

# Safeguarding Policy



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## NHS England INFORMATION READER BOX

### Directorate

Medical	Operations	Patients and Information
Nursing	Policy	Commissioning Development
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<b>Cross Reference</b>	This Policy should be read alongside NHS England Recruitment Guidance, Managing Safeguarding Allegations Against Staff Policy and Procedure, Voicing Your concerns (Whistleblowing) Policy, Disciplinary Policy
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### Document Status

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## **Safeguarding Policy**

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The NHS Commissioning Board (NHS CB) was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the NHS Commissioning Board has used the name NHS England for operational purposes.

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**1 Contents**

1 Introduction..... 6

2 NHS England Commitments and Values..... 7

3 Purpose ..... 8

4 Application and Scope..... 8

5 Objectives..... 8

6 Definitions of Harm or significant risk of harm ..... 9

7 Accountability Structure for Safeguarding in NHS England ..... 9

8 Roles & Responsibilities ..... 10

9 Training ..... 13

10 Safe Recruitment ..... 13

11 Managing Safeguarding Concerns ..... 14

12 Information Sharing ..... 14

13 Communications ..... 15

14 Monitoring..... 15

15 Equality and Health Inequalities Analysis ..... 15

16 Appendix 1 ..... 16

17 Appendix 2..... 23

## 1 Introduction

1.1 This policy sets out the statutory requirements for NHS England to discharge its appropriate accountability for Safeguarding children, young people and adults at risk of harm or abuse. This policy should be read alongside the NHS England Recruitment Guidance; Managing Safeguarding Allegations Policy; Voicing Your Concerns (Whistleblowing) Policy; and Disciplinary Policy. If the particular issue relates to dealing with Safeguarding allegations about staff, please refer to the Managing Safeguarding Allegations policy.

1.2 Safeguarding Vulnerable People in the NHS: Accountability and Assurance Framework (2015), to be superseded by any up dated version of the Accountability and Assurance framework, sets out the safeguarding roles, duties and responsibilities of all organisations in the NHS. It has been developed by NHS England in partnership with colleagues from across the health and social care system, the Department of Health (DH) and the Department for Education (DfE), particularly recognising that the new responsibilities set out in the Care Act 2014.

1.3 The framework aims to:

- Identify and clarify how relationships between health and other systems work at both strategic and operational levels to safeguard children, young people and adults at risk of harm of abuse.
- Clearly set out the legal framework for safeguarding as it relates to the various NHS organisations in order to support them in discharging their statutory requirements to safeguard children and adults.
- Promote empowerment and autonomy for adults, including those who lack capacity for a particular decision as embodied in the Mental Capacity Act 2005, implementing an approach which appropriately balances this with safeguarding.
- Outline principles, attitudes, expectations and ways of working that recognise that safeguarding is everybody's business and that the safety and well-being of those in vulnerable circumstances is at the forefront of our business.
- Set out how the health system operates, how it will be held to account both locally and nationally and make clear the arrangements and processes to be undertaken to provide assurance to the NHS England Board with regard to the effectiveness of safeguarding arrangements across the system.
- Outline how professional leadership and expertise will be developed and retained in the NHS, including the key role of designated and named professionals for safeguarding children and designated adult safeguarding managers.

1.4 This policy sets out the collective and individual expectation for NHS England staff to comply with legislation, codes of conduct and behaviours required as an employee of NHS England. The policy describes the definitions of abuse for both children and adults; it sets out how employees should report such abuse and

describes the inter-related Human Resources (HR) policies that should be read in conjunction with this policy.

## 2 NHS England Commitments and Values

- 2.1 The NHS Constitution establishes the principles and values of the NHS in England. It sets out rights to which patients, public and staff are entitled. It sets out the pledges the NHS is committed to achieve, together with responsibilities, which the public, patients and staff owe to one another to ensure that the NHS operates fairly and effectively.
- 2.2 As a publicly funded NHS body, NHS England expects high standards from all of its employees and, in line with the key principles of the constitution. NHS England aspires to the highest standards of excellence and professionalism in the people it employs, the education, training and development they receive and in the leadership and management of the organisation.
- 2.3 NHS England, as with all other NHS bodies has a statutory duty to ensure that it makes arrangements to safeguard and promote the welfare of children and young people, to protect adults at risk from abuse or the risk of abuse and support the Home Office Counter Terrorism strategy CONTEST, which includes a specific focus on PREVENT (preventing violent extremism / radicalisation). Throughout this document, safeguarding children, young people and adults at risk includes those vulnerable to violent extremism/ radicalisation. The key legislative framework includes The Children Act 1989 (2004), Working together to safeguard children (2015), No Secrets (2000), The Crime and Disorder Act (1998), The Health and Social Care Act (2008) and the Care Act (2014). (Appendix 1 sets out the legislation framework in detail).
- 2.4 Equality and diversity are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited in the Equality Act 2010). This policy and procedure will not discriminate, either directly or indirectly, on the grounds of the 9 protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation).

### 3 Purpose

- 3.1 This policy sets out the key principles that all staff and workers working in NHS England should be complying with safeguarding children, young people and adults at risk of harm or abuse.
- 3.2 All staff carrying out the business of NHS England need to be aware of the integrated agenda to support vulnerable children, young people and adults at risk, in particular those in need of protection.
- 3.3 NHS England commits to provide line management support and opportunities for learning and development, to ensure that employees have the skills they need to perform their duties and to succeed in their role.

### 4 Application and Scope

- 4.1 This policy applies to all employees and workers of NHS England, including secondees into and out of the organisation, volunteers, students, honorary appointees, trainees, contractors, and temporary workers, including locum doctors and those working on a bank or agency contract. Performers registered on the National Performers List are also included in this policy.
- 4.2 For ease of reference, all employees and workers who fall under these groups will be uniformly referred to as “staff” in this document.

### 5 Objectives

- 5.1 In developing this policy NHS England recognises that safeguarding children, young people and adults at risk is a shared responsibility, with the need for effective joint working between agencies and professionals that have different roles and expertise. In order to achieve effective joint working there must be constructive relationships at all levels, promoted and evidenced by:
  - Executive Lead at Board level for NHS England, and all Board members being accountable for safeguarding children, young people and adults at risk of harm or abuse.
  - Clear lines of accountability within the organisation for safeguarding.
  - Robust communication and escalation process's that complement Local safeguarding Children Boards (LSCBs) and safeguarding Adults Boards (SABs) strategies.
  - Staff training and continuing professional development so that staff are competent to undertake their roles and responsibilities, and those of other professionals and organisations in relation to safeguarding children and adults at risk.
  - Safe working practices including recruitment, vetting and barring procedures.
  - Effective interagency working, including effective information sharing.

- Designated Professionals, Adult Safeguarding Leads and Named Doctors / Named Professionals, as clinical experts and strategic leaders, as a vital source of advice to NHS England.
- Provision of support, supervision and mentorship to safeguarding leads within NHS England.

## **6 Definitions of Harm or significant risk of harm**

6.1 The legislation previously listed within this policy sets out the definition of harm and significant risk for children, young people and adults at risk of harm or abuse.

6.2 Appendix 2 sets out these definitions in detail.

## **7 Accountability Structure for Safeguarding in NHS England**

7.1 NHS England has a single operating model and is largely organised into two functional areas; national (centre) and regional. There is senior clinical leadership at all levels, including those with responsibility and expertise in safeguarding. The Board's national leadership team includes the Chief Nursing Officer (CNO), who is the lead Director for safeguarding and will lead work that defines improvement in safeguarding practice.

7.2 The CNO is responsible for providing assurance to Ministers and NHS England's Board, ensuring statutory compliance with safeguarding legislation.

7.3 The Director of Nursing supports the CNO in discharging these functions, works with the Head of Safeguarding to ensure NHS England makes arrangements to safeguard children, young people and adults at risk.

7.4 The Head of Safeguarding supports the Director of Nursing and works with, and supports Regional Safeguarding leads to embed Safeguarding leadership at every level, working across and engaging with a range of stakeholders influencing Safeguarding partnerships for example Health Education England, Local Safeguarding Children Boards, Safeguarding Adult Board, Public Health England, Association of Directors of Adult Social Services (ADASS), Society of Local Authority Chief Executives and Senior Managers (SOLACE), Local Government Agency (LGA), and the voluntary sector.

## 8 Roles & Responsibilities

8.1 Safeguarding Vulnerable People in the Reformed NHS: Accountability and Assurance Framework (NHS England 2015) sets out clearly the safeguarding roles, duties and responsibilities of all organisations in the NHS.

8.2 NHS England's National responsibilities are that the CNO is responsible for providing overall assurance to the NHS England Board on the effectiveness and quality of the safeguarding arrangements. The annual review process – the minimum requirements are set out below.

8.3 On an annual basis each regional chief nurse will produce a report which provides assurance for their region across the following areas:

- The health commissioning system is working effectively to safeguard children and adults at risk of harm or abuse.
- NHS England is meeting its specific safeguarding duties in relation to the services that it directly commissions.
- Robust processes are in place to learn lessons from cases where children or adults die or are seriously harmed and abuse or neglect is suspected.
- NHS England is appropriately engaged in the Local Safeguarding Boards and any local arrangements for safeguarding both adults and children, including effective mechanisms for LSCBs, SABs and health and wellbeing boards to raise concerns about the engagement and leadership of the local NHS.

8.4 The report will draw upon and critically assess a range of intelligence and information from local sources including:

- Providers' key performance indicators identified in the markers of good practice, section 11 audits and safeguarding adults assurance framework.
- Inspection findings.
- Statutory reviews that have taken place – their findings and action plans;
- Regulation 28 reports<sup>1</sup>.
- Intelligence from CCG and direct commissioning assurance processes.
- Views of Designated Professionals.
- Feedback from LSCB/SAB chairs.
- Contract monitoring processes.
- Complaints.

8.5 On an annual basis, the Head of Safeguarding, working closely with Regional Chief Nurses, will draw together an annual safeguarding assurance report which is reviewed and signed off by the National Safeguarding Steering Group (NSSG). Any key findings are reported by exception to the NHS England Board Commissioning and Assurance Committee. The report has the dual purpose of

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<sup>1</sup> Paragraph 7, Schedule 5 of the Coroners and Justice Act 2009 and regulation 28 of the Coroners (Investigations) Regulations 2013, also known as reports to prevent future deaths or "PFD".

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not only providing assurance but also enabling any themes, common issues, emerging trends and system-wide learning to be identified from across the health system.

8.6 Any issues identified through this process where a coordinated and/or system-wide response is needed are captured and monitored through the NSSG work programme and the NSSG risk register and, where necessary, are escalated to the nursing senior management team.

8.7 The regional responsibilities are that each NHS England region has a Regional Chief Nurse and a number of Directors of Nursing who have the leadership and governance role for safeguarding locally - setting direction, ensuring compliance with standards, policies and procedures, monitoring progress and managing risks. They involve, and work collaboratively with, other NHS England regional staff as required including commissioners, Medical Directors and those with a role in assuring the local system. The following section describes the roles and responsibilities for safeguarding at the regional level; however, it is for local discretion as to how these are actually discharged to suit local circumstances. Ultimately the Regional Chief Nurse is responsible for developing and implementing a local model that discharges all of the roles and responsibilities set out below:

- Providing assurance, via the NSSG, to the NHS England Board on the effectiveness and quality of the safeguarding arrangements across the regional health system and determining whether these are meeting statutory duties.
- Disseminating national policy across the system.
- Escalating significant issues which may have system-wide relevance and/or require a national resolution to the NSSG. This includes any significant issues from serious case reviews, safeguarding adult reviews, domestic homicide reviews and other statutory processes.
- Convening a safeguarding network on a regular basis and ensuring significant issues which may have system-wide relevance are escalated, as appropriate, to quality surveillance groups and to the NSSG.
- Ensuring effective arrangements are in place across the local NHS system in order to discharge safeguarding duties including information sharing, sharing best practice and embedding learning from incidents, as well as leading and defining improvement in safeguarding practice at a local level.
- Leading on delivering elements of the national safeguarding programme on behalf of the NSSG as appropriate.
- Ensuring effective systems are in place for responding to incidents of abuse and neglect of children and adults, i.e. making sure that when NHS England receives notification, a timely referral is made into either the local safeguarding children or safeguarding adults processes.
- Ensuring appropriate representation at LSCBs and SABs in the local area. This is for local determination using a risk-based approach. In agreeing local attendance arrangements the Regional Chief Nurse (or their nominee) will work closely with the LSCB/SAB chairs, CCGs and Designated Professionals to

ensure any issues about the health system can be escalated. NHS England will only attend where there are specific concerns that require NHS England oversight or action, e.g. where an improvement board is in place. At other times NHS England will be represented by the Designated Professional or other agreed local representative with clear communication routes back to NHS England.

- Ensuring NHS England staff are appropriately trained, supervised and competent to carry out their responsibilities for safeguarding.
- Ensuring safeguarding expertise is provided to support CCG assurance processes.
- Ensuring the provision of specialist safeguarding advice to NHS England commissioners, working with Designated Professionals as appropriate, to support them in commissioning services and monitoring contractors' performance, and to ensure compliance with safeguarding statutory duties and the Mental Capacity Act. Where services are co-commissioned, arrangements must be agreed with the CCG as appropriate.
- Contributing safeguarding expertise to those maintaining the performers list and advising on any performance management concerns related to safeguarding.
- Working in partnership with the Local Education and Training Board (LETB) to highlight any safeguarding training needs and developing ways forward to meet these needs.

## **8.8 Employees of NHS England**

- 8.8.1 Employees have a responsibility to achieve and maintain the standards set out in this policy. They must therefore report any Safeguarding concerns to their line manager.
- 8.8.2 They must co-operate with their managers in identifying development needs and act on them.

## **8.9 Line Managers**

- 8.9.1 Line managers have a responsibility to understand the safeguarding policy and the commitment of NHS England to ensure all staff are supported to maintain training and awareness.
- 8.9.2 Must conduct regular reviews of the standards required for each role. A full re-assessment will be required if changes are made to the duties of the role which warrant a new and different level of employment check (e.g. if the post holder takes on new duties involving children or adults at risk of harm or abuse).

## 9 Training

- 9.1 NHS England is committed to have arrangements in place to ensure effective training of all staff. NHS England expects all their staff to be trained in children and adult safeguarding at level 1, further levels of training will be determined by the responsibilities set out in job descriptions/role functions.
- 9.2 Support, supervision and mentorship will be provided for safeguarding leads within NHS England as appropriate and identified through personal development needs. Line managers will agree the level of safeguarding training required for each employee depending on their role and responsibilities, in line with the intercollegiate guidance for children (2014).
- 9.3 For safeguarding training NHS England staff are directed to the National Learning Academy (NSA), previously known as Skills for Health e-learning platform; <https://elearning.nsahealth.org.uk/local/sfadmin/login/index.php>
- 9.4 Further guidance regarding levels of safeguarding training for professionals can be accessed via the intercollegiate guidance document; Safeguarding Children and Young People: Roles and Competencies for Healthcare Staff Third Edition:2014; [http://www.rcpch.ac.uk/sites/default/files/page/Safeguarding%20Children%20-%20Roles%20and%20Competences%20for%20Healthcare%20Staff%20%202014%20%20%20%20\(3\).pdf](http://www.rcpch.ac.uk/sites/default/files/page/Safeguarding%20Children%20-%20Roles%20and%20Competences%20for%20Healthcare%20Staff%20%202014%20%20%20%20(3).pdf)
- 9.5 Health Education England (HEE) working in conjunction with its Local Education and Training Boards (LETBs) has responsibility for all professional education and training. HEE provides strategic leadership and workforce intelligence in support of NHS England and the delivery of the mandate

## 10 Safe Recruitment

- 10.1 Recruiting managers shall seek guidance from Human Resources, to determine the level of DBS (formerly CRB) check required for the role. The manager shall ensure clearance is obtained before the applicant commences employment. As an employer of staff in a 'regulated activity' NHS England has a responsibility to refer concerns to the DBS in accordance with the Safeguarding Vulnerable Groups Act 2006. Managers must report concerns to their local HR team, who should seek advice from the NHS England Safeguarding team, or directly through the Head of Safeguarding. See *NHS England Managing Safeguarding Allegations policy*

## 11 Managing Safeguarding Concerns

- 11.1 If an employee of NHS England has concerns that a child, young person or adult is at risk of harm or abuse, they should notify their line manager and/or local safeguarding lead and the local Social Services department as per the local policies and procedures for their area, the person should also consider informing the local Police.
- 11.2 In hours the central safeguarding team will offer advice and additional support, and locally the Designated Professional will be available for advice and support.
- 11.3 Out of hours Staff may contact the Social Services Emergency Duty team, in the case of an emergency staff may consider contacting the Police.

## 12 Information Sharing

- 12.1 It is important that all involved remain confident that their personal information is kept safe and secure and that practitioners maintain the privacy rights of the individual, whilst sharing information to deliver better services. It is important that practitioners can share information appropriately as part of their day-to-day practice and do so confidently. Professionals will wish to refer to specific advice from their professional body regarding information sharing e.g. GMC guidance; [http://www.gmc-uk.org/guidance/ethical\\_guidance/13388.asp](http://www.gmc-uk.org/guidance/ethical_guidance/13388.asp) or NMC guidance; <http://www.nmc-uk.org/nurses-and-midwives/advice-by-topic/a/advice/confidentiality/>
- 12.2 Staff should ensure they are familiar with NHS England information governance policy and have undertaken mandatory information governance training. This will clarify what information is appropriate to share. Local LSCBs and SABs will have multi-agency information sharing policies/protocols in place and staff should ensure they understand and adhere to these.
- 12.3 There are seven golden rules for information sharing:
- Remember that the Data protection Act 1998 is not a barrier to sharing information
  - Keep a record of your decision and the reasons for it. Record what you have shared, with whom and for what purpose
  - Be open and honest with the person (and/or their family where appropriate) at the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.

- Seek advice if you are in any doubt, without disclosing the identity of the person where possible
- Share with consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, that lack of consent can be overridden in public interest. You will need to base your judgement on the facts of the case
- Consider safety and well-being of the person and others who may be affected by their actions
- Necessary, proportionate, relevant, accurate, timely and secure

## 13 Communications

13.1 Any safeguarding issue that may attract media interest should be shared with the regional communication team, who will share the issue with the national communication team and the Head of Safeguarding, Director of Nursing so that they are able to brief the CNO / CEO / DH as required

## 14 Monitoring

14.1 The NSSG will monitor compliance of this policy.

14.2 The Head of Safeguarding is responsible for the monitoring, revision and updating of this policy. The Head of Safeguarding will act on behalf of the Chief Nursing Officer (CNO) in this respect, and will update the CNO on its implementation.

14.3 This policy will be monitored with regard to the implications of equality and diversity on a regular basis.

## 15 Equality and Health Inequalities Analysis

15.1 Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

15.2 Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;

15.3 Given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.

## 16 Appendix 1

### Legislative Framework

Responsibilities for safeguarding are enshrined in legislation. Some duties apply only to children, some apply only to adults, and some apply to both. This section deals with each in turn.

There are fundamental differences between the legislative framework for safeguarding for children, and for adults, which stem from who can make decisions.

Adults have a legal right to make their own decisions, even if they are unwise, as long as they have capacity to make that decision and are free from coercion or undue influence. However decision-making power relating to children lies with those who have parental responsibility for the child. As a child grows in maturity and understanding, the law gives the child a greater say in decisions. Once a child understands fully the choice to be made and its consequences, the child's view prevails<sup>2</sup>, at least as regards consent, though on occasions the courts have been prepared to override a capable child's refusal of life-saving treatment.

The Mental Capacity Act covers and empowers children aged 16 and 17. Once 18, the young person is an adult. When issues about a child's upbringing, or their money or property, are considered by a court, statute makes it clear that "the child's welfare shall be the court's paramount consideration"<sup>3</sup>. Known widely as the "paramountcy principle", this has a far-reaching effect on children's social care practice, emphasising to all what a court would need to see in order to approve arrangements.

*While many key statutory provisions apply directly to a broad range of public bodies, including the NHS and the Police, some key provisions of legislation impose duties directly on local authorities only. The duties are not placed directly on any other agencies. However the NHS, as well as other agencies, is covered by these duties indirectly, because it has statutory duties to co-operate with local authorities over safeguarding.*

#### **Children and young people**

The legislation and guidance relevant to safeguarding and promoting the welfare of children includes the following:

- [Children Act 1989 and 2004](#)
- [Working Together to Safeguard Children \(2015\)](#) – statutory guidance
- [Promoting the Health and Well-being of Looked After Children](#) – statutory guidance

<sup>2</sup> Gillick v West Norfolk and Wisbech AHA [1986] AC 112

<sup>3</sup> Section 1(1) Children Act 1989

- [Safeguarding children and young people: roles and competences for health care staff, intercollegiate document \(updated 2014\).](#)

A full exposition of statutory provisions relating to children's safeguarding can be found in appendix B of the statutory guidance document Working Together to Safeguard Children. This document focuses on those which are relevant to the NHS.

There are some broad, fundamental safeguarding duties, namely:

- *There is a duty on local authorities to "safeguard and promote the welfare of children within their area who are in need"<sup>4</sup>. The concept of "need" is defined very broadly, covering any child whose health or development will be impaired without support, or who has a disability<sup>5</sup>.*
- *Local authorities also have a further duty to "take reasonable steps...to prevent children within their area suffering ill-treatment or neglect"<sup>6</sup>.*
- *All public sector agencies providing services to children, including local authorities and all NHS bodies, "must make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children"<sup>7</sup>.*
- A child-centred approach is required. As far as reasonably possible, local authorities must ascertain the child's wishes and feelings<sup>8</sup>, and devise their support in consideration of those wishes and feelings. Local authorities do not have to provide the support themselves.
- A local authority must enquire whether it needs to take safeguarding action if it has reasonable cause to suspect a child in its area is suffering, or is at risk of, significant harm. This duty also covers any child in police protection, or under an emergency protection order<sup>9</sup>.

It is essential practice that all agencies recognise that safeguarding is everyone's business. No individual agency can assume that safeguarding issues will be picked up by others. To confirm and illustrate this, there are the following duties on inter-agency co-operation:

- If, in discharging its safeguarding duties, a local authority asks certain specified agencies for help, those agencies must help as long as it is compatible with their own duties, and does not hamper the discharge of their own functions. These agencies include NHS England, CCGs, and all NHS trusts<sup>10</sup>.
- Local authorities are under a duty to make arrangements to promote co-operation with other agencies, including NHS England and all CCGs, in order to promote the well-being of children in general, and to protect them from harm and neglect in

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<sup>4</sup> Section 17(1) Children Act 1989

<sup>5</sup> Section 17(10) Children Act 1989

<sup>6</sup> Paragraph 4, Schedule 2, Children Act 1989

<sup>7</sup> Section 11 Children Act 2004

<sup>8</sup> Section 53 Children Act 2004

<sup>9</sup> Section 47 Children Act 1989

<sup>10</sup> Section 27 Children Act 1989

particular. Those other agencies are under an express reciprocal duty to co-operate with the local authority<sup>11</sup>.

The task of monitoring inter-agency co-operation falls to the local safeguarding children board (LSCB). Local authorities must establish an LSCB for their area. NHS England, CCGs, designated professionals and local providers should ensure appropriate representation on the LSCB. The local authority and the other board members owe to each other reciprocal duties of co-operation specifically in relation to the establishment and operation of the LSCB<sup>12</sup>.

The objectives of an LSCB are to co-ordinate activities of board members to safeguard and promote the welfare of children, and to ensure the effectiveness of those activities. LSCBs also commission serious case reviews where abuse or neglect of a child is known or suspected, the child has either died or been seriously harmed, and there is concern over how agencies and service providers have worked together<sup>13</sup>.

### **Adults at risk of harm or abuse**

The legislation and guidance relevant to safeguarding adults at risk of harm or abuse includes the following:

- [Care Act 2014](#)
- [Care and Support Statutory Guidance \(Chapter 14 – Safeguarding\)](#)
- Further practice materials to support implementation of the Care Act have been commissioned and will be found on the [LGA website](#) as they are published

There are some broad and fundamental safeguarding duties covering adult services, namely:

- Local authorities must promote the adult's "well-being"<sup>14</sup>. Within this broad concept, the authority must "have regard to the need to protect people from abuse and neglect"<sup>15</sup>.
- If a local authority has reasonable cause to suspect an adult in its area is suffering or is at risk of abuse and neglect, and has needs which leave him or her unable to protect himself or herself, then it must ensure enquiries are made in order to decide what action (if any) should be taken, and by whom (the "duty to enquire"<sup>16</sup>). Enquiries should be made by the most appropriate professional, and in some circumstances that will be a health professional.

In discharging these duties, there are express reciprocal duties to co-operate on local authorities and their "relevant partners", and that category includes NHS England, and all CCGs and health trusts in the local authority's area<sup>17</sup>.

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<sup>11</sup> Section 10 Children Act 2004

<sup>12</sup> Section 13 Children Act 2004

<sup>13</sup> *Section 14 Children Act 2004 and paragraph 5 of the Local Safeguarding Children Boards Regulations 2006*

<sup>14</sup> Section 1(1) Care Act 2014

<sup>15</sup> Section 1 (2) (c) Care Act 2014

<sup>16</sup> Section 42 Care Act 2014

<sup>17</sup> Section 6 and 7 Care Act 2014

Where the safeguarding action requires assessing an adult's needs, or the preparation or revision of care plans, or care and support plans, the local authority is under a duty to consider if the adult needs an independent advocate. The trigger is when the adult would experience substantial difficulty in understanding or retaining relevant information, or weighing that information as part of the decision-making process, or communicating their views<sup>18</sup>.

Each local authority must establish a safeguarding adults board (SAB) in its area<sup>19</sup>. Its main objective is to help and protect those adults in its area. CCGs, working with the health system, should ensure appropriate representation on the SAB. The local authority may include any other body it considers appropriate following consultation with other members<sup>20</sup>.

A SAB can arrange a safeguarding adult review whenever it chooses. However it must arrange one where an adult has died from or experienced serious abuse or neglect, and there is reasonable cause for concern about how those agencies and service providers involved worked together to safeguard the adult<sup>21</sup>. Core partners are required to contribute to such reviews when requested.

The Government has issued a [policy statement on adult safeguarding](#) which sets out six principles for safeguarding adults. Whilst not legal duties, these do represent best practice and provide a foundation for achieving good outcomes:

- Empowerment - presumption of person led decisions and consent.
- Protection - support and representation for those in greatest need.
- Prevention of harm or abuse.
- Proportionality and least intrusive response appropriate to the risk presented.
- Partnerships - local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
- Accountability and transparency in delivering safeguarding.

## Legal requirements applying to safeguarding of both children and adults

### Information sharing

Good information sharing practice, is at the heart of good safeguarding practice. The area is covered by legislation, principally the Data Protection Act 1998, and by court decisions on issues of confidentiality and privacy.

At its heart is the principle that information should be shared if that helps to protect children or adults, or to prevent a crime. In addition, there are some specific statutory provisions (for example relating to the operation of LSCBs, and

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<sup>18</sup> Section 68 Care Act 2014

<sup>19</sup> Section 43 Care Act 2014

<sup>20</sup> Schedule 2 Care Act 2014

<sup>21</sup> Section 44 Care Act 2014

SABs, and relating to the statutory scheme for vetting and barring) which require information sharing<sup>22</sup>.

### **Vetting and barring**

There is a statutory scheme for vetting people working with children and adults vulnerable to abuse or neglect. It is administered by the Disclosure and Barring Service. The system provides checks on people entering the workforce, and maintains lists of individuals who are barred from undertaking regulated activity with either children or adults at risk of harm or abuse.

### **Domestic Violence, Crime and Victims Act 2004**

Statutory guidance places a duty on Community Safety Partnerships to make arrangements for Domestic Homicide Reviews. Health bodies are required to participate in these as requested.<sup>23</sup>

### **Fit and proper persons test**

There are new legal requirements that board level appointments of NHS trusts, foundation trusts and special health authorities are “fit and proper persons”. This excludes individuals who have been involved in “any serious misconduct or mismanagement”. Clearly safeguarding falls within that definition.<sup>24</sup>

### **Duty of candour**

Good safeguarding practice requires openness, transparency and trust. There is a legal “duty of candour” on health service bodies<sup>25</sup>. This duty is to inform people (both in person and in writing) about mistakes or other incidents which have not produced the desired outcome, apologise where appropriate, and advise on any action taken as a result.

### **NHS England as a commissioning organisation**

As a commissioning organisation NHS England is required to ensure that all health providers from which it commissions services (both public and independent sector) have comprehensive single and multi-agency policies and procedures in place to Safeguard and promote the welfare of children and young people and to protect vulnerable at risk of harm or abuse; that health providers are linked into the Local Safeguarding Children and Safeguarding Adults Boards and that health workers contribute to multi-agency working.

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<sup>22</sup> Section 14B Children Act 2004; sections 37 and 40 Safeguarding Vulnerable Groups Act 2006; section 45 Care Act 2014

<sup>23</sup> Section 9 Domestic Violence, Crime and Victims Act 2004

<sup>24</sup> Regulation 19, Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

<sup>25</sup> Regulation 20, Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

This policy supports the commitment given in the NHS Mandate “We expect to see the NHS, working together with schools and children's social services, supporting and Safeguarding vulnerable, looked-after and adopted children, through a joined-up approach to addressing their needs.”

### **PREVENT/ CONTEST**

PREVENT Strategy (HM Government 2011) sets out the government’s commitment to understand factors which encourage people to support terrorism and then to engage in terrorism-related activity. Evidence suggests that radicalisation is driven by an ideology which sanctions the use of violence; by propagandists for that ideology here and overseas; and by personal vulnerabilities and specific local factors which, for a range of reasons, make that ideology seem both attractive and compelling. Prevent is part of the country’s counter-terrorism strategy, CONTEST. Its aim is to stop people becoming terrorists or supporting terrorism.

As part of CONTEST, the aim of PREVENT is to stop people from becoming terrorists or supporting terrorism. The health sector has a non-enforcement approach to prevent and focuses on support for vulnerable individuals and health care organisations. The PREVENT agenda requires healthcare organisations to work with partner organisations to contribute to prevention of terrorism by Safeguarding and protecting vulnerable individuals and making safety a shared endeavour.

Three national objectives have been identified for the PREVENT strategy:

- *Objective 1:* respond to the ideological challenge of terrorism and the threat we face from those who promote it
- *Objective 2:* prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support
- *Objective 3:* work with sectors and institutions where there are risks of radicalisation which we need to address

“Building Partnerships, Staying Safe- The health sector contribution to HM Government’s PREVENT strategy: guidance for healthcare organisations (DH Nov 2011)” sets out guidance and toolkits for leaders, managers and workers in healthcare organisations.

The Provider must include in its policies and procedures and comply with the principles contained in:

## OFFICIAL

PREVENT; and the PREVENT Guidance and Toolkit. The Provider must include in its policies and procedures a programme to deliver Health WRAP and sufficiently resource that programme with accredited Health WRAP facilitators. The provider has appointed and must maintain a PREVENT Lead. The Provider must ensure that at all times the PREVENT Lead is appropriately authorised and resources to procure the full and effective performance of the Provider's obligations under Service Conditions. The provider must notify the Co-ordinating Commissioner in writing of any change to the identity of the PREVENT Lead as soon as practicable, as and in any event no later than 10 Operational Days after the change. This will be assured in line with governance and contract management processes. Please note this is mandated for all providers who deliver NHS services including non-NHS organisations.

## 17 Appendix 2

### Definition of Abuse (Children)

#### 2.1 Physical Abuse

2.1.1 Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces, illness in a child.

#### 2.2 Emotional Abuse

2.2.1 Emotional abuse is the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond the child's development capability, as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill treatment of another. It may involve serious bullying, causing children frequently to feel frightened or in danger, or the exploitation or corruption of children of children. Some level of emotional abuse is involved in all types of maltreatment of a child, though it may occur alone.

#### 2.3 Sexual Abuse

2.3.1 Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, including prostitution, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative (e.g. rape, buggery or oral sex) or non-penetrative acts. They may include non-contact activities, such as involving children in the looking at, or in the production of, sexual online images, watching sexual activities or encouraging children to behave in sexually inappropriate ways.

#### 2.4 Neglect

2.4.1 Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in serious impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to:

- Provide adequate food, clothing and shelter (including exclusion from home or abandonment);
- Protect a child from physical and emotional harm or danger;
- Ensure adequate supervision (including the use of inadequate care-givers); or
- Ensure access to appropriate medical care or treatment.

It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

2.4.2 Staff also need to be aware of vulnerable groups such as those with disabilities, children living away from home, asylum seekers, children and young people in hospital, children in contact with the youth justice system, victims of domestic abuse and those vulnerable due to religion, ethnicity etc. and those who may be exposed to violent extremism.

## **2.5 Definition of adults at risk of harm or abuse**

2.5.1 Living a life that is free from harm and abuse, is a fundamental human right for every person and an essential requirement for health and well-being. Safeguarding adults is about safety and well-being but providing additional measures for those least able to protect themselves from harm or abuse.

## **2.6 Physical**

2.6.1 Examples of physical abuse are assault, rough handling, hitting, pushing, pinching, shaking, misusing medication, scalding, inappropriate sanctions and exposure to excessive heat or cold. Unlawful or inappropriate use of restraint or physical interventions and/or deprivation of liberty are also physical abuse.

## **2.7 Sexual and Sexual Exploitation**

2.7.1 Some examples of sexual abuse/assault include the direct or indirect involvement of the adult at risk in sexual activity or relationships which:

- They do not want or have not consented to;
- They cannot understand and lack the mental capacity to be able to give consent to;
- They have been coerced into because the other person is in a position of trust, power or authority, for example, a care worker; or
- Required to watch sexual activity.

## **2.8 Psychological/ Emotional**

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

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

## **2.9 Neglect**

2.9.1 A person's well-being is impaired and care needs not met. Behaviour that can lead to neglect includes ignoring medical or physical needs, failing to allow access to appropriate health, social care and educational services, and withholding the necessities of life such as medication, adequate nutrition, hydration or heating.

Neglect can be intentional or unintentional.

Intentional neglect would result from:

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

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

## **3.0 Discrimination**

3.1 Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunity to some groups or individuals and this results in harm.

Psychological abuse that is racist, sexist or linked to a person's sexuality, disability, religion, ethnic origin, gender, culture or age.

## **4.0 Institutional**

4.1 Observed lack of dignity and respect in the care setting, rigid routine, processes/tasks organised to meet staff needs, disrespectful language and attitudes.

4.2 Domestic violence and self-harm need to be considered as possible indicators of abuse and /or contributory factors.

## **5.0 Financial**

## OFFICIAL

- 5.1 It is the use of a person's property, assets, income, funds or any resources without their informed consent or authorisation. It includes:
- Theft;
  - Fraud;
  - Exploitation;
  - Undue pressure in connection with wills, property, inheritance or financial transactions;
  - The misuse or misappropriation of property, possessions or benefits; or
  - The misuse of an enduring power of attorney or a lasting power of attorney, or appointeeship.