

# KIRKLEES SAFEGUARDING ADULTS NEW POLICY AND PROCEDURES GUIDANCE JUNE 2018

Review date: June 2019

This is adapted from **Safeguarding Adults West and North Yorkshire and York Multi-Agency Policy and Procedures 2018:**

[www.kirklees.gov.uk/safeguardingpolicy](http://www.kirklees.gov.uk/safeguardingpolicy)

## **Adults at risk and abuse**

### **Description of an adult at risk**

Where a local authority has reasonable cause to suspect that an adult (aged 18 years or more) in its area (whether or not ordinarily resident there) —

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

### **This three stage test must apply for an enquiry to take place.**

The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case and, if so, what and by whom.

1. Care Act 2014: Section 42
2. Care Act 2014: Section 1
3. Care and Support, Statutory Guidance: Paragraph 14.35
- 4.

The decision to carry out a safeguarding enquiry does not depend on the person's eligibility for local authority services but upon the criteria stated in this section.

Within this guidance, an adult at risk is someone who falls within this description. An adult at risk *may* therefore be a person who, for example:

- is an older person who is frail due to ill health, physical disability or cognitive impairment
- has a learning disability
- has a physical disability and/or a sensory impairment
- has mental health needs including dementia or a personality disorder
- has a long-term illness/condition
- misuses substances or alcohol
- is an unpaid carer such as a family member/friend who provides personal assistance and care to adults and is subject to abuse
- lacks mental capacity to make particular decisions and is in need of care and support

## **Aims of safeguarding adults**

The aims of safeguarding adults are to:

- stop abuse or neglect wherever possible
- prevent harm and reduce the risk of abuse or neglect to adults with care and support needs
- safeguard adults in a way that supports them in making choices and having control about how they want to live
- promote an approach that concentrates on improving life for the adults concerned
- raise public awareness so that communities as a whole, alongside professionals play their part in preventing, identifying and responding to abuse and neglect
- providing information and support in accessible ways to help people understand the different types of abuse, how to stay safe and how to Raise a Concern about the safety and wellbeing of an adult; and
- address what caused the abuse or neglect.

## **Abuse**

Abuse of an adult at risk can take many forms. The following list is not exhaustive, but rather is illustrative of the kinds of abuse that might be experienced.

### **Physical abuse**

Examples of physical abuse include: hitting, slapping, pushing, kicking, and misuse of medication, illegal restraint or inappropriate physical sanctions.

### **Restraint**

Unlawful or inappropriate use of restraint or physical interventions and/or unlawful deprivation of liberty are physical abuse. Someone is using restraint if they use force, or threaten to use force, to make someone do something they are resisting, or where a person's freedom of movement is restricted, whether they are resisting or not.

Restraint covers a wide range of actions. It includes the use of active or passive means to ensure that the person concerned does something, or does not do something they want to do, for example, the use of key pads to prevent people from going where they want to within a closed environment.

Use of restraint can be justified to prevent harm to a person who lacks mental capacity, as long as it is a proportionate response to the likelihood and seriousness of the harm.

There is a distinction to be drawn between restraint, restriction and deprivation of liberty. A judgement as to whether a person is being deprived of liberty will depend on the particular circumstances of the case, taking into account the degree of intensity, type of restriction, duration, the effect and the manner of the implementation of the measure in question. In extreme circumstances unlawful or inappropriate use of restraint may also constitute a criminal offence.

### **Domestic violence**

Examples of domestic violence include psychological, physical, sexual, financial, emotional abuse; as well as so called 'honour' based violence, forced marriage and female genital mutilation. Many people think that domestic abuse is about intimate partners, or abuse of women by men, but it may also be caused by wider family members, and committed by women towards men and in same sex relationships, as made clear in the Home Office definition: "An incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse... by someone who is or has been an intimate partner or family member regardless of gender or sexuality."

### **Sexual abuse**

Examples of sexual abuse include - rape and sexual assault or sexual acts to which the adult at risk has not consented, or could not consent or was pressured into consenting. Sexual acts would include being made to watch sexual activity. Sexual abuse is not confined to issues of consent, the following factors should also be considered:

- Any sexual relationships or inappropriate sexualised behaviour between a member of staff and a service user are always abusive and should lead to disciplinary proceedings.
- A sexual act between a care worker and a service user with a mental disorder is also a specific criminal offence under Sections 38–42 of the Sexual Offences Act 2003.

### **Psychological abuse**

Examples of psychological/emotional abuse include - threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal from services or supportive networks. This is behaviour that has a harmful effect on the person's emotional health and development or any actions that result 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. Psychological/emotional abuse can result from other abusive acts and therefore may occur as a result of or alongside other types of abusive behaviour.

### **Financial and material abuse**

Financial and material abuse is a crime. It is the use of a person's property, assets, income, funds or any resources without their informed consent or authorisation. It includes: theft, fraud, internet scamming, and coercion in relation to an adult's financial affairs or arrangements, such as wills, property, inheritance or financial transactions.

Exploitation or the misuse or misappropriation of property, possessions or benefits/  
The misuse of an enduring power of attorney or a lasting power of attorney, or appointeeship.

### **Modern slavery**

Modern slavery includes human trafficking, forced labour and domestic servitude. Traffickers and slave masters use the means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhuman treatment.

### **Discriminatory abuse**

Examples of discriminatory abuse include - abuse based on a person's race, gender, gender identity, age, disability, sexual orientation or religion; or other forms of harassment, slurs or similar treatment or hate crime/hate incident.

Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunity to some groups or individuals. It can result from situations that exploit a person's vulnerability by treating the person in a way that excludes them from opportunities they should have as equal citizens, for example, education, health, justice and access to services and protection.

### **Neglect and acts of omission**

Examples of neglect and acts of omission include - 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. Neglect and acts of omission concern the failure of any person who has responsibility for the care of an adult at risk to provide the amount and type of care that a reasonable person would be expected to provide. Neglect and acts of omission can be intentional or unintentional.

Intentional acts involve: wilfully failing to provide care, wilfully preventing the adult at risk from getting the care they need, being reckless about the consequences of the person not getting the care they need.

If the individual committing the neglect or acts of omission is aware of the consequences and the potential for harm to result from the lack of action(s), then it is intentional in nature. Wilful neglect can be a criminal offence. Unintentional neglect or acts of omission could result from a unpaid carer failing to meet the needs of the adult at risk because they do not understand their needs, or 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 individual is unaware of or does not understand the possible effect of their lack of action on the adult at risk.

### **Organisational abuse**

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

## **Self-neglect**

Self-neglect covers a wide range of behaviours, such as neglecting to care for one's personal hygiene, health or surroundings and includes behaviours such as hoarding. Where a person lacks mental capacity in relation to their care and support needs, decisions should be made in the person's best interests as required under the Mental Capacity Act 2005. However, if a person has mental capacity in relation to their care and support needs, or where issues of capacity are or have been difficult to assess, a response within the safeguarding adults procedure may sometimes be appropriate.

This should be considered where:

- a person is declining assistance in relation to their care and support needs, and
- the impact of their decision, has or is likely to have a substantial impact on their overall individual wellbeing.

This will be those situations where usual attempts to engage the person with necessary support have been unsuccessful, and a significant risk of harm remains. It will also often, but not always, be those cases where a multi-agency response is required to respond to the concerns. There may also be occasions where a person lacks mental capacity, but there are complex circumstances that prevent actions being taken in the person's 'best interests', and a response within the safeguarding adults procedure is appropriate and proportionate to the concerns.

## **Patterns of abuse**

Abuse can take place in any context. It may occur when an adult at risk lives alone or with a relative; it may also occur within nursing, residential or day care settings, within hospitals or other places previously assumed safe, or in public places.

Patterns of abuse may reflect very different dynamics, such as:

- serial abuse in which someone seeks out and 'grooms' individuals. Sexual abuse sometimes falls into this pattern as do some forms of financial abuse.
- long term abuse – may occur in the context of an ongoing relationship such as domestic violence between partners or generations or persistent psychological abuse
- opportunistic abuse - such as theft occurring because money or jewellery has been left lying around
- self-neglect – where a person declines support and assistance with their care and support needs impacting on their individual wellbeing.

Abuse may consist of:

- a single or repeated acts
- an act of commission or omission
- multiple acts, for example, an adult at risk may be neglected and also being financially abused

Abuse may be intentional or unintentional. A number of abusive acts are crimes and informing the police must be a key consideration.

### **Who might commit abuse?**

This procedure is relevant to all incidents of abuse, regardless of who has committed them. Anyone might be responsible for abuse, including:

- a member of staff, a proprietor or service manager
- a member of a recognised professional group
- a service user, or other adult at risk
- a volunteer
- a member of a community group such as place of worship or social club
- a spouse, relative, member of the person's social network or an unpaid carer
- a child, including the person's own son or daughter
- a neighbour, member of the public or stranger; or
- a person who deliberately targets adults at risk in order to exploit them

### **Abuse by another adult at risk**

It is the nature of the incident and its impact, rather than the nature of the relationship between those concerned that are the important factors in determining the need for the safeguarding adults procedure to be followed. The safety of the adult at risk will be of primary importance. However, where the person causing harm is also an adult with care and support needs, there may also be ongoing responsibilities for their welfare. Consideration may be required as to how their care and support needs are being provided for, and whether the incident reveals unmet needs. Such an assessment should be undertaken separately from the person experiencing abuse.

It will be necessary for such an assessment to consider:

- whether the person causing the harm is able to understand his/her actions
- whether actions reflects unmet needs of the person causing the harm
- the risk that the person causing the harm will further abuse the adult at risk or others
- the support/care needs of that individual

### **Abuse by and of unpaid carers**

A response within this Multi-Agency Safeguarding Adults Policy and Procedure may be required in the following circumstances:

- An unpaid carer may experience intentional or unintentional harm from the adult they are trying to support or from professionals and organisations they are in contact with.
- An unpaid carer may intentionally or unintentionally harm or neglect the adult they support on their own or with others.

When a safeguarding concern is raised regarding a relative or unpaid carer, consideration should be given to the specific circumstances, the nature of the issues and the appropriate proportionate response.

The decision should consider an outcome which supports or offers the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship. Responses should ordinarily seek to support the continuation of family and caring relationships where this is consistent with the wishes and desired outcomes of those concerned.

### **Abuse by 'persons in positions of trust'**

The term 'persons in positions of trust' refers to an employee, volunteer, or student (paid or unpaid) who works with adults with care and support needs. In the event a 'person in position of trust' is alleged to have abused an adult with care and support needs, or may pose a risk of abuse to an adult with care and support needs, it is essential that the concerns are appropriately reported and responded to. The following concerns must be reported to the local authority:

- A 'person in a position of trust' has or is alleged to have abused an adult with care and support needs
- A 'person in a position of trust' has behaved (or is alleged to have behaved) towards another adult in a way that indicates that they may pose a risk of harm to an adult with care and support needs. This could include situations involving an investigation into a criminal offence, even if the victim is not a person with care and support needs
- A 'person in a position of trust' has behaved (or is alleged to have behaved) towards children in a way which means they may pose a risk of harm to adults with care and support needs.

These concerns could emerge from the persons home and personal life or circumstances, as well as within their work.

The Designated Adults Safeguarding Manager (DASM) for the local authority will provide coordination and management oversight of concerns, to ensure that the risks posed by a 'person in position of trust' are managed appropriately. The Local Authority DASM will work with the organisation responsible for the work of the 'person in a position of trust' and other relevant parties to achieve this.

The organisation responsible for the employee, volunteer or student may also need to:

- Invoke its disciplinary procedure
- Undertake enquiries on behalf of the local authority, providing evidence of their findings as required.
- Consider the need to make a referral to the Disclosure and Barring Service
- Consider the need to refer the concerns to the relevant professional group under the relevant code of conduct for the profession
- Report the concerns to the police, if a crime is suspected
- Inform the Care Quality Commission (regulated care providers)
- Provide the relevant DASM(s) with demonstrable assurance that appropriate actions in relation to any identified risks are being undertaken
- Keep the relevant DASM(s) informed of actions and decision undertaken

### **Abuse by children**

If an adult at risk is being abused by a child (including their own child), the response should involve the local authority children's services and domestic violence and abuse services as appropriate, in order to respond to the risks of harm.

## **PRINCIPLES AND VALUES**

This Multi-Agency Safeguarding Adults Policy and Procedure is founded on the following safeguarding principles and values that govern how the safeguarding adults procedure should be implemented. These principles and values are based upon national guidance on achieving good outcomes for adults at risk:

### **Making safeguarding personal**

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances. Organisations should always promote the adult's wellbeing in their safeguarding arrangements. People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating "safety" measures that do not take account of individual well-being, as defined in Section 1 of the Care Act 2014.

The focus of the safeguarding adults procedure is on achieving an outcome which supports or offers the person the opportunity to develop or to maintain a private life. This includes the wishes of the adult at risk to establish, develop or continue a relationship and their right to make an informed choice. Practice should involve seeking the person's desired outcomes at the outset and throughout the safeguarding arrangements, and checking whether the desired outcomes have been achieved.

Intervention should be proportionate to the harm caused, or the possibility of future harm. As well as thinking about an individual's physical safety it is necessary to also consider the outcomes that they want to see and take into account their overall happiness and wellbeing. For example, someone with mental capacity may choose to overlook a relative taking money from them when they do the shopping for the sake of their relationship with that relative, because the relationship has the overall effect (outcomes) of improving the life of the adult, including their safety, happiness and mental well-being.

The assessment of risk should be based on the fact that some risk is an inevitable consequence of life. The objective is not necessarily to eliminate risk, but to reduce risk so as to enable a person to safely maintain their independence and well-being wherever possible.

Assessments of risk should be undertaken in partnership with the person at risk, who should be supported to weigh up risks against possible solutions. People need to be able to decide for themselves where the balance lies in their own life, between living with an identified risk and the impact of any Safeguarding Plan on their independence and/or lifestyle.

It is important to listen to the adult at risk both in terms of the alleged abuse and in terms of what resolution they want. The views of the adult at risk should be taken seriously and acted upon in an appropriate manner. Individuals have a right to privacy; to be treated with dignity and to be enabled to live an independent life.

### **Mental capacity**

The law presumes that adults have mental capacity to make their own decisions. However there will be times and situations in which an individual lacks mental capacity in relation to particular decisions. Issues of mental capacity and the ability to give informed consent are central to decisions and actions within the safeguarding adults procedure. All interventions need to take into account the ability of adults to make informed choices about the way they want to live and the risks they want to take.

The Mental Capacity Act 2005 provides a statutory framework to empower and protect people who may lack mental capacity to make decisions for themselves and establishes a framework for making decisions on their behalf. This applies whether the decisions are life-changing events or everyday matters. All decisions taken within the safeguarding adults procedure must comply with the Act. The Act says that: "... a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or disturbance in the functioning of the mind or brain" (*Mental Capacity Act 2005*).

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

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

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

Section 44 of the Act makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks mental capacity.

### **Safeguarding Adults Procedure**

The procedure explains how to Raise a Safeguarding Concern and the process that is subsequently followed. Whenever issues of abuse or neglect are being responded to, the following principles and values should be adhered to:

1. Empowerment – supporting the adult at risk to be in control of decisions about their own life
2. Protection – taking action to safeguard adults at risk from abuse (taking into account the need for risk assessment and management, adherence to Mental Capacity Act, and respect for equality and diversity)
3. Prevention – taking action to prevent abuse occurring and minimising the risk of abuse reoccurring in the future (see Policy: section 3)

4. Proportionality – responding proportionally to the nature of the concern/allegation and the presenting risk; balancing the principles of empowerment and protection
5. Partnership – working together as partners to prevent and respond effectively to incidents or allegations of abuse
6. Accountability – ensuring decisions can be accounted for (taking into account: duty of care, defensible decision making, information sharing, and providing support for all those involved in the safeguarding adults procedure).

### **Designated roles within the safeguarding adults procedure**

The following roles are established by the safeguarding adults procedure. Each organisation will need to determine which groups of staff may fill relevant key roles.

#### **Person Raising a Concern**

Anyone who has concerns about potential abuse or neglect can raise their concerns with the local authority. They would do this by reporting their concerns to the safeguarding adults contact point. The Person Raising a Concern also has a role in responding, where possible, to any immediate safety concerns.

The Person Raising a Concern could be the adult at risk, their friend, relative or member of the public, a member of staff or volunteer. In an organisation, the person who raises a concern is often the Safeguarding Concerns Manager (see below); however any member of staff or volunteer may Raise a Concern where this is necessary or appropriate.

#### **Safeguarding Concerns Manager**

The Safeguarding Concerns Manager is a nominated person or people within an organisation. The Safeguarding Concerns Manager will usually be responsible for Raising a Concern with the local authority on behalf of their organisation, and for taking action to ensure that immediate safety issues are addressed. However any member of staff or volunteer may need to undertake these actions, for example, where the need is urgent or the Safeguarding Concerns Manager is unavailable.

The role includes:

- deciding whether to raise a safeguarding concern with the local authority
- ensuring that immediate safety issues are addressed, other parties notified (such as the regulator) and that staff are supported.
- ensuring they are kept informed when a member of staff (or volunteer) has raised a concern
- establishing the desired outcomes of the adult at risk
- The Safeguarding Concerns Manager is a person within the organisation who will ordinarily be responsible for:
  - deciding whether to raise a safeguarding concern with the local authority
  - taking immediate actions, wherever possible, to ensure the adult at risk is safe from abuse or neglect

However, where a situation is urgent or serious, **any member of staff (or volunteer)** may need to undertake these actions, particularly where:

- contacting the Safeguarding Concerns Manager would result in undue delay and thereby place someone at risk
- the Safeguarding Concerns Manager has been contacted and they have not taken action

- the concern relates to the Safeguarding Concerns Manager and there is no other appropriate alternative manager to contact
- you have authority in your own right to decide whether to raise a safeguarding concern and professional/service practice allows for this.

Please see Appendix A: Safeguarding Key Questions and Appendix B: Safeguarding Considerations for further guidance for the Concerns Manager.

### **In an emergency or out of hours**

When dealing with an incident that involves the abuse of an adult at risk, staff may need to call the police and/or ambulance (dial 999), if for example:

- someone is alleging that they have been sexually assaulted
- someone has been injured as a result of a physical assault
- an allegation is made regarding a recent incident of theft
- the person alleged to have caused harm needs to be removed
- the person alleged to have caused harm is still believed to be near the premises
- there is reason to believe that a crime is in progress
- there is likely to be evidence that needs to be preserved, in the case of physical or sexual assault the police will be able to arrange for medical evidence to be collected

The Safeguarding Concerns Manager/ Designated Safeguarding Officer for KACL is: Jeanette Palmer. The deputy is: Phil Mark

Their contact details are: 01484 221000 [jeanette.palmer@kirklees.gov.uk](mailto:jeanette.palmer@kirklees.gov.uk)  
[phil.mark@kirklees.gov.uk](mailto:phil.mark@kirklees.gov.uk)

### **Kirklees**

#### To Raise a Safeguarding Concern

Gateway to Care: **01484 414933** (24 hours)

Emergency Duty Team (Out of Hours) **01484 414933**

[gatewaytocare@kirklees.gov.uk](mailto:gatewaytocare@kirklees.gov.uk)

#### For information/advice:

Safeguarding Adults Partnership Team, 3rd Floor Kirkgate Building, Byram Street, Huddersfield, HD1 1BY. Telephone: **01484 221717**

Fax number: 01484 226949. E-mail: [protection@kirklees.gov.uk](mailto:protection@kirklees.gov.uk)

For additional information please visit: [www.kirklees.gov.uk/safeguardingadults](http://www.kirklees.gov.uk/safeguardingadults)