory impairment
- Whether the vulnerable adult has been informed that a referral has been made.
- Services received/ agencies that have contact with the vulnerable adult including their GP.

Details of alleged abuse:

- What is the actual allegation
- Where and when the alleged incident took place and who witnessed it and/or provided the information
- The details of what occurred including the actions and words used by the alleged perpetrator of abuse and the person being abused
- The extent of the abuse and degree of immediate danger that the referrer perceives the vulnerable person to be in.

The alleged perpetrator of abuse:

- The alleged perpetrators relationship to the vulnerable adult
- The alleged perpetrators mental capacity/disability/ sensory impairment
- The alleged perpetrators whereabouts and the likelihood of contact or the risk to other people if known
- Services received/agencies that have contact with the alleged perpetrator including the GP

The referrer's judgement of the situation:

- Action already taken, e.g. have the Police been informed
- Any immediate action that the referrer thinks should be taken
- Identify anyone else at risk e.g. Children or other vulnerable adults.

Other agencies already involved:

- Information about any police involvement including Crime reference number if available
- Any other agencies that have been involved in the identification of abuse.

What is the timeframe for completing an Alert form by?

An Alert form **must** be completed **immediately**. The referral **must** be made to the relevant organisation **within the same working day** as receiving the Alert.

What duty does a member of staff or volunteer have when suspicions or allegations of abuse are reported to them?

Staff and volunteers all have a duty of care to report any allegations or suspicions of abuse to their line manager as soon as possible. These concerns should be reported to a line manager, even if the service user is reluctant for them to do this, or asks them not to do so. The service user

should be made aware that the member of staff or volunteer is not able to maintain information regarding alleged abuse a secret.

There will be occasions when a member of staff is unable to go directly to their line manager because that line manager may be implicated in the allegations. In such situations, members of staff or volunteers may need to use their organisations whistle blowing procedures, or inform a senior manager in that organisation about the alleged abuse. Staff or volunteers should not disclose this information directly to their line manager if the allegation of abuse implicates their line manager.

Any concerns about abuse occurring in a regulated care setting should be directed to a regulatory body such as the Commission for Social Care Inspection or the Health Care Commission independently. In parallel if there are suspicions that a crime has taken place the police should be notified.

This may be take place when:

- They have concerns that their manager or proprietor may be implicated.
- They have grounds for thinking that the manager or proprietor will not take the matter seriously or act appropriately to protect service users.
- They fear intimidation or have immediate concerns for their own or for a service user's safety.

What is the duty and responsibility of Registered Managers in Regulated Care settings?

Regulated services are required to report concerns about the welfare of a vulnerable adult to the CSCI **within 24 hours** of the incident.

Senior Managers must be informed of any concerns reported as per local procedures.

Regulation of The Care Homes regulations 2001 requires the registered person to inform CSCI without delay of:

- The death of any service user
- The outbreak in the care home of any infectious disease
- Any serious injury to a service user
- Serious illness of a service user at a care home at which nursing is not provided.
- Any event in the care home which adversely affects the well-being or safety of any service user.
- Any theft, burglary or accident in the care home.
- Any allegation of misconduct by the registered person or any person who works at the care home.

This report should be made by fax to CSCI **within 24 hours** of the incident to 020 8420 0119.

Summary of action that should be taken once a disclosure of alleged abuse has been made:

- If the vulnerable adult is at risk of immediate harm contact the police on 999
- The police should also be contacted if there is evidence that a crime has been committed and evidence needs to be collected immediately otherwise it will be contaminated
- Ensure that the person who has made the alert is made aware how their concerns are being dealt with
- Only share the information within the framework of the safeguarding adults information sharing protocol
- If the allegation was made by a member of the public who wanted to remain anonymous or wished to have their details kept confidential then this should be respected and the referral should still be progressed.
- Ensure that the correct steps are in place to safeguard the vulnerable adult from further abuse as outlined in this procedure

Do Not:

- Create the impression that the vulnerable adult is not believed.
- Risk contaminating the evidence
- Inform the alleged perpetrator of the allegations against them
- Put the vulnerable adult at further risk

It is the responsibility of whoever raises the Alert to ensure that the Vulnerable Adult is safeguarded from immediate danger, be it by contacting the Police or relevant Social or Health Service department.

REFERRAL:

When must a referral be made?

A referral **must** be made to the relevant organisation below **within the same working day** as receiving the Alert.

To whom must a crime be reported?

The police **must** always be contacted if the allegation is of a criminal nature, e.g. physical injury, sexual abuse and/or financial abuse.

Call 999 if the Vulnerable Adult is in immediate danger, otherwise contact the Community Service Unit on 020 8345 1939/1941

Send the Alert Form to:

The police must be informed of alleged/suspected financial abuse, prior to any action being taken e.g. interviewing/ suspending staff or interviewing vulnerable adults. This is necessary to ensure best evidence is achieved in respect of any investigation undertaken. An offence of financial abuse involving the theft of personal cash or funds from accounts, which may also involve false entries in financial records, is often difficult to prove. This could be further complicated if the abused adult is cognitively impaired.

When must forensic evidence be collected by?

Forensic evidence **must** be collected **within 24 hours** of the crime being committed. Forensic and other evidence **must** not be contaminated

If a regulated body, e.g. a regulated care home, a hospital or day centre is involved in the investigation, who do you contact?

You must immediately contact CSCI or the Healthcare Commission.
You must send your Alert Form to enquires.harrow@csci.gsi.gov.uk or by fax to 020 8420 0119 when a Social Care regulated service, be it a Care agency or Care home are involved.

You must send the Alert form to feedback@healthcarecommission.org.uk or by Fax to 020 7448 9391 where a Health service (NHS hospital, PCT, GPs, Nurses, Midwives etc.) is involved.

For professions that are regulated such as Doctors, nurses, midwives, social workers and care home workers (as of 2008) etc a referral may need to be made their respective regulatory body, which may carry out an investigation into that professionals conduct or temporarily suspend them from the relevant register. This will only be done in if the alleged perpetrator is in a profession that is regulated and there is a threat to public safety. The decision to suspend or remove a person from a professional register lies with the professional regulatory body. For further information or to make a referral please contact

General Social Care Council (GSCC)
02073975120
Email: conduct@gsc.org.uk

Nursing and Midwifery Council (NMC)
02073336564/6572
Email: fitness.to.practice@nmc-uk.org

General Medical Council (GMC)
0845 357 0022
Email: practise@gmc-uk.org

Who do you always contact, regardless of the type of alleged abuse?

The Initial Contact Service, Adult Services, Haringey Council can be contacted on 020 8489 1400 if there are concerns that a vulnerable adult is the subject of abuse.

Send the Alert Form to over65@haringey.gov.uk or by fax to 020 8489 1993

What must ICS do with the referral?

- ICS **must** decide which Social Services department to alert regarding the allegation made, e.g. Learning Disabilities, Physical Disabilities, Older People Services, PCT or CMHT.
- The Alert **must** be recorded on the POVA Spreadsheet **immediately**, even if after initial investigation it is decided that no further action is to be taken.
- ICS **will** direct the case to a team in Adult Services if the client is already known to them and allocated to one of their Social Workers/Care Managers/Care Coordinators. **If** the Social Worker is absent then the case will be immediately passed to a duty worker to complete the initial investigation.

Who else must you always notify?

You **must also always** notify the Haringey Safeguarding Adults Co-ordinator Olive Komba-Kono.

Send the Alert Form to Olive.Komba-Kono@haringey.gov.uk or by fax to 020 8489 3977.

What happens if the referral is made out of hours?

If a referral is made out of normal office hours, the emergency Duty Team will be responsible for undertaking an initial assessment of risk and take steps if necessary to ensure that the vulnerable person is safe.

If immediate action is not required, the emergency Duty Team will refer the case to the appropriate teams at the beginning of the next working day for them to proceed with the Safeguarding Adults process.

Haringey Social Services Out of Hours:

Tel: 020 8348 3148 /Fax: 020 8489 2388

What happens if the concerns arise using the Single Assessment Process (SAP) or during a current Assessment of care?

If the concern arises during an assessment using the Single Assessment Process then the action to be taken will depend on who is undertaking the assessment. Where a member of Social Services staff is undertaking the assessment, this Referral process should be followed. If **the assessment is**

being undertaken by another agency then a referral should be made to the Initial Contact Services, Haringey Social Services (see contact details above) who will be able to redirect the referrer to the appropriate team.

If the concerns that abuse are raised during a current assessment e.g. an Overview Assessment or as part of ongoing support, monitoring or reviewing of care, the Social Worker/Care Manager who is already working with the person should complete this referral process.

Does consent need to be given by the vulnerable adult for the referral to be made?

Consent **must** be gained from a mentally capable adult who is thought to be experiencing abuse or neglect unless there are overriding public duties to act. Such circumstances include:

- The prevention or detection of a crime
- In order to protect the vital interests of another person in a case where consent by or on behalf of the service user has been unreasonably withheld.
- Where it is necessary for the purpose of, or in connection with, any legal proceedings
- Where there is a significant risk of suicide.
- Where there is a significant risk to a third party.

If there are overriding duties, the person is **always** to be informed that the referral will take place, except where this could jeopardise the safety of others who may be at risk.

What are the duties and responsibilities of Service Managers in care settings?

Where a concern is raised that a person is being abused or neglected within the same service you manage, you have the primary responsibility to safeguard that person. This responsibility includes working with all other agencies that may have a role or responsibilities in the situation. Take any immediate actions to safeguard people that fall within the remit and remember that:

- You should normally be a key person within the planning of any safeguarding assessment.
- That the agreed safeguarding assessment strategy may:
 - Involve another agency taking the lead. The most common scenario is where the police may lead the safeguarding assessment with a criminal investigation. On other occasions it could be a regulatory or commissioning body, where they may decide that the concerns are so serious they will investigate within their remit.
 - Include one or more strands of actions within your remit, for example, it may include a complaints investigation or a disciplinary investigation.
 - Will usually take precedence over any other internal investigations.

What will be the role of a Manager if an allegation is made against a member of their own staff?

The manager will need to balance:

- supporting the abused person
- supporting all the staff
- supporting the investigation of the event
- being fair to the alleged staff member

Allegation should always be taken seriously; they however should always be treated as that, an allegation. Evidence is required to substantiate that what was said to have taken place actually did.

It is important to take relevant immediate action and consideration should be given to an organisation's disciplinary procedure where this will protect service users, the alleged perpetrator and allow a fair investigation to be conducted.

Disciplinary action on staff is the responsibility of the employing agency or organisation. Suspension is a neutral act that may be necessary as an immediate protection plan. The member of staff is innocent until proven otherwise. The suspension of the staff member is to ensure that they are protected, while still enabling a full investigation or safeguarding assessment to take place.

Staff subject to disciplinary procedures must be made aware of their rights, and, if suspended, should be given an outline of the reasons for that action in line with those procedures. However, the details of the allegation should not be discussed with them until the multi-agency assessment strategy has been agreed.

The staff member should be advised to seek union or legal advice and should have access to support networks. Even if another agency, such as the police, is leading the investigation it is important to try to ensure that you meet your responsibilities as an employer and keep the member of staff or their representative informed in accordance with confidentiality.

A manager should also seek advice from their relevant regulatory body or legal services as appropriate. It is illegal and unprofessional to use any form of physical or mechanical restraint as a means of punishment.

DECISIONS:

Who is allocated the work at the decision stage of the Procedures?

A Safeguarding Manager should be allocated the case for decision making purposes when there is an allegation of abuse/neglect pertaining to a vulnerable adult. The safeguarding manager is responsible for assessing what the level of risk is and what the response will be.

If the Service User is already allocated to a **specific** Social Worker/Care Manager/Care Coordinator then the case is allocated to that worker's Practise or Team Manager who will become the Safeguarding Manager for that case.

Who can be a Safeguarding Manager?

A Safeguarding Manager can be any Team, Unit or Practice Manager. I

When must the case be designated to the Safeguarding Manager?

If the Vulnerable Adult is known to Adult Services the case **must** be designated **within the same working day** as receiving the referral.

If the Vulnerable Adult is not known a Background Information and Contact Assessment **must** be done by the appropriate Adult Services Team. The Safeguarding Adults Referral needs to be made for the client **within the same working day** as receiving the alert.

What is the role of the Safeguarding Manager?

The Safeguarding Manager is responsible for recording the decision about the level of risk in a case. He/ She **must** appoint an Investigative officer, a Social Worker/ Care Manager/care coordinator to go out and do an initial investigation.

The safeguarding Manager must decide within the same working day, whether the referral meets the 'Safeguarding Adults' criteria and record the decision. He/She **must** co-ordinate the strategy of the investigation. **They must chair all Strategy Meetings and Discussions regarding the Vulnerable Adult.**

What are the responsibilities of the Safeguarding Manager?

The Safeguarding Manager is responsible for ensuring that staff, who support the service user, and others affected by the incident, have guidance and access to support.

The Safeguarding Manager should remind his/her staff that their role is to support the service user. Staff should not however question the service user or any witness on the abuse, especially by asking any leading question which may contaminate evidence.

Staff should be reminded about the importance of confidentiality (not to discuss details with other staff or clients, or people outside the workplace).

Ensure all written material which may be needed as evidence has been completed, for example, written reports, diary records, client files, staff files etc. Ensure you ask for written reports from any witness.

What is the role of the Investigative Officer at this stage?

At this stage the Investigative Officer in conjunction with the Safeguarding Manager must:

- Complete a risk assessment identifying what the immediate risk to the vulnerable adult is and what immediate action is needed e.g. removing the vulnerable adult from their current environment. This must be clearly recorded on the service users' case file.
- If it is an alleged criminal offence, ensure the incident has been reported to the police and a crime number recorded. If the police decide to 'lead' the investigation, then no further action, including preliminary enquiries, informing agencies, or interviewing parties are to take place without their approval. A Strategy Meeting must be convened within the necessary timescales depending on the level of risk possible in order to co-ordinate activity and ensure that the welfare of the vulnerable adult(s) are addressed while the investigation is being conducted.
- In the event of physical/sexual assault, ensure the vulnerable adult has been seen by the GP. The examining medical practitioner and General Practitioner, must be involved of the alleged/suspected abuse and a request be made that a written record be kept, which could be made available to the investigation. Generally a medical examination can only be carried out with the consent of the vulnerable adult.
- In the event of the abuse involving a registered care provider, either in the community or in a residential/nursing setting, ensure the CSCI has been notified.

The appointed officer **must** go out and visit the Vulnerable Adult within the timescale stated for each level of risk. They **must** write up their report on Framework-I for the visit in order for it to meet the recommended timescale. The investigative officer must discuss the outcome of the assessment with the safeguarding manager that same day. If the officer can not return to the office this discussion could take place over the phone, keeping in mind confidentiality requirements.

What must be considered when assessing Level of Urgency and Risk?

- Level of threat to the Vulnerable adult's physical well-being.
- The nature extent of the abusive acts.
- Whether the abuse was a one off event or part of a long standing relationship or pattern.
- The impact of the abuse on the vulnerable adult and their independence.
- The impact of the abuse on other vulnerable adults and children.
- The intent of the person allegedly responsible for the abuse.
- The illegality of the alleged perpetrators actions.
- The risk of the abuse being repeated against this vulnerable adult.
- The risk of the abuse being repeated against other vulnerable adults and children.
- The risk that serious harm would result if no action is taken,
- The illegality of the acts or acts.

- Risk can be assessed and managed but outcomes cannot be guaranteed.

What is considered a High Level of Risk?

- Physical abuse which causes severe injury or is life threatening.
- Sexual abuse where penetrative sex or insertion of objects has occurred without Vulnerable Adults.
- Severe neglect where the Vulnerable Adult is imprisoned.
- If life threatening immediately call 999 or 020 8345 1939

What must be done and by when if the allegation has a High Level of risk?

A visit **must** be done **within the same working day** of the referral being made.

Where assault of any kind has occurred, or could occur, the police must be asked to accompany the Social Worker/Care Manager/care coordinator to assist in achieving an assessment in safety.

Where necessary the vulnerable adult should be offered the opportunity to move to a place of safety and if necessary be given assistance to obtain legal advice.

What is considered to be Medium Level of Risk?

- Emotional/psychological abuse, e.g. intimidation
- Financial Abuse, e.g. theft, fraud or exploitation.
- Physical abuse which causes bruising.

What must be done and by when if the allegation has a medium level of risk?

A visit **must** be made to the Vulnerable Adult **within two working days** of the referral being made.

What is considered to be Low level of Risk?

- Verbal Abuse where the Vulnerable Adult is being spoken to in an inappropriate manner.
- Verbal Abuse that is not physically threatening.

What action must be taken and by when if the allegation has a low level of risk?

A visit **must** be made to the Vulnerable Adult **within three working days** of the referral being made.

What must the Safeguarding Manager have decided before the end of the next working day following the referral being received?

The Safeguarding Manager **must** decide whether the 'Safeguarding adults' policy and procedure should be applied or not.

What happens if the 'Safeguarding Adults' Policy and Procedure is to be applied?

A Strategy Meeting/ Discussion **must** be convened **within five working days** of receiving the referral. If the case is assessed as a High Level of Risk then a

Strategy Meeting must be convened **within 4 working days** of receiving the referral.

What happens if consent is not given by the vulnerable adult to proceed with the investigation?

A vulnerable adult who is able to make an informed decision, but refuses assistance or who feels unable to make a decision about this, is considered to be placing themselves at risk.

In this case the Social Worker/Care Manager/Care coordinator should communicate with appropriate parties (e.g. independent advocates, other professionals, carers, friends etc.) to inform them the decision and to identify another person who might be able to help the vulnerable adult understand the risk and the choices available to them to remove that risk.

In the case where the vulnerable adult is not capable of making an informed decision, then, the Social Worker/Care Manager must consult with the Safeguarding Manager and appropriate parties (e.g. independent advocate, other professionals, carers, friends etc.) to agree on action which will ensure the safety of the vulnerable adults.

What happens if the ‘Safeguarding adults’ Policy and Procedure is not to be applied?

If the outcome of the investigation is that no further action needs to be taken, then it is the responsibility of the Safeguarding Manager to ensure that the vulnerable adult’s care needs are being met.

A review or a re-assessment of needs may also need to be completed.

The client must be referred to the correct department within Adult Services, if this has not already been done, to complete a Full assessment.

At this stage you must always:

- Have an initial investigation which includes a discussion to determine risk and response. This could suffice as an assessment for low risk cases. This is an essential part of the investigation which must happen as soon as the referral is received.
- Give the referrer feedback on the way the alert was dealt with.
- Record the feedback if it’s from a partner organisation.
- Refer details of the case to the Children and Young Persons service if a child is at risk

Don’t at this stage:

- contact the alleged perpetrator

SAFEGUARDING ASSESSMENT STRATEGY:

Who must co-ordinate the Safeguarding Assessment Strategy process?

It is the responsibility of the Safeguarding Manager to co-ordinate the Strategy assessment process.

The Safeguarding Manager **must** be the chair of any Strategy Meeting. The **same** Safeguarding Manager **must** chair each meeting regardless of Managerial rotas.

IF this Safeguarding Manager is different to the one from the Initial investigation then it is at this point that the Safeguarding Manager is informed of the facts of the case so that they are able to effectively chair any Strategy Meeting or Discussion.

- **IN** the case of an emergency, either ill health or a duty emergency, whereby a Safeguarding Manager is unable to chair a follow-up meeting it is the **responsibility of their Team Manager** to chair it for them. This is to ensure that the case is not passed from team to team and the meeting is efficiently chaired.

What is the difference between a Strategy Meeting and a Strategy Discussion?

A Strategy meeting is when all relevant agencies meet in person to discuss the initial investigation and to form a plan of action and Interim Safeguarding Plan. A Strategy discussion is when all communication is made over the telephone or via email or fax rather than meeting in person.

Regardless of whether a Strategy Meeting or Discussion is held, the outcomes, Interim Safeguarding Plan and assigned agency tasks **must** be minuted correctly.

What is the difference between a Strategy Meeting and a Case Conference?

- A Strategy Meeting is:
 - For the purpose of planning an investigation i.e. who does what.
 - Any decisions in respect of the care of the alleged victim are interim measures while the investigation is completed.
- A Case Conference:
 - Should make decisions based on the facts revealed by the investigations.
 - Should decide either: abuse happened as alleged.
 - The allegation was disproved or there is not enough information to decide whether the abuse happened or not.
 - Should agree a care plan that will provide protection and support the vulnerable adult.
 - Should agree when and by whom the protection plan will be monitored.

When must you have a Strategy Meeting?

A Strategy Meeting **must** be convened if the allegation has been judged as either of High or Medium Risk. In these cases the Strategy Discussion will **not** be sufficient and so a Meeting in person must always take place.

A Strategy Meeting will always be required when:

- The investigation and intervention requires careful planning.

- The vulnerable adult has given consent for information to be shared with other agencies.
- Public interest issues appear to outweigh the vulnerable adult's wishes.
- Information must be shared between agencies to protect the vulnerable adult while the allegation is being investigated.
- The best interest of the vulnerable adult may be contentious.
- The situation is extremely complex/ or serious.
- An investigation involves the police.
- An investigation is required under the "Untoward Incident Procedures" of the Barnet, Enfield and Haringey Mental Health NHS Trust.

When can you have a Strategy Discussion?

A Strategy Discussion **must only** take the place of a Strategy Meeting when the case is Low Risk to allow time for further investigation.

When must a Strategy Meeting or Discussion be convened by?

- In High Risk cases a Strategy Meeting **must** be convened **within 4 working days**.
- In Medium Risk cases a Strategy Meeting **must** be convened **within 5 working days**.
- In Low Risk cases a Strategy Meeting/Discussion **must** be convened **within 5 working days**.

What is the purpose of a Strategy Meeting?

The purpose of a Strategy Meeting is to:

- Decide how any needs for immediate protection will be met.
- Consider all available information regarding the service user's background and the alleged incident.
- Provide information about the setting in which the abuse or neglect took place.
- Decide the allegations to be investigated.
- Consider the wishes, if known, of the vulnerable adult.
- Decide who will co-ordinate the investigation and conduct the interviews.
- Decide the time frame for the assessment.
- Consider the needs of the vulnerable adult and who is best suited to support the vulnerable adult through the investigation.
- Agree a communications strategy.
- Agree action set out in safeguarding adults procedures.
- Put an Interim Safeguarding Plan into place to immediately safeguard the vulnerable adult. .
- Agree a date for a Case Conference to review the action agreed at the Strategy Meeting.

During the Meeting, all information known about the situation is shared in accordance with the information-sharing protocol with the appropriate consent sought. Each organisation is proactive in offering resources within their remit to enable the risk of abuse to be assessed.

Who is to be involved and invited to a Strategy meeting?

All relevant agencies and organisations are to be involved in a Strategy Meetings e.g. Care agencies, police (where a crime is committed), legal services (if necessary), relevant Social Services departments.

Strategy Meetings may include any of the following agencies where necessary:

- Safeguarding Manager
- The Safeguarding Adult's Co-ordinator.
- A designated minute-taker.
- Police
- GP
- The individual at risk, or their carer, or their advocate.
- The adult's Social Worker/Care Manager.
- The adult's Key Worker or Care Co-ordinator
- .A representative from the line management of the service provider.
- CSCI
- Health representative: hospital or PCT.
- A representative from the Department of Work and Pensions, bank or building society, the receivership officer (if there is suspicion of financial abuse).
- A legal advisor (in appropriate cases only)
- Supporting People
- Home Care
- Community Learning Disabilities Nurse
- District Nurse
- Community Mental Health Nurse
- Community Psychiatric Nurse
- Environmental Health Officer
- Health Visitor
- Housing Officer
- OT
- Probation Officer
- Psychologist

CSCI are always to be invited to a Strategy Meeting when there is a regulated Care agency or regulated Care Home implicated in the Abuse.

Haringey Contracts Team is **always** to be invited to a meeting if a regulated service is implicated in the Abuse/Neglect. Where a member of the team is unable to attend the meeting a copy of the minutes **must** always be sent to them.

The police are **always** invited to a Strategy Meeting where a crime has allegedly been committed. The police **must** decide whether they intend to investigate the case further or not.

Is the Service User included at this stage?

Haringey Social Services **must** always keep the Vulnerable Adult informed of all investigation taking place, unless this places them at further risk.

An Adult with Mental Capacity **must** be a full partner in the discussions, unless they are prevented by other considerations, like their own safety. At the discretion of the chair they **should** be invited to the Strategy Meeting.

An Adult without Mental Capacity can't participate fully and so the use of an advocate is necessary at this stage.

If a client meets the following criteria they should be referred to Rethink, who is Haringey Councils commissioned IMCA Service:

A decision is being made about either

- a) a serious medical condition or
- b) long term care and health moves (more than days in hospital/ 8 weeks in a care home)

and it is believed they do not have the capacity to make that decision **and** they have no appropriate family or friends to represent them.

If in doubt that a referral is appropriate to IMCA, a discussion should take place with a line manager or senior manager for an appropriate decision.

For Adults with Hearing or Speech Impairments a Signer **must** be provided. If the Adult is in need of an interpreter they **must also** be provided to ensure that the Vulnerable Adult is able to participate fully in the Strategy process.

Would the alleged perpetrator be invited to the Strategy Meeting?

No the alleged perpetrator would **never** be invited to the Strategy Meeting.

If for extremely exceptional circumstances the alleged perpetrator is to be involved, consent **must** be given by the victim if they have Mental Capacity. This decision **must** then be approved by the Safeguarding Manager and a Senior Manager.

Who else would not be invited to a Strategy Meeting?

If a Residential Home or any other Service of Care is implicated in neglect or abuse, a strategy discussion is to take place before the Strategy Meeting so that all other involved parties, including Regulatory bodies and Service Commissioners decide whether the manager of the home should be involved in the Strategy process or not.

A judgement **must** be made and agreed by all involved agencies as to whether the proprietor is judged 'fit' or not. Once they have been judged fit they are to be involved as full partners in the Strategy process.

Ensure that clear investigations are done so that the evidence is not contaminated and that somebody who may have been implicated in the abuse/neglect is **never** involved in the Strategy Meetings.

What is to be done about investigating the perpetrator?

The perpetrator also has rights. They **must** be interviewed during the investigation. The agency who deals with the investigation of the perpetrator **must** ensure that they are always safeguarding the victims, witnesses and 'whistleblowers'.

As little information as possible is given to the alleged perpetrator. Information is given on a '**need to know**' basis. Names of witnesses and 'whistleblowers' are **never** to be given to the perpetrators. The location of the Vulnerable adult, if changed due to allegation, **must** never be disclosed to the Perpetrator.

What needs to be agreed at a Strategy Meeting or Strategy Discussion?

- A Multi-agency assessment of the current level of risk and to whom.
- A plan for actions to assess or investigate the nature, level and source of any risk must be agreed, including:
 - Who is to lead the investigation
 - Who is to be interviewed or assessed; when and by whom
 - A plan to meet any needs arising from gender, sexuality, ethnicity, or disability of any alleged victims, perpetrators or witnesses, including special measures available to "achieve best evidence".
 - A plan to meet any needs arising from potential harassment or intimidation of any alleged victims, witnesses or whistleblowers.
- Co-ordination between different strands of the assessment, for example, any criminal or disciplinary action or investigation of a complaint or community care assessment, so that they complement and inform each other and do not interfere with each other.
- An explicit statement of roles and responsibilities with actions designated to named individuals
- Ongoing communication with the adults at risk and others concerned and who will undertake this.
- Consider the need and method to manage any media interest or set up a helpline.
- There may be need to hold a separate meeting about the service needs of an alleged perpetrator who is a service user themselves.

What should the interim Safeguarding Plan include?

The Interim Safeguarding Plan should adhere to the following principles:

- The safety of the adult and any others at risk is the overriding consideration.
- Action is planned to minimise the risk to victims, witnesses and 'whistleblowers'.
- Actions concerning people alleged to have perpetrated abuse are co-ordinated.

How is the meeting to be recorded?

The meeting is to be minuted accurately, using the Initial Strategy Meeting Minutes Template. It is the responsibility of the Safeguarding Manager who has chaired the meeting to ensure that the Minutes are distributed **within five working days**. It is essential that the Safeguarding Managers approve the minutes when they are sent to them to ensure that any timescale is not missed and that any person who needs the minutes for further investigation is not held back from doing so. Once approved the minutes must be distributed to all attendees. It is also very important to find out whether the minutes are to be sent to anyone who was unable to attend, although invited.

When is the next meeting to be convened for?

A Safeguarding Plan Meeting is to be convened for **28 days** following this meeting. A Safeguarding Strategy Review Meeting can be called any time within those 28 days to provide updates and new information which effects the investigation and Interim Safeguarding Plan.

SAFEGUARDING ASSESSMENT:

What action is to be taken at this stage?

A thorough investigation is to be carried out by each relevant agency in order to assess the level of risk and examine whether the abuse/neglect took place. Each agency is to carry out the task that they were assigned at the Strategy Meeting.

What is the purpose of the investigation/assessment?

- To protect the vulnerable adult from serious harm
- To establish and record the facts about the circumstances giving rise to the allegation of abuse.
- To decide the likelihood of the vulnerable adult having been abused.
- To assess the level of risk to the vulnerable adult.
- To assess to what extent the vulnerable adult has mental capacity to understand the degree of risk to which they may be exposed.
- To establish what the vulnerable wants to happen to ensure their safety.
- To ensure appropriate action is taken with regard to the perpetrator.
- To decide if action needs to be taken to protect other people.
- To decide if legal action should be sought.
- To bring together and assess information in order to draw up a Safeguarding Plan.

Different cases of abuse require investigation from different agencies, which agency/organisation is responsible for investigating which type of abuse?

Adult Services should always to be involved in Safeguarding Adults investigations, however, when there are any of the following types of cases other agencies/organisations need to be contacted and involved too:

Reason for Investigation/ Type of Investigation.	Agency responsible for Investigation
Criminal Act (including Sexual or physical assault, theft, fraud, hate crime and domestic violence	Police
Fitness of a registered provider or manager under the Care Standards Act 2000	CSCI

Haringey Multi- agency Safe Guarding Adults Policy and Procedure

Breach of Regulations relevant to a regulated residential, nursing home or accredited care agency.	CSCI
Breach of Rights of person detained under the Mental Health Act.	Mental Health Act Commissioner
Unresolved serious complaint in a health care setting	Health Care Commission
An investigation in to the care standards and contracts compliance	Haringey Contracts Team
A disciplinary investigation of staff alleged to have abused a service user. Breach of terms of employment procedures.	Employer
Alleged Abuse towards a vulnerable adult	Haringey Social Services
Untoward Incident Procedure	Barnet, Enfield and Haringey Mental Health NHS Trust
Breach of Professional code of conduct	Professional Regulatory Body.
Breach of Health and safety Legislation	Health and Safety Executive
Complaint regarding failure of service provision (including neglect of provision of care and failure to protect one service user from the actions of another)	Service Provider: Manager and Proprietor of Service or Complaints Department.
Breach of Contract to provide care	Service Commissioner (for example, Social Services, PCT, Supporting People)
Bogus Callers or Rogue Traders	Trading Standards Officers
Misuse of Public Money	Local Authority Audit
Anti-social behaviour (for example, harassment and nuisance by neighbours)	ASBAT Team (Anti-Social Behaviour Team)
Breach of Tenancy Agreement (for example, harassment of landlord or registered Social and nuisance by neighbours	Housing Trust
Misuse of Enduring power of attorney or power of a deputy.	Public Guardianship Office.

Misuse of appointeeship or agency	Department of Work and Pensions
Inappropriate person or person making decisions about the care and wellbeing of an adult without Mental Capacity which are not in the adult's best interest	Court of Protection

When is the Vulnerable Adult Interviewed? What does it involve?

Although an initial interview has already taken place when the referral was first made, any Vulnerable Adult with Mental Capacity is to be the first to be interviewed properly to initiate the full investigation.

The alleged victim of abuse should always be interviewed, or at least, visited to determine their well-being. If there is an exception to this, the reasons why should be clearly documented.

The vulnerable adult should never be interviewed in the presence of the person alleged to be the abuser. If possible and especially in circumstance where a criminal offence may have been committed, the vulnerable adult should not be interviewed alone. In these circumstances the vulnerable adult may be accompanied by:

- Any person to whom they disclosed the abuse.
- An 'appropriate adult' under the Police and Criminal evidence Act (1984)
- An independent advocate
- A member of their family or close family friend (where appropriate)

For Adults without Mental Capacity the use of an independent advocate or victim support services will be necessary and **must** be organised to ensure that the interview can be carried out.

Where the alleged victim's first language is other than English, those who have specific communication needs should have access to an interpreter with knowledge of the relevant culture. The investigator should arrange this prior to the interview and brief the interpreter of the facts known to date as well as taking in to consideration any specific communication needs the service-user may have.

Investigating Officers need to be aware of their individual feelings and opinions of the allegation and ensure that they are not prejudiced before conducting the interview.

The interview should be conducted somewhere which allows the alleged victim privacy. The investigating officer needs to ensure that the interview is conducted in an unhurried and careful manner, which promotes the confidence of the alleged victim.

All staff have the right to be accompanied by another worker if it is deemed appropriate and agreed by the Safeguarding Manager.

If circumstances indicate that there may be violence or a breach of the peace at the interview, staff should request police to accompany them to the interview.

Who is allowed to know what information?

- There is an Information-Sharing protocol in place.
- It is the responsibility of the relevant agencies to report their findings, without the confidentiality or safety of the Victim being jeopardised.
- All information **must** be shared where someone else other than the alleged victim is at risk, e.g., a child or another Vulnerable Adult.
- Information **must** be shared but only where necessary permission has been sought to disclose it.

What is the job of the police at this stage if a crime has been committed?

In cases where criminal proceedings may be a possible outcome, a formal interview should always take place with the police. This could involve the alleged victim being interviewed under the Achieving Best Evidence Proceedings i.e. being videotaped, etc. Police officers are specially trained in A.B.E and conducting disclosure interviews. Forensic evidence **must** be collected and preserved. Police **must** decide **within five working days** of receiving the referral whether an Achieving Best Evidence Interview is necessary or not.

What is the role of the Safeguarding Manager at this stage?

It is the responsibility of the Safeguarding Manager to support and supervise the work of their Social Worker/Care Manager /Care coordinator during the investigation.

Where a worker from a different agency is investigating, it is the responsibility of their manager to supervise and support them during this assessment stage.

What is the role of the Relevant Agency Investigative Officers at this stage?

The investigative officer must carry out any tasks assigned to them at the Strategy Meeting.

Any new information that comes to lights should be shared with the Safeguarding Manager immediately, who will decide if a Strategy Review Meeting is necessary to update the Interim Safeguarding Plan.

Each worker **must** keep comprehensive records of all findings and be able to produce a report of them at the Safeguarding Plan Meeting.

What will the possible outcomes of the Assessment/Investigation?

The assessment will lead to the development of a Safeguarding Plan with time scales for implementation.

The decision on whether or not to proceed to a Case Conference/ Safeguarding Plan Meeting in order to agree to the plan should be taken in consultation with the line manager and all the involved agencies.

It is important to remember that at this stage it is paramount to investigate without putting the vulnerable adult at further risk.

SAFEGUARDING PLAN:

When is the Safeguarding Plan Meeting/Case Conference convened for?

The Safeguarding Plan Meeting/Case Conference **must** be convened **within 28 days** of the referral being received.

What is the aim of the meeting?

- Information Sharing:
 - This will include the information gathered through the investigation. Good practice would be for the investigating officer to produce a written report for the purpose of the Case Conference.
 - To provide a forum for the exchange of information between multi-agency and multi-disciplinary colleagues involved with the individual deemed to be at risk.
- Assessing Risk:
 - The meeting will assess the risks to the service user and if necessary other service users.
- Weigh up the evidence, on the balance of probabilities that the allegation can be sustained
- Agree on further action needed and by whom
- Devise and agree a multi-agency Safeguarding Adults plan that addresses the medium and long term protection needs of the vulnerable adults.
- Continue to enable the views and wishes of the vulnerable adult, and if appropriate their carers, members of their family and friends to be taken in to consideration.
- To consider whether the vulnerable adult should be registered on the Safeguarding Adults Register.
- To clarify the role and responsibilities of professionals and the legal context of intervention.

Who is invited to the meeting?

All the relevant agencies that have carried out investigations must attend the meeting with written reports explaining the results of their findings.

Any other relevant agencies that may need to be involved in the case, e.g. legal services should also be invited to the Meeting.

The Safeguarding Manager will ensure that the vulnerable adult felt to be at risk is advised that a Safeguarding Adults Safeguarding Plan Meeting/ Case Conference is to take place, invited to attend and given an explanation of the Meeting and its format. However this must be discussed with the Chair if this raises the level of risk that the vulnerable adult is subject to, or if there are other compelling reasons why this is inappropriate.

When a vulnerable adult lacks mental capacity and regardless of whether they have their family or care representation the need for an IMCA must always be explored. The best interest of the service user should always be the paramount objective.

Separate advocates can represent the carer(s) and the vulnerable adult. The Chair must be aware that the interests of the vulnerable adult and the carer(s) will not necessarily be the same.

If the vulnerable adult and/or carer(s) have communication needs, which have to be met in order to enable his/her participation in the Meeting, the Safeguarding manager should ensure that appropriate arrangements for meeting these needs have been made.

What happens if an important involved professional can not attend the meeting?

Should any professional with direct knowledge of the vulnerable adult or his/her situation not be able to attend the Meeting, he/she must submit a written report giving details of his/her knowledge and expressing his/her opinion regarding possible action.

Who should chair a Case Conference/Safeguarding plan Meeting?

The Chair must be the Safeguarding Manager that chaired the Initial Strategy Meeting, unless for reasons of health or because of the complexity of the case, it has been passed on to the Practice Manager's Team Manager.

The chair will also provide the minute-taker.

Where should a Case Conference/Safeguarding Adults Plan Meeting take place?

When deciding the venue for the Case Conference/Safeguarding Plan Meeting, the needs of the Vulnerable Adult and his/her interpreter and/or advocate must be considered and accommodated, where possible. Appropriate transport and care support must be sought.

The Safeguarding Manager is responsible for ensuring an appropriate venue is booked and for meeting any special needs such as ensuring the venue is wheelchair accessible if the service user is in a wheelchair.

How freely can information be shared in a Case Conference/ Safeguarding Plan Meeting?

Information should be shared freely between the participants. Participants have a responsibility to protect the confidentiality of the information that has been exchanged in reference to the proper management of the case and the legal responsibility and accountability of each agency.

The deliberate withholding of information can not be defended on the grounds of confidentiality. Non-disclosure may impact on the future safety of the vulnerable adult.

Where a non professional is invited to attend the Case Conference/Safeguarding Plan Meeting because of his/her personal knowledge of the case, the Chairperson should ensure he/she is properly briefed beforehand about the purpose of the conference and the duty of confidentiality.

If any professional feels he/she is unable to divulge confidential information to the Case Conference/Safeguarding Plan Meeting because of the presence of the non-professional, he/she should communicate his/her concern to the Chair. The chair will then make suitable arrangements to allow the information to be shared with the professionals involved in the Conference/Meeting.

What is on the agenda of a Case Conference/ Safeguarding Plan Meeting?

The agenda for the Case Conference/Safeguarding Plan Meeting will cover the following:

- All attending will identify themselves and their role in the specific case.
- The aim of the meeting will be explained.
- Summaries will be given from other professional, including any previous involvement with the case, any recent updates, a copy of the written report of their investigation and any action currently being taken or planned.
- Chair's summary of the significant details thus far. The Chair will reconfirm the exact nature of the risk(s) pertinent to the case concerned.
- Discussion to confirm, or otherwise, that the case falls within the "Safeguarding Adults Registration Criteria" and a decision shall be taken as to whether registration is appropriate.
- Discussion about the availability of statutory powers to intervene.
- Agree a plan of action, identifying specific actions for each agency and delegates with time scales.
- Key Worker (Safeguarding Manager) nominated.
- Set date to review progress within six months of this meeting whether further action will be taken or not.

- If the Case is not being closed here, then a Strategy Review Meeting will be convened when necessary.

What happens if abuse has taken place?

If after investigation it becomes clear that abuse/neglect did take place appropriate legal or police services are involved in the potential use of relevant legislation and prosecution.

Where a person is entitled to 'Special Measures' under 'Achieving Best Evidence', they are given the relevant support from Witness Support services.

What action is to be taken against the perpetrator once abuse has been proven?

If the perpetrator is in a paid regulated service a referral should be made for their inclusion on the POVA register. The person should be suspended under the relevant disciplinary procedures until a full investigation under those procedures takes place. The person should not be in a position where they are working with vulnerable adults or children.

Positive action **must** be taken by the participating agencies to ensure that the perpetrator is not allowed to abuse/neglect ever again.

Action **must** be taken to ensure that the victim is protected from the perpetrator and not at any further risk.

What is the purpose of a Safeguarding Plan?

The safeguarding plan should clearly state what its objectives are and what the intended outcome is, with respect to each action that is planned. It needs to make sure that the vulnerable adults' health and social care needs are being addressed.

The plan needs to outline how the recommendations and actions of each agency, following an investigation are monitored. Ensuring that any support the service user requires in relation to therapy or seeking justice is in place. Any future risks should be identified, with clear mechanisms in place for sharing information and taking agreed action.

The views of the vulnerable adult should be represented as much as possible.

If it has not been possible to put in measures in place to protect the vulnerable adults this needs to be clearly stated with the reasons this was not possible.

A contact person should be identified on the Safeguarding adults Plan who will have responsibility for taking appropriate action to try to ensure the safety and well-being of the vulnerable person and to call a further review meeting.

What is the role of Community Care Services in the Safeguarding Plan?

Fair Access to Care Services (FACS) criteria should be used to assess eligibility to care services from Haringey Council. This will determine whether the risk to the person's independence is critical, substantial, moderate or low and therefore, whether or not the person is eligible to receive community care services.

Where the Safeguarding Assessment has concluded that abuse has taken place or is likely to take place, the risk to a person's independence is judged to be critical or substantial. Where this is the case Community Care Services should be part of the services offered as part of the Safeguarding Plan.

What are the possible outcomes of the Meeting?

The Case could be closed, when no further action is necessary. In this case, a review will be booked for six months following this meeting, during which time monthly monitoring will take place to ensure the Vulnerable Adult is at no further risk.

Where further investigation is needed another Meeting is to be planned to allow for this assessment to take place. All relevant agencies need to remain involved and undertake the tasks assigned to them. The Safeguarding Manager will remain the case lead until its conclusion.

Police arrest the alleged perpetrator and hold them in custody or the vulnerable adult is removed to a place of safety.

A Safeguarding Plan is implemented or modified. The Safeguarding Plan and situation is continually monitored. Counselling is offered to those requiring it.

The alleged abuser is referred to the POVA list under the Care Standards Act 2000.

How will the outcomes be documented?

- The Case Conference/Safeguarding Plan Meeting must be minuted by an allocated Minute-Taker.
- It is the responsibility of the Chair to allocate the Minute-Taker
- A copy of the Safeguarding Adults Plan Meeting/Case Conference must be sent to all attendees and to anyone else that should have attended but must have a copy of the minutes.
- The contents of minutes are highly confidential and must not be reproduced, divulged or copied in any way. Information obtained at a Case Conference/Safeguarding Plan Meeting is not to be discussed or revealed to persons not present without first obtaining written permission from the source of that information.

What is the role of the Safeguarding Adults Key Worker?

Where the Case Conference/Safeguarding Plan Meeting concludes that a vulnerable adult's name shall be placed on the 'Safeguarding Adults register' a professional delegate shall be identified as the Key Worker.

The Key Worker will be the person who in the view of the Case Conference/Safeguarding Plan Meeting can best perform the role. The identified person will act as a focus for communications between agencies and co-ordinate the inter-agency work of those concerned.

The Key Worker will ensure as far as possible that the recommendations from the Case Conference/Safeguarding Plan Meeting are implemented accordingly. If there are any difficulties that threaten the effectiveness of the safeguarding plan and/ or any other significant developments following the case conference the key worker has a duty to alert the Safeguarding Adults Co-ordinator. The alert should include notification of how the Key Worker intends to address the situation in question. They will almost inevitably involve other members of the core group who attended the Case Conference/Safeguarding Plan Meeting being requested to take appropriate action. It is advisable that the vulnerable adult is in agreement with the choice of Key Worker.

If for any reason the Key Worker believes that he/she is no longer able to fulfil their responsibilities of the role they must inform the Safeguarding Adult Co-ordinator immediately. It is their organisation's responsibility to provide interim Key Worker cover until such time as the next Review is held.

The Safeguarding Adults Co-ordinator will provide the Key Worker with the contact details of all other delegates at the Case Conference/Safeguarding Plan Meeting.

What happens after the meeting?

Following this Meeting remember to inform the person who raised the concern as to the outcome of the investigation.

The Safeguarding Manager is to remain allocated in their role until the Review has taken place. This is so that if further concern is raised the case can automatically be sent to this Manager who has prior knowledge.

Between this Case Conference/Safeguarding Plan Meeting it is imperative that the Vulnerable Adult is monitored. This will need to be a monthly visit where a case was of High Level of Risk. In other cases monthly telephone contact will be necessary to monitor the case.

REVIEW:

When must a Review be arranged for?

Six months after the Safeguarding Meeting a review is to be undertaken. The time scale for reviewing the Safeguarding Adults Plan must have been set at the Case Conference/ Safeguarding Plan Meeting.

If any concerns or changes in circumstances might increase the risk of further abuse occurring before the date set, these should be brought to the attention of the Safeguarding Manager and the date for the review brought forward.

The date of the Review will only be delayed in exceptional circumstances e.g. if the vulnerable adult is resident in hospital and it is judged that to delay the review until the moment of planning for discharge better protects that person.

Members of the Core group may meet formally between meetings if this will assist in the management of risk pertaining to the vulnerable adult in question. It is highly advisable that some form of Minutes (however brief) is taken of such meetings. Any minutes gathered from this meeting must be provided to the Key Worker and the Safeguarding Adults Co-ordinator **within 5 working days** of the meeting.

What is the purpose of the Review?

The Review is to ensure that the action agreed in the Safeguarding Adults Plan has taken place in order to further protect the vulnerable adult.

The vulnerable adult should, if possible, be consulted about the way arrangements for their care and protection are working.

What happens if the review reveals a serious concern?

If the review reveals any serious concerns it may be appropriate to carry out a further Safeguarding Adults Investigation or to update the Safeguarding Adults Plan.

If the Safeguarding Adults Plan needs to be amended then a copy of this plan should be sent to all the organisations providing a service for the vulnerable adult.

The vulnerable adult will remain an open case allocated to a Care Manager, who would have the responsibility of monitoring the case and completing a further review of the Safeguarding adults Plan.

If new allegations or suspicions with respect to abuse are identified, then consideration needs to be given as to whether it would be appropriate to begin a new Safeguarding Adults Investigation.

What happens if further review is not needed?

If a further investigation or review of the Safeguarding Adults Plan is not recommended, then the Safeguarding Adults investigations should be formally closed.

The vulnerable adult however must remain a service user of Haringey Adult, Culture and Community Services or other organisations.

RECORDING AND MONITORING:

Comprehensive records **must** be kept of any 'Safeguarding Adults' work. Multi-agency work carried out under the procedures is to be stored on Framework-I under the 'Safeguarding Adults' workflow process. In order to identify repeat victimisation when a case is closed and a review is completed the Framework-I warning is changed from a **WARNING** to a **GENERAL NOTE** so that a previous POVA allegation can be immediately recognized.

Each Alert is to be dealt with, with the same severity and diligence.

POST INTERVENTION WORK AND DEBRIEF

For the purpose of this document, the term 'debrief' refers to positive and constructive feedback that may highlight both examples of good practice and areas in need of improvement. The process of debrief will enable staff to be provided with support and feedback on their role in the process.

The specific objectives of post-intervention work and debrief are:

- To confirm the outcome of the process with the vulnerable adult and appropriate carers.
- To offer effective post intervention support for staff.
- To share and learn from experience.
- To raise awareness of Safeguarding Adults issues
- To act as a reporting mechanism that records outcomes to inform future strategic policy and procedural planning, training developments and good practice.
- To review the effectiveness of these procedures.

Those who may require debrief are:

- The original Alerter
- The vulnerable adult
- The family/carers
- Any agencies/individuals/group involved
- CSCI
- The Police
- The Safeguarding Adults Board
- The investigating Worker.

It is the responsibility of Safeguarding Managers to ensure that staff receive quality support during and after investigations and to identify and meet any training needs. Where appropriate, support may involve a referral to occupational Health or a Professional Counselling Service.

It is the responsibility of Safeguarding Managers who may have made an alert on behalf of one of their workers, to ensure that the alert is discussed in supervision and to provide appropriate feedback.

Safeguarding Managers must be supported, given access to appropriate training and enabled to fulfil their supporting role by their manager.

The level of debrief and information provided to each group or individual will be proportionate to their involvement. They will be debriefed on a need to know basis. The Key Worker will confirm with their Safeguarding Manager or the Safeguarding Adults Co-ordinator what level of information should be given to each group or individual.

Staff Support

A case of adult abuse causes stress for all the individuals involved. In the case of staff members, whilst supervision and support provided by the Safeguarding Manager is important, a range of other options should be available.

The options that should be made available for all individuals involved in an abuse case include:

- Access to the Multi-agency Safeguarding from Abuse Panel.
- Training within and between agencies
- Information on an appropriate telephone advice line
- Access to the Safeguarding Adults Co-ordinator.

Institution Concerns Investigations

This section of Haringey's Multi-agency procedures describes the way in which a Safeguarding Adults Investigation should be carried out when a group of people are at risk from the same abuser e.g. an employee of a regulated service provider, or as a result of delivery of poor standards of care by a service provider.

The purpose of this process is to ensure a co-ordinated approach at senior management level, to a complex situation that may involve a number of Haringey Safeguarding Adults partner organisations/agencies, including Adult Services, Health, CSCI, Police and possibly other agencies outside the borough.

For the purpose of this section the word "institution" refers to regulated providers of services to vulnerable adults and includes:

- Residential care home
- Nursing care home
- Hospital including day hospital
- Day care services including luncheon clubs
- Home care provision

When a group of people have been abused or are at risk it may be appropriate to carry out an Institution Concerns Investigation rather than an individual series of Safeguarding Adults Investigations. The decision to

initiate an Institution Concerns investigation will be made by the Haringey Safeguarding Adults Co-ordinator when concerns about a provider of service to vulnerable adults become wide-ranging and serious.

The prompt leading to a decision by the Safeguarding Adults Co-ordinator to proceed with a larger scale investigation can come from various sources including the following:

- The nature and type of abuse referred under the Safeguarding Adults procedures in relation to an individual service user which may highlight broader serious concerns about provision of care to vulnerable adults by the provider agency involved.
- An ongoing Safeguarding Adults Investigation about an individual service user which may highlight serious concerns about the provider of services to the vulnerable adult. Where it becomes apparent to a team manager that accumulated concerns should be followed up, they will notify the Safeguarding Adults Co-ordinator.
- Complaints monitoring by Haringey Council Contracts Team and the Complaints Unit highlighting wider concerns that have arisen from accumulated complaints about a service provider. In this case the Contract Team or relevant Commissioning Manager should contact the Safeguarding Adults Co-ordinator.

It remains important to ensure the safety and well-being of those individuals who have been affected is addressed in terms of their individual care needs and therefore individual Safeguarding Adults Investigations will complement Institution Concerns Investigations.

The usual starting point for this process is a Multi-agency Institution Concerns Strategy Meeting which will be arranged and chaired by the Safeguarding Adults Co-ordinator or a Team Manager, who will take responsibility for co-ordinating these investigations. A decision will be made at the Institution Concerns Strategy Meeting with respect to the structure of the investigation, the boundaries with regards to what is and what is not to be covered by the investigation and the timing of subsequent meetings, including an Institution Concerns Case Conference.

It needs to be clear who is leading the Institution Concerns Investigations, who should be involved, which actions to take and systems to follow. The type of investigation would normally involve the CSCI, Social Services Team Managers, representatives from the Provider agency, Haringey Contracts team, Customer care Unit or Haringey Commissioning Teams, other teams with service users placed in the establishment or who are receiving care from the provider agency. It may become necessary to involve Haringey Legal Services, Haringey PCT and hospitals.

Likely elements of an investigation would be a review of all Haringey service users within the service and recommendations to other local authorities and Health providers to do the same. While CSCI cannot volunteer information on concerns they have about a service, they are able to share information about risks to individual service users.

CSCI should themselves be informed of any concerns they have about a service that is registered under the Care Standards Act 2000. CSCI must be kept informed of developments at all stages of the Institution Concerns Investigation in order to ensure that they are able to carry out their statutory duties and responsibilities.

If it is apparent that a crime has been committed, a senior Police Officer from the CSU should be consulted at the outset of the Investigation to ensure that the investigation is planned in a way that does not compromise any Police Investigation.

There may be service-users of other authorities receiving a service about which there are concerns. There is a tension between wanting to act responsibly and notify these other authorities of our concerns, and the need to act within the law in terms of not injuring the proprietor's ability to trade by expressing general concerns. It is the responsibility of the Safeguarding Adults Co-ordinator to make the decision to inform other placing authorities of Haringey's concerns.

At the close of an Institution Concerns Investigation, an Institution Case conference meeting should be held to enable all parties to meet to summarise the outcome and recommendations arising from the investigation. The action plan will be summarised in an Institution Concern Action Plan.

With respect to recommendations concerning individual service users, it is the responsibility of their Care Manager/Social Worker to ensure that these are being met. Where recommendations are made in relation to provision of care by a provider agency, the Safeguarding Adults Co-ordinator in partnership with the CSCI will monitor that these are carried out.

The Safeguarding Adults Co-ordinator may decide to set an Institution Concerns Review Meeting to check that appropriate actions have been taken. The Safeguarding Adults Co-ordinator will also be the appointed contact for other placing authorities to ensure prompt dissemination of information.

DISPUTE RESOLUTION FOR COMPLEX CASES INVOLVING MORE THAN ONE SPECIALIST AREA

What is the Purpose of the dispute resolution for complex cases involving more than one specialist area?

This procedure helps assists managers in Adult Services with their decision-making in relation to their funding responsibilities to service users with multiple care needs. This procedure aims to avoid disputes, where the vulnerable adults' needs are neglected as a result.

When this procedure should be used

This procedure should be referred to when:

- There is more than one service area, which may be involved in the joint assessment of need.
- For service users with multiple care needs requiring complex care packages.
- More than one service area is providing services.
- Where there is concern that an adequate level of care to support needs is not being provided. Where there is risk that the appropriate level of care to support needs is not been provided
- Where there is a risk that the appropriate level of care is dependent on funding approval/criteria
- Where service user is unable to complain or has access to an independent advocacy service

What should be done?

- ☑ Agreed care plans must be needs led and not service led.
- ☑ A person centred approach to care management should be followed especially when there is more than one team involved
- ☑ The same duty of care and the principle of acting in the service user's best interest applies to all professionals irrespective of the task
- ☑ All service providers are equally responsible for the well-being of the service user.
- ☑ Multiple care needs must be jointly assessed
- ☑ The service user should be involved in the decision-making process as much as possible. Where the service user is not able to do so then an advocate or carer should be approached.
- ☑ Relevant service managers must sign off the outcome of any assessments
- ☑ Relevant service managers to have a discussion about proposed care package Service managers are responsible for the funding of such care packages.
- ☑ If funding is a problem, service managers to escalate the situation to the Assistant Director of Adult Services for a resolution
- ☑ The Care package needs to be closely monitored for effectiveness
- ☑ Care packages should be reviewed as soon as any concerns arise about the quality of the service

Serious Case Review

What is a Serious Case Review?

Serious case reviews were established following the revised "Working Together" child protection guidance (Home Office et al 1991). A serious case review is a process of investigation, re-evaluation, analysing, scrutinising and making recommendations:

- When a vulnerable adult who is receiving community care services dies
- When a vulnerable adult is subject to a serious injury when there is suspected or actual abuse
- When there is a safeguarding adults issue with major public concern.

Serious Case Review used to be known as Part 8 or Section 8 and the process is co-ordinated by the Chair of the Haringey's Safeguarding Adults Board (HSAB) through the Case Review Sub Committee.

The guidance is issued under Section 7 of the Local Authority Social Services Act 1970. It does not have the full force of the law but, according to the Department of Health, 'should be complied with unless local circumstances indicate exceptional reasons which justify a variation'.

Relevant Standards: 1.22-9.10.15

It is recommended that:

There is a 'Safeguarding Adults' serious case review protocol. This is agreed, on a multi-agency basis and endorsed by the Coroner's Office, and details the circumstances in which a serious case review will be undertaken. For example when an adult experiencing abuse or neglect dies, or when there has been a serious incident, or in circumstances involving the abuse or neglect of one or more adults. The links between this protocol and a domestic violence review should be clear.

There is a clear process for commissioning and carrying out of a serious case review by the partnership.

The Purpose of a Serious Case Review

The purpose of the serious case review is to:

- Identify involved professional(s)
- Establish the facts
- Establish whether there are lessons to be learnt from the case about the way in which local professionals and agencies worked together to safeguard adults
- Identify clearly what those lessons are, how they will be acted upon, and what is expected to change as a result; and as a consequence
- To improve inter agency working and better safeguarding of adults.

It is acknowledged that all agencies will have their own internal statutory review procedures to investigate serious incidents; e.g. an Untoward Incident.

This protocol is not intended to duplicate or replace these. Agencies may also have their own mechanisms for reflective practice.

Where there are possible grounds for a Serious case Review and a Domestic Violence Homicide Review then the two decision makers as to which process is to lead and who is to chair with a final joint report taken to both commissioning bodies. This process will be of specific benefit when the case involves a victim aged between 16-18.

Criteria for Convening Serious Case Reviews

A serious case review **must always** be held when an adult who is being provided with services by the local authority dies due to an actual, suspected or alleged abuse.

In cases where an adult has not died it is appropriate to hold a serious case review if **any** of the following criteria is met:

- There was a significant risk of harm to an adult which was unrecognised by agencies or professionals in contact with the adult or alleged perpetrator
- Risk(s) not shared with others or not acted upon properly
- The adult was abused in an institutional setting, for example, residential/nursing homes, day-centres
- Agencies or professionals consider that their concerns and suspicions were not taken sufficiently seriously or acted upon appropriately by another agency when the concern and suspicions were a determining factor.
- The case indicates that there may be failings in one or more aspect of the local operation of formal safeguarding adults' procedures which extend beyond the handling of the case.
- The adult had previously been subjected to a Protection Plan
- The case appears to have implications for a range of agencies or professionals.
- The case suggests that there may be a need for the HSAB to change its protocols or procedures or that they need to be more effectively promoted, understood or acted upon.

Process for commissioning and carrying out of a serious case review

The HSAB will be the only body which commissions any serious case reviews. The Board will publicise both the process under which applications for reviews may be made and the terms of reference for each serious case review.

There must also be mechanisms for the consideration of requests from the Coroner, MPs, Elected Members and other interested parties.

Applications must attract the support of the quorum of the Board be made in writing.

In the event of an application being turned down, the reasons need to be recorded in writing and shared with the applicant.

INITIATING A SERIOUS CASE REVIEW

The case for review will be passed to the Chair of the HSAB to initiate a discussion/decision by the Board. If it is agreed, a multi-agency Serious Case Review Panel will be set up:

- The HSAB will be responsible for the appointment of an Independent Panel Chair.
- The HSAB will ensure the Serious Case Review Panel Chair receives adequate support.
- The Chair of the panel will be responsible for establishing individual terms of reference and setting time scales for the review in agreement with the HSAB. They will also be responsible for ensuring administrative arrangements are completed and that the review process is conducted according to the terms of reference.
- Any professional or agency working within the local safeguarding adults' network who concludes that a case review may be required must immediately notify the Chair of the HSAB.
- Within a month of any such notification, the HSAB Chair should convene a Case Review Sub-Committee.
- It is the duty and responsibility of the HSAB Chair to instruct the case Review Sub-Committee to undertake a Serious Case Review.
- Members of this sub-committee may determine that a full case review is not justified and that internal management review/s might be more helpful. The results of any such internal enquiries within member agencies must be fed back to this sub-committee.
- It is the responsibility of both the lead agency and the Case Review Sub-Committee to ensure feedback is undertaken.
- If the Case Review Sub-Committee does not conclude that a serious case review is required, it should make this recommendation to the Chair of the HSAB who has the final responsibility for making the decision.

When the HSAB instigates a case review, they will be responsible for:

- Identifying the agencies/service providers whose part in the case is to be examined
- Make arrangements for each participating agencies Chief Officer to be written to informing them of the details of the process, and that they need to arrange an internal/management case chronology and review.

Immediate Conduct

As soon as the HSAB Chair has decided that a Serious Case Review is required, s/he must immediately inform the relevant Service Manager or comparable officer who must then within 1 working day complete the following tasks:

- Convene an emergency Strategy Meeting to make arrangements for the safety of other vulnerable adults, for instance, in a care setting or in a domestic environment where there are other vulnerable adults.
- Check the electronic database to establish if service user is/was known and to identify involved professionals.
- Freeze and seal paper files: a senior manager in the agency must take possession of the file and ensures that a suitable member of staff numbers and initials both sides of each paper
- Limit access of all electronic database to approved person/s from the Case Review Sub Committee
- All agencies must make a photocopy of the file(s) so as to allow ongoing work and the original is held by a senior manager
- Files should not be entrusted to the postal service and must be delivered in person or by courier
- Inform The Director of Adults, Culture and Community Services or comparable equivalent and the Press Office
- Define those agencies which have been involved with the adult and alert them via a letter from the HSAB to Chief Executive/Officer, to their obligation to undertake an internal enquiry as a contribution to the overall case review
- Inform CSCI

Within 2 further working days, the manager who has taken possession of the active files must:

- Complete a briefing report for the Director of Adults, Culture and Community Services, equivalent in Health ,HSAB and Serious Case Review Sub- Committee, the Social Services Cabinet/Committee Member and Press Office

Individual Agency Internal Management Reviews

The Main objectives of each agency review are to:

- Look openly and critically at organisational and individual practice
- Establish if the case indicates that changes could and should be made
- Identify how any such changes may be introduced
- Propose any other action required

To achieve these objectives, the following will need to be completed:

- Files need to identified and read
- Relevant practitioners and managers need to be interviewed
- A chronology needs to be established
- Establish the service provided as a result of the decisions made
- An analysis of involvement
- A summary of 'lessons learnt'
- Recommendations for practical action

Individual Agency Response to HSAB Notification and Internal Management Reviews

The HSAB case review notification will be received usually by the agency's Chief Executive. If it is received by someone else in the agency, the Chief Executive or equivalent should be informed as soon as possible. The Chief Executive will inform the agency lead for safeguarding adults.

The agency lead (or a member of staff appointed by them) will then:

- Ensure that the agency Serious Case Review policy has been instigated
- Read all the secured records and establish a chronology of the history of the agency's involvement
- Interview appropriate staff
- Complete an initial report which will include a chronology and an analysis of our services involvement
- Any initial recommendations made at this time will be in addition to recommendations and implementation/action plans made by the HSAB Serious Case Review Panel
- The completed report will be made available to the agency and senior management as outlined within the Serious Case Review Procedure
- The completed report will be sent to the case review panel

HSAB ACTION ON RECEIVING REPORTS

Ongoing Conduct and Timescales

The conduct of the review should be overseen by a Serious Case Review Sub Committee to be briefed at a session convened by the HSAB Chair. The overall time limit for submission of a Serious Case Review Report to the Department of Health is 4 months from the decision that such a review is required unless, as a result of complexity of a case or other circumstance, an alternative has been negotiated with CSCI.

The HSAB Chair must also notify each member agency of the need to conduct and submit to the Chair of the Serious Case Review Sub Committee (within 3 months unless otherwise agreed), its individual agency review.

The HSAB is responsible for forming an Inter-Agency Case Review Panel with a clear term of reference

Responsibilities of Serious Case Review Panel

- The Inter-Agency Case Review Panel will usually draw its members from the HSAB Serious case Review Sub Committee, with other professionals co-opted for their specific skills/insight as required
- The Serious Case Review Panel is responsible for compiling an inter-agency chronology, carefully analysing all the information available and completing a final unnamed report.

- The Serious Case Review Panel may decide to re-examine case notes and agency based evidence, as well as interview staff to aid their analysis
- They will ensure that contributing agencies and individuals are satisfied that their information is fully and fairly represented in the overview report
- They will translate recommendations into an action plan which should be endorsed and adopted at a senior level by each of the agencies involved. The plan should set out individual task, timescale with intended outcomes. It should set out also the means of improvements to be made in practice and systems for monitoring and reviewing
- Identify person(s) to whom the report or any part of it should be made available
- Disseminate report or key findings to interested parties as agreed
- Make arrangements to provide feedback and de-briefing to staff, family members of the vulnerable adult and the media as appropriate
- Provide a copy of the overview report, executive summary action plan and individual management report to the HSAB, CSCI and Health Care Commission

OVERVIEW REPORT AND FOLLOW UP

The Serious Case Review Sub Committee is responsible for the production of a composite report (prepared by a nominated senior manager or an independent person) to the full HSAB which will:

- Provide an overview and include all relevant facts
- Offer an integrated chronology, using the template for internal agency chronologies
- Make recommendations for action by the HSAB and individual agencies

The format of the composite report should be as follows:

An introduction, which summarises the circumstances leading to the review. The introduction should also set out the terms of reference for the review, outline the contributors and who contributed to the review and clarify the Serious Case Review Sub Committee members and author of the report

Facts, including an integrated chronology showing involvement of all agencies and an overview of what relevant information was known to each involved agency and professional, about the parent/carer/spouse, any perpetrator, and the home circumstances

An analysis, which considers how and why events occurred. What decisions were made and the actions taken or not. This section of the report should also consider that if a different decision or action had been taken the outcome may have differed. Any examples of good practice can also be included wherever useful.

Conclusions and recommendations, summing up what lessons should be drawn from this case and any proposals that the agencies involved should

progress as a result. The conclusion and recommendations should be explicit, simple and realistic. This section should be seen as an opportunity to improve good practice requirements in the safe guarding adults' process.

A process must be put in place in advance of formal submission of the overview report to the HSAB which enables feedback and de-briefing of staff involved.

The overview report should be submitted to the Chair of the HSAB within 1 month of the internal reviews being received.

Guidance Notes on Referral to the Protection of Vulnerable Adults Register

What is the POVA register?

The POVA register is a list of names of employees who have been found to have abused a vulnerable adult. The registers overarching aim is to prevent professionals in a health or social care setting found guilty of abusing a vulnerable adult from providing direct care in such a setting again.

There are two parts to the register: the provisional list which holds the names of those currently under investigation and the permanent list for when the allegations have been substantiated. A request must be made by the person who made the referral to the provisional list to transfer a name from the provisional to the permanent or to remove a name from the provisional if the allegation could not be substantiated or is inconclusive.

Who can make a referral to the register?

It is the employer's responsibility to refer. If the worker is employed by an agency, it is the agency's responsibility.

Human Resources will make the referral if an allegation of abuse has been received about a Haringey Council employee.

The only other agencies that can refer to the register are the Commission for Social Care Inspection (CSCI), the Care Standards Inspectorate of Wales and the Secretary of State of Health.

Who can be referred?

Care workers (any worker who provides care from social workers to care assistants), volunteers and approved carers who have regular contacts with vulnerable adults in registered care and nursing homes, adult placements or service users' homes when they are receiving care.

When is a referral made?

The worker must be informed of the decision to refer. A referral is made when there is reasonable consideration that an individual is guilty of misconduct that has caused harm or risk of harm to a vulnerable adult. The harm or potential harm should have been because of certain action or inaction on the part of the individual. Harm is defined in law as “ill treatment or the impairment or health or development.

The misconduct could have been at work or outside of work. When disciplinary action leading to a dismissal is taken and exceptionally when the individual has been suspended pending further investigation

When a carer’s approval to provide adult placement has been withdrawn/terminated

Referral to regulatory bodies

As soon as the worker is provisionally included on the POVA list there must be a prompt referral to appropriate regulatory body for instance the General Social care Council, the Commission for Social Care Inspection (CSCI), Nursing and Midwifery Council (NMC) or the Care Standards Inspectorate of Wales

The worker must be notified of this action

Supporting the referred worker

Management has an obligation to support the referred person who has been suspended while the investigation continues. The Personnel Manager should be prepared to answer questions about procedures but will not be able to comment on the allegation

Confidentiality

Only the senior manager(s), the relevant personnel manager or advisor, the individual’s manager, and the individual himself or herself will know of the referral to POVA.

New employers will be told by the Criminal Records Bureau (CRB) that an individual’s name is on the register or list

The worker’s right to appeal

If an individual is provisionally included on the POVA list, the Secretary of State of Health will confirm this in writing to the individual sent by “Special Delivery.”

The individual will have the opportunity to make written representations direct to the Secretary of State as to why s/he should not be confirmed on the list.

The individual will be given 28 days in which to make written observations or to indicate that s/he intends to make observations within a reasonable period. If observations are not received, the Secretary of State will take a decision based on all available evidence.

All representations made by the individual will be passed on to the manager as the referring manager for comment. Similarly the Secretary of State will provide the individual concerned with copies of all papers submitted to him from the employers

How does the referral affect the individual worker?

If a referral is withdrawn from the provisional list, that individual will be able to continue to work with vulnerable adults. It should however lead to improved monitoring and supervision of practices by managers

Individuals who are included on the provisional list will not be employed in a care position working with vulnerable adults.

It is a criminal offence for an individual who has been transferred to the permanent register to try to obtain employment in a vulnerable adult care setting. This offence is punishable with imprisonment.

Form for referral

This can be obtained from the DOH website
<http://www.elderabuse.org.uk/Media%20and%20Resources/Useful%20downloads/POVA/pova%20referral%20form.rtf>

Cross References

The Safeguarding Adults procedures do not exist in isolation. Existing organisational policies and protocols provide the structure for actions taken as part of the Safeguarding process.

Concerns of abuse or neglect reported through those processes should be referred to the Safeguarding Adults procedures. Examples include:

- Health and safety
- Untoward incident reporting procedures
- Bullying and Harassment
- Recruitment and selection
- Complaints and representation
- Disciplinary procedures
- Information sharing protocols
- Whistle Blowing policy

Whistle-blowers should know how to access support and to protect their own interests. Even if they decide that they wish to make an anonymous report, the information they provide will be taken in to account and treated seriously.

All requests for anonymity by the referrer will be fully respected. It cannot however be guaranteed, especially if the referrer's information becomes an essential element in any subsequent legal proceedings. In addition, the Data Protection Act 1998 removes the blanket confidentiality of third party information.

4. Haringey Safeguarding Legal Framework: Introduction:

This section outlines the main legal provisions that are relevant to Safeguarding adults from abuse. It is a guide and provides information about supportive legislation linked to Safeguarding Adults policy and procedures

The legislative issues relating to protection and safeguarding of vulnerable adults are complex because the existing legal framework is not completely effective in safeguarding vulnerable adults. It is not always very helpful in balancing the issues of autonomy, individual rights and protection.

Legal action may provide a solution to problems being encountered when working with vulnerable adults. That nature will depend on the circumstances of each case and the type of abuse.

The law in respect of vulnerable adults is to be found in various sections of separate acts of parliament.

It is advisable that in cases where legislative issues need to be considered the agencies legal department/advisor are contacted.

Criminal Law:

Vulnerable adults may be the subject of criminal acts e.g. Physical or sexual assault and theft.

Witnesses to crimes are usually interviewed under 'Achieving Best Evidence in Criminal Proceedings' procedures. If the witness is vulnerable as defined under these procedures they may be offered special measures. That is an appropriate adult (advocate etc) may be appointed to partake in the interview process.

In any criminal investigation joint work with the police becomes extremely important, as any action may prejudice the outcome of the criminal investigation as evidence may be lost or contaminated. It is therefore

essential that the police are contacted and advice is sought as soon as there is a suggestion that a crime has been committed or may be committed.

Staff may be a potential witness to a crime and any records kept used as evidence. It is therefore of the utmost importance that such records are accurate, and up to date.

Police Powers and Criminal Investigations

The police should be informed of situations where a criminal investigation is warranted under criminal law. The standard of evidence required for a successful prosecution will be “proof beyond reasonable doubt”. The police will therefore need to obtain all possible evidence and include statements from both the victim and witnesses if available.

The ultimate decision whether to prosecute lies with the Crown Prosecution Service. They will have to take in to account the weight of the evidence and the potential for a prosecution going ahead.

Police and Criminal Evidence Act 1984:

Section 17: Allows a police officer to search and enter any premises without a warrant for the purpose of saving life or limb or preventing serious damage to property.

Section 24: Allows a police officer to arrest any person who is suspected of having committed, or is about to commit an arrestable offence.

Section 25: Allows a police officer, where there are reasonable grounds to make an arrest or someone to prevent them causing physical injury to another person, or to protect a child or other vulnerable person.

Codes of Practice:

Code C: A vulnerable adult taken in to police custody will be supported or represented. In exceptional cases, the person in custody may not be afforded this right in police custody.

Provide for an appropriate adult to be in attendance at police interviews involving mentally disordered or mentally handicapped person.

Youth Justice and Criminal Evidence Act 1999:

This Act gives the police and the courts the ability to offer ‘Special Measures’ to vulnerable victims and witnesses of crimes. The act fundamentally affects the way in which evidence is gathered and presented in court in respect of children and other vulnerable groups.

The ‘Special Measures’ apply to:

Under Section 16:

- All children under 17 years of age at the time of the hearing.
- Persons suffering from mental disorder within the meaning of the Mental Health Act 1983.
- Persons suffering from significant impairment or intelligence or social functioning.
- Person with a physical disability or other physical disorder.

Under Section 17:

- Persons suffering fear or distress in connection with testifying in the proceedings
- Complainants in sexual offence cases.

Special Measures: Other 'Special Measures' provisions include:

- Video recorded evidence
- Evidence presented in court by live link
- Evidence in private
- Screening witness from the accused
- Removal of wigs and gowns
- Aides to communication
- Support from an intermediary.

In considering the use of 'special measures' the court must consider whether or not the quality of evidence given by the witness is likely to be diminished by reason of their belonging to one of the categories of vulnerable or intimidated witnesses.

Under **Section 17**, a person suffering fear or distress, the court must take account of the following in reaching a determination of the use of special measures:

- The nature and alleged circumstance of the offence.
- The age of the witness.
- Social, cultural and ethnic origins.
- Domestic and employment circumstances
- Religious or political opinions
- Behaviour of accused, his or her family or other associates towards the witness.

National Guidance Document 'Achieving Best Evidence in Criminal Proceedings' 2001

The national guidance provides a framework by which the police and social services gather evidence from children and vulnerable adults in criminal investigations. Only those trained in this guidance should interview victims of and witnesses to suspected crimes. The guidance is extended beyond criminal proceedings and used as the basis for interviewing witnesses in civil and quasi legal proceedings.

Sexual Offences Act 2003

This Act repeals all previous legislation on sexual offences. Consent is a key issue in the Act and the freedom to make choices. The main sexual offences are rape (now including penile penetration of the mouth, anus or vagina), assault by penetration, and a sexual assault by touching and causing sexual activity without consent. Sexual relations with certain relatives have been clarified.

The Act introduced new offences to protect vulnerable persons with a mental disorder or a learning disability from sexual abuse. These include where they are unable to refuse because of a lack of understanding, where they are offered inducements or subject to threats or are deceived and where there is a breach of relationship of care, by care workers.

Section 30- Sexual Activity with a person with a mental disorder impeding choice

A person (A) commits an offence if-

- (a) he intentionally touches another person (B)
- (b) the touching is sexual
- (c) B is unable to refuse because of or reason related to mental disorder, and
- (d) A knows or could reasonably be expected to know that B has a mental disorder and that because of if or for a reason related to it B, is likely to be unable to refuse.

B is unable to refuse if-

- (a) he lacks the capacity to choose whether to agree to the touching (whether because he lacks sufficient understanding of the nature or reasonably foreseeable consequences of what is being done, or for any other reason), or
- (b) he is unable to communicate such a choice.

Section 31- Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity

Section 32- Engaging in sexual activity in the presence of a person with a mental disorder impeding choice.

Section 33- Causing a person with a mental disorder impeding choice, to watch a sexual act.

The Sexual Offences act 2003 also contains specific sexual offences that can be committed by a care worker against a person with a mental disorder or learning disability:

Section 38- Care workers: sexual activity with a person with a mental disorder.

Section 39- Care Workers: causing or inciting sexual activity.

Section 40- Care Workers: sexual activity in the presence of a person with a mental disorder.

Section 41- Care Workers: causing a person with a person with a mental disorder to watch a sexual act.

For further information please go to www.legislation.hmsso.gov.uk

Civil Law

Protection from Harassment Act 1997

This piece of legislation is a civil law but creates the offence of harassment. It can be used when a matter falls short of a physical attack but the vulnerable adult is being intimidated or harassed by an abuser. In such situations an injunction can be sought.

DOMESTIC VIOLENCE LEGISLATION:

Family Law Act 1996 Part 4

In relation to domestic violence, there are several relevant sections within criminal law pertaining to assault. The police should take a proactive approach to domestic violence between partners and have the powers to arrest an alleged perpetrator, even where the victim has not decided to press charges.

The Family Law Act provides for the making of non-molestation and occupation orders and these can include powers of arrest. These can be obtained against “associated persons” which include cohabiters, spouses and persons who live together in the same household and relatives. It does not include employees, tenants, lodges and boarders.

Domestic Violence, Crime and Victims Act 2004

This Act broadens the relationships covered by domestic violence legislation to include same sex and couples who have never lived together. It makes common assault an arrestable offence. There are significant Police powers including making it an arrestable, criminal offence to breach a non-molestation order.

The victim is given stronger legal protection as the legislation enables the courts to impose restraining orders when sentencing for any offence, or on

acquittal for any offence of causing or allowing the death of a child or vulnerable adult. This places a new offence of causing or allowing the death of a child or vulnerable adult who is at significant risk of serious harm. The Act set up an Independent Commissioner for Victims to give them a voice nationally.

MENTAL CAPACITY:

The Issue of mental capacity is critical in deciding action in adult protection. English law presumes that everyone has mental capacity until it is proven otherwise. In undertaking investigations, capacity to consent is a key issue. There are two key capacity issues and the first is the capacity of the adult to consent to the sexual act or other act about which there is concern. If the adult has capacity and consented to the 'abusive' act, it is unlikely that any prosecution can take place although the Police should be consulted. A vulnerable adult's capacity may fluctuate over time. This can be critical in determining whether an act is abusive or consensual.

The second key area where capacity is significant is consent to the process of the investigation- active involvement of the Police, interviews and medical assessment. If the vulnerable adult lacks capacity for this function, it is inappropriate for their consent to the process to be sought. However, they should be engaged with the process in any way possible. If the adult has capacity and declines assistance and refuses an investigation, actions will be limited. Such situations should be discussed at a Safeguarding Adult Conference to ensure all agencies are aware of the risks and the danger signals.

In assessing capacity, it is important to distinguish between capacity to make the decision and the ability to communicate the decision. The Mental Capacity Act 2005 makes clear that a functional approach to capacity must be taken and the adult must be assessed in relation to their capacity for this specific decision, not a general assessment. The test is whether the person is capable of understanding the particular decision. If a particular decision is trivial, a low degree of understanding will suffice. The more complex the decision the greater the understanding is needed.

If an adult lacks capacity, professionals involved need to act in the vulnerable adult's best interests. Capacity must have been carefully assessed and recorded. Legal advice should be sought. In the context of medical decisions, best interests is defined as where medical treatment is *"necessary to save life or prevent a deterioration or ensure an improvement in the patient's physical or mental health; in accordance with a practice accepted at the time by a responsible body of medical opinion skilled in the particular form of treatment in question"*.¹⁹

The Mental Capacity Act 2005:

¹⁹ Code of Practice Mental Health Act 1983.

This Act is underpinned by a set of five principles which make it clear that a person should be seen as having capacity unless proved otherwise. These are:

1. A person must be assumed to have capacity unless it is established he lacks capacity.
2. A person is not to be treated as unable to make decisions unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done or decision made, under this Act or on behalf of a person who lacks capacity must be done or made in his best interests.
5. Before the act is done, or the decision made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Someone is unable to make a decision for himself if he/she is unable:

- To understand the information relevant to the decision
- To retain the information
- To use or weigh that information as part of the process of making the decision.
- To communicate his decision by any means.

There is a best interest's checklist for people acting on behalf of others. This includes the following:

- Consider whether it is likely that the person will at some time have capacity in relation to the matter in question and if so when.
- Must permit and encourage the person to participate as fully as possible in any act and decision.
- Must consider the person's past and present wishes and feelings, the beliefs and values that would be likely to influence his decision if he had capacity and the other factors he would be likely to consider if he were able to do so.
- He must take account if it is practical and appropriate to consult them, the views of anyone named by the person for consultation, carers, and donees of lasting power of attorney or court appointed deputies.

Restraint is only permitted if the person using it reasonably believes it is necessary to prevent harm to the incapacitated person and if the restraint is proportionate to the likelihood and seriousness of harm.

The Act has extended the Court of protection's role to cover welfare matters not just financial matters. A lasting Power of Attorney can specify other decisions on wider welfare matters as well as finance. Most day to day informal decisions should be able to be taken without interference of the court, with a general authority resting on the carer.

A Court can appoint a deputy to help with welfare and financial decisions, where a person lacks capacity, without appointing a Lasting Power of Attorney. This replaces the current system of receivership covering financial decision making and extends it to include health and welfare. The Act has created IMCA's to support those lacking capacity who have no one else to

speak for them when decisions are taken about serious medical treatment or long term residential care.

The Mental Capacity Act creates a new criminal offence of ill treatment or neglect of an adult who lacks mental capacity.

Inherent Jurisdiction

The High Court may use its inherent jurisdiction to make a declaration as to whether action which is proposed to be taken is in the best interests for a person or is unlawful. The High Court can make decisions as to appropriate place of residence with someone who does not have capacity to make decisions by themselves and can also make injunctions to back up any residents and to stop removal.

MENTAL HEALTH

The Mental Health Act (MHA) 1983

This Act provides for the detention and treatment of mentally disordered individuals and if use is being considered an Approved Social Worker should advise.

Section 115: Powers of Entry and Inspection:

An Approved Social Worker may at reasonable times enter and inspect any premises in which a mentally disordered adult is living, if he/she has reasonable cause to believe that the patient is not under proper care.

Section 115 does not allow an approved social worker to force entry, although obstruction may be offence under Section 129, and the approved social worker can apply for a warrant under Section 135. The adult need not be named in this warrant, so this allows for investigation of suspected maltreatment of people whose identity is unknown but whose whereabouts are known. The evidence used to obtain the warrant can be about mistreatment in the past and therefore allows for accumulation of evidence over a period of time.

Section 135 allows an Approved Social Worker to apply for a warrant to search for and remove adults where there is a reasonable cause to suspect that an adult believed to be suffering from a mental disorder has been, or is being, ill-treated or neglected and not kept under proper control, or is unable to care for himself or herself and is living alone.

Section 136 allows for a police officer to intervene if the adult is in a public place (for example wandering outside their home).

Section 13(4): Duty to make application for admission

This places a duty on Social Services Department to direct an Approved Social Worker to consider making an application for admission under the Act,

if requested to do so by the nearest relative. This power could be used if the nearest relative of a mentally disordered adult complains of mistreatment by a third party, provided grounds exist under the MHA.

Section 2, 3 and 4: Admission to hospital

These sections give power to an Approved Social Worker based on the recommendation of one or two doctors to authorise the admission to hospital of a mentally disordered adult, if she/he is satisfied the criteria for compulsory admission are met as per the provisions of the MHA.

Section 7: Guardianship

A vulnerable adult can be received in to guardianship by the local authority if she/he has a mental illness, severe mental impairment or mental impairment associated with “abnormally aggressive or seriously irresponsible conduct”. The Guardianship must also “be necessary in the interests of the welfare of the adult or for the protection of other persons”. The “welfare of the patient” is interpreted broadly.

Guardianship gives the guardian 3 basic powers:

1. Accommodation: to say where someone is to live.
2. Attendance: to require the adult to attend somewhere for the purpose of medical treatment, occupation, education or housing.
3. Access: to gain access to the patient at the place where they are living.

There is a necessity to consult the nearest relative when considering guardianship. Consideration to displacing the requested relative should be given if any of the statutory grounds set out in Section 29 (3) are met. Legal advice must be sought.

Section 127: Ill-treatment of patients

This section makes it an offence for an officer on the staff or otherwise an employee or a manager of a mental nursing home or hospital, to ill-treat or wilfully neglect” a patient who is either:

- currently receiving treatment for mental disorder as an in-patient in that hospital or home;
- a patient receiving treatment as an out-patient

Furthermore under subsection (2) “it shall be an offence for any individual to ill-treat or wilfully neglect a mentally disordered patient who is for the time being subject to his guardianship under this Act or otherwise in his custody or care (whether by virtue of any legal or moral obligation or otherwise)”. This sub section has rarely been used but potentially could include the mistreatment of a mentally disordered adult by any carer- informal or otherwise.

POWERS TO ACT WITHOUT CONSENT

A person with mental capacity is entitled to refuse the provision of services even though the professional opinion is that this will cause deterioration or abuse or neglect. In such situations, a multi-agency conference is

recommended. There is one situation that allows for intervention without consent where the Mental Capacity Act and the Mental Health Act are not relevant or helpful.

The National Assistance Act 1948

Whenever you consider the use of Section 47, seek legal advice as you will need to consider Article 5 of the European Convention of Human Rights which states that:

“Everyone has the right to liberty and security of the person. No one shall be deprived of his liberty save in the following cases and in accordance with the procedure prescribed by law but also allows for:

(e) “the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants”.

Therefore, not only do you have to fulfil the requirements of Section 47 of the 1948 Act, you also have to fulfil the requirements of Article 5 (e) of the Human Right Act.

Section 47:

This section of the 1948 Act gives power to a district council to apply a Magistrate Court to remove a person from his/her home on the grounds:

- that the person from grave chronic disease or, being aged, infirm or physically incapacitated, is living in unsanitary conditions; and
- that the person is unable to devote to himself, and is not receiving from other persons, proper care and attention; and
- that his/her removal from home is necessary, wither in his own interests or for preventing injury to the health of, or serious nuisance to, other persons.

In practice this section of the National Assistance Act is rarely used. However, its use could be considered if there is no alternative and the risk is considered to be very grave. An order will last for up to three months depending on the circumstances in which it is obtained.

A modification of the Section 46 procedure is provided by the national Assistance (Amendment) Act 1951 to deal with situations in which it is necessary to remove the adult without delay. An order can be made which lasts for up to 21 days.

As far as financial abuse is concerned the position is complicated. One of the following sections allows vulnerable adults to be protected.

Section 21: Places either a power, or duty on local authorities to provide accommodation for persons by reason of age, illness, disability, or any other circumstance are in need of care and attention which is not otherwise available for them.

Section 29: Places either a power, or duty on local authorities to make arrangements for promoting the welfare of persons aged 18, or over who have a sight or hearing impairment, or who suffer from mental disorder of any description and other persons aged 19 or over who are substantially and permanently disabled by illness. Injury or congenital deformity, or such other disability as may be prescribed.

Public Health Act 1936:

District Councils have power under this Act to give notice to owners or occupiers if those premises are “in such a filthy or unwholesome condition as to be prejudicial to health”. The notice can require the owner or occupier to clean the premises or the Council can carry out the work itself.

FINANCIAL PROTECTION:

The prevention of financial abuse can be difficult. It is important to remember that such abuse may be a crime so consult the police.

Receivership:

Where someone is incapable of managing their property and affairs, an application can currently be made to the Court Of Protection for the appointment of a Receiver to manage the adult’s financial affairs. The person to be appointed can be a relative, a friend, an officer from the local authority, a solicitor, the Public Trustee or any other suitable person. Where the adult’s capital exceeds £5,000 or receives an occupational pension or the adult has an interest in a property than a Receivership application should be made. If however, the adult’s resources are limited it might be possible for the Court to issue a Short Order. All applications submitted to the Court must be accompanied by a statement confirming that the adult is currently “incapable by reason of mental disorder of managing and administering his property and affairs”. The medical certificate will have to be completed by the adult’s doctor or consultant, and must be in the approved Court of Protection form called a CP3. Legal advice should always be obtained. Social Services can make the application to the Court and in appropriate cases be appointed as the receiver.

Power of Attorney:

The adult can, through a legal process, empower someone else to act on their behalf in relation to all their financial affairs. Unless any restrictions or conditions are placed on the Attorney this person will be able to do almost anything that the adult would have done, for example sign cheques, or withdraw money from savings accounts. The adult granting the Power Of Attorney must be mentally capable at the time and can appoint almost anyone who is over 18 years of age. Anyone who is thinking of making a Power of Attorney should consider making his an Enduring Power of Attorney. An ordinary Power of Attorney lasts only so long as the person who grants it is mentally capable whereas an Enduring Power of Attorney allows for incapacity.

Enduring Power of Attorney:

An enduring Power of Attorney which continues after the adult becomes mentally incapable of managing their own affairs. When the Attorney believes that the adult is or is becoming mentally incapable, the Attorney must apply to register the Enduring Power of Attorney with the Court of Protection before they can act or continue to act under it.

Appointee:

The Benefits Agency can appoint someone else to receive the adult's benefits and to use that money to pay expenses such as household bills, food and personal items. An appointee should be a close relative or friend or someone who is regularly in contact with the adult. The person who is willing to act as the appointee must contact the local Benefits Agency office, who will arrange to interview the adult to decide whether they are mentally or physically incapable of acting on their own behalf. Where an adult has no one who can take this on, it is technically possible for someone from the Council to do so but is not generally considered appropriate.

Agent:

If the adult cannot go to the Post Office because of a physical disability or incapacity they could either fill in the back of the payment order or they could arrange for a suitable person to be made their Agent. The adult will need to contact the local Benefits Agency office and the adult can cancel this arrangement at any time they see fit. The Attorney and Agent assume that the adult is able to make the decision. An attorney is in fact under a legal duty not to misuse the power granted to them. If they do so, they can be sued in the Civil Courts.

THE RIGHTS OF THE VULNERABLE ADULT:

The vulnerable adult who is being abused is very likely to have their own legal remedy and should seek their own legal advice where possible. The worker should support this.

Human Rights Act 1998

All public authorities have to comply with the Act which gives legal force to the rights enshrined in the European Convention of Human Rights. There is a positive duty on local authorities, approved social workers; health authorities, NHS, PCT and the Police to uphold these rights. It is not enough for public authorities not to go against these rights; they also have a positive duty for example, a duty to ensure that someone is not subject to torture or inhuman or degrading treatment. These rights can be limited but the limit on these rights must be proportional.

The main rights that apply include:

Article 2: right to Life

Article 3: Prohibition of Torture and Inhuman or Degrading Treatment

Article 5: Right to Liberty and Security

Article 6: Right to a Fair Trial and Determination of Civil Rights

Article 8: Right to Respect for Private and Family Life including home and correspondence

Article 9: Freedom of Thought, Conscience and Religion.

Article 10: Freedom of Expression.

Article 11: Freedom of Assembly and Association

Article 12: Right to Marry

Article 13: Right to redress at a national level

Article 14: Prohibition of Discrimination (this only prevents discrimination in relation to the other rights and applies to ground such as sex, race, colour, language etc or other status)

Article 17: Prohibition of Abuse of Rights

Article 18: Limitations on use of restrictions on rights

First Protocol Article 1: Property of Property

First Protocol Article 2: Right to Education

Disability Discrimination Act 1995

This Act provides positive protection for disabled people from discrimination in relation to services and employment.

LOCAL AUTHORITY ADULT SERVICES

Local authorities have a number of statutory powers and duties to provide services for adults who need them. Some of the important powers and duties are covered in the legislation below:

The Health Services and Public Health Act 1968:

Section 45 (1) allows local authorities with a Social Services responsibility to promote the welfare of old people (subject to the approvals and directions contained in Circular LAC (93) (10).

Chronically Sick and Disabled Persons Act 1970

Section 2:

This provision extends the provisions of Section 29 of the National Assistance Act 1948 and places a duty on local authorities to make arrangements in respect of all, or any of the welfare services set out in Section 2(1) (a) to (h) as to any disabled person ordinarily resident in their area and the local authority is satisfied that the welfare service (s) is necessary to meet the needs of the person.

The National Health Service and Community Care Act 1990

Section 47: requires local authorities with a Social Services responsibility to carry out an assessment of need where people appear to them to be in need of community care services.

The Housing Act 1985 Part III (Homelessness)

Local authorities have a preventative duty (under section 66) to take reasonable steps to ensure that accommodation does not cease to become available for people threatened with homelessness (para.10.1 Code of Guidance). The Code of Guidance stresses that much can be done to prevent homelessness. It mentions special reasons for considering people as a priority, one is “Men and Women without children who have suffered violence at home or who are at risk of further violence if they return home”

Section 72 of the Act says that a housing authority may seek help from another authority (Housing association, Housing Authority or Social Services Department) to discharge their duties. The authority asked for help shall co-operate as is reasonable in the circumstances. This will help, for example, a woman fleeing violence who cannot be referred because of having a local connection with an area but feels she would not be safe living in the area.

Disabled Persons (Services Consultation and Representation) Act 1986

Duty to assess the needs of disabled people and to assess the ability of carers to continue caring.

RESIDENTIAL CARE AND THE LAW:

Care Standards Act 2000

The Care Standards Act set national minimum standards for care settings and set up new inspection arrangements. The Act requires homes providing personal care and accommodation to be registered and brought in registration and inspection of requirements for domiciliary care, day care and nursing agencies. The quality of residential provision is assured through this Act.

The Care Standards Act requires people and organisations providing care to be registered as “fit”, running services, according to regulations and standards.

Regulation 13(6) requires the registered person to “make arrangements by training of staff or other measure to prevent service users being harmed or suffering abuse or being placed at risk of harm or abuse”. The standards state that homes must have robust procedures for responding to suspicion or evidence of abuse and neglect and ensure the safety and protection of service users. All allegations and incidents of abuse and action taken must be recorded.

Section 31 of the Act empowers inspectors to enter a home at any time and interview the manager, staff or persons accommodated, to inspect and take copies of documents.

Regulation 13(7) requires no physical restraint unless “restraint of the kind employed is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances”.

There are restrictions on acting for service users and Regulation 20 states a registered person cannot pay money belonging to a service user into a bank account in the name of the service user. There is a requirement for a clear complaint policy.

Regulation 37 requires the registered person to notify CSCI without delay of any event which adversely affects the well being of a service user and any allegation of misconduct by the registered person or staff. Failure to notify is an offence.

The POVA list was set out in the Care Standards Act. Through referrals to and checks against the list, care workers who have harmed a vulnerable adult or placed a vulnerable adult at risk of harm will be banned from working in a care position with vulnerable adults. The scheme is currently implemented within care homes and domiciliary care but will be extended in the future. Employers and CSCI can refer people to POVA and checks are made on it for relevant posts as part of CRB checks.

Registered Homes Act 1984 and the Registered Homes (Amendment) Act 1991

This Act contains provisions for the registration, conduct and inspection of “residential care homes” (including small homes) which are establishments providing both board and personal care for persons in need of care by reason of old age, disablement, dependence on alcohol or drugs, or mental disorder. Similar provisions are contained in respect of nursing homes and mental nursing homes. Part 1 of the act relates to residential care homes, whilst Part 2 relates to nursing homes and mental nursing homes.

This Act gives powers to authorised staff of registration and inspection units to enter and inspect premises where vulnerable adults are living.

All such homes must be registered with either the local Social Services Department (residential care homes) or the health authority (nursing homes and mental nursing homes) for the area in which the respective home is situated.

Section 10: Provides the grounds upon which the registration of a person in respect of a residential care home can be cancelled by a registration authority (local Social Services authority)

Section 20: Provides the grounds upon which the registration of a person in respect of a nursing home, or a mental nursing home can be cancelled by a registration authority (health authority)

Section 11: Details the urgent procedure for cancellation of registration of a person in respect of residential care home by a registration authority (local Social Services authority) if officers consider there will be a serious risk to the life or well-being of the residents in the home.

LEGISLATION RELEVANT TO CARERS:

Carers Recognition and Services Act 1995

This Act places a duty on local authority Social Services Departments to assess, on request, the ability of a carer to provide and continue to provide care and a duty for them to take this into account when deciding which services to provide to the person in need of care.

Carers and Disabled Children Act 2000

This Act gives carers the right to services in their own right

DISCLOSURE OF PERSONAL INFORMATION

The Local Authority may hold personal information about individuals and some of that information will relate to risk posed to vulnerable adults. This may indicate the likely risk of abuse as a result of allegations made. It may include information of a sensitive nature about alleged and actual incidents of abuse. Legal advice should be sought if there is any uncertainty about the sharing of information. Generally, if consent is given by the vulnerable adult there is no difficulty. The challenge arise in situations where seeking consent would put the adult at increased risk of harm or where consent is not given.

Principles in Information Sharing:

- The Local Authority Social Services Department has the power to disclose to a 3rd party and where appropriate the vulnerable adult information relating to an individual if it genuinely and reasonably believes that it is desirable to protect vulnerable adults.
- Each case must be decided on its own facts
- Disclosure without consent should only be made if there is a pressing need and should be the exception not the rule.
- In deciding whether there is a pressing need, the following factors will be considered:
 - The Local Authority's own belief about the truth of the allegations will be a factor.
 - The greater the conviction that the allegation is true, the more pressing the need.

- The level of involvement of the third party to whom the information would be disclosed.
- The degree of risk posed if disclosure is not made- previous history of allegations, level of continuing contact with vulnerable adult, seriousness of alleged abuse.

Crime and Disorder Act 1998

Section 115: This legislation allows for the sharing of information between agencies to prevent a crime being committed. This is relevant to the many abuse situations which constitute a crime.

Data Protection Act 1998

The Data Protection Act sets up suitable safeguards in sharing information that need to be abided by. E.g. fairly and lawfully processed, not kept longer than necessary, rights of access. However there are specific conditions in relation to access and sharing of information where there are situations of serious risk of physical harm or to mental health. Information can be disclosed without consent if it is for the protection of the “vital interests of the subject” or prevention or detection of serious crime or for legal purposes. Where information is shared without consent, it is essential for advice to be sought and a careful recording of the reasons for this decision.

Freedom of Information Act 2000

The Information Commissioner is now responsible for implementation and enforcement of this Act and the Data Protection Act. The Freedom of Information Act only applies to public authorities. The Act establishes the right of any person making a request to a public authority to be informed in writing whether or not the authority holds the information sought and if so to be supplied with the information subject to certain exemptions.

Public Interest Disclosure Act 1998

This is the legal protector for the whistleblower. It sets out a clear and simple framework for raising concerns about malpractice, guaranteeing full protection for the worker. The Act enables employees who make a protected disclosure to disclose information, confidential or otherwise, internally to prescribed regulators or to a wider audience. A “protected disclosure” is a disclosure of information which, in the reasonable belief of the worker, tends to show one of the following has occurred or is likely to occur:

- A criminal offence has been committed
- A person has failed to comply with a legal obligation
- A miscarriage of justice has occurred
- Health or Safety of an individual endangered
- Environment has been damaged
- Information about any of these has been concealed.

OTHER CIVIL REMEDIES

The Law of Tort

This is the civil law which allows one person to sue another complaining about a wrong that the other has committed vis-à-vis the complainant.

- Trespass to the person (assault and battery) and false imprisonment, i.e.: covering much of the same area as criminal law.
- Negligence- if a person is owed a duty of care by another, branch of that duty lays that other potentially open to a civil action. A person who takes on board the care of another owes her/him a duty of care. If the carer fails to act as a reasonable carer would have done, she/he has broken that duty of care. If the carer fails to act as a reasonable carer would have done, she/he has broken that duty of care. If this breach causes the injury of which the person is complaining, the negligence action has been established.

Common Law:

Common Law allows for intervention, without consent. To save life or avoid serious physical harm based upon the principle that the action is reasonable and can be professionally justified as immediately necessary for the purpose of saving life or serious physical harm. Conversely, not to act under circumstances of the utmost gravity could be deemed negligent.

In high risk situations where both physical and mental disorders may be present (e.g. drug overdose, serious injury), if there is doubt concerning which of the two take precedence, then the Physical Disorder should be given priority. The relevant action would then be a Common Law intervention e.g. removing the individual to a Casualty Department. When it is physically safe to do so, the adult should then be assessed for treatment/admission under the Mental Health Act 1983 with respect to section 135/136.

Declaratory relief is a common law remedy, which can be obtained in high court proceedings in the family division. It is a kind of wardship for adults who are mentally incapable of making or communicating a decision about specific issues. It results in a declaration that to do x, y or z in respect of an incapacitated person would not be lawful, since it has been found, on the evidence, by the judge, to be in the best interests of the person concerned. It derives from the jurisdiction which the courts have always claimed in respect of medical intervention, when doctor or Trust Hospitals were uncomfortable, as to whether they could properly act or cease to treat someone, whose capacity or condition was such as to make their wishes or confirmed consent unclear.

The Court of Appeal in Re F (2000) removed any doubts as to the use of this jurisdiction by local authorities and emphasised that it may be the duty, and not merely the power, of the local authority in some cases, to take the step of going to court. When considering whether to apply to the High Court for declaratory relief the following needs to be established:

- That it is believed that the adult lacks mental capacity in relation to the particular decision at the particular time. (Wherever possible this should be supported by professional evidence).

- The issue is of a “serious justifiable nature” relating to welfare e.g. sterilisation or placement and contact arrangements including supervised contact, where there are strong concerns/evidence of abuse, ill-treatment or neglect and lack of care.
- What is in the adult’s “best interests” (as opposed to their carers, relatives etc.) which includes medical, emotional or all other welfare issues. This has to be determined by balancing all relevant factors and obtaining professional evidence e.g. consultant psychiatrist and social worker (if in doubt the judge will decide).
- That determined efforts have been made to agree what is in the best interests by working in partnership with relatives, carers and recording evidence on this file.

No Secrets: March 2000

‘No Secrets’ is a Department of Health guidance document requiring the development and implementation of local multi-agency policies and procedures to protect vulnerable adults from abuse. The guidance is supported by a range of other initiatives and is issued under Section 7 of the Local Authority Social Services Act 1970

A section of the document refers to record keeping and requires all agencies to keep clear and accurate records of all actions taken whenever a complaint or allegation of abuse is made. In the case of service providers the records should be available to service commissioners, regulatory authorities and to the nominated investigating officer. It provides points to consider when making records in the service user’s file.

National Framework for Safeguarding Adults: October 2005

The National framework “Safeguarding Adults” was launched in October 2005 at the Association of Director of Social Services (ADSS) meeting. It is a guidance document collecting best practice examples and aspirations into a set of good practice standards. It is intended to be used as an audit tool by all those implementing protection work.

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