Policy 50: Safeguarding Older People

Last updated by: SH, RH, RS

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1.0 INTRODUCTION.

Age UK York believes that all staff have a duty to protect the interests of older people. The introduction of the Care Act 2014 puts adult safeguarding on a statutory footing for the first time, embracing the principle that the ‘person knows best’. It lays the foundation for change in the way that care and support is provided to adults, encouraging greater self-determination, so people maintain independence and have real choice. There is an emphasis on working with adults at risk of abuse and neglect to have greater control in their lives to both prevent it from happening, and to give meaningful options of dealing with it should it occur. For staff, the Care Act provides clearer guidance, and supports pathways to working in an integrated way, breaking down barriers between organisations.

This policy and procedures takes us further towards putting the adults at the centre of their own safeguarding experience. By developing practice that listens and learns, staff working with the person at risk can share information, facilitating a team approach to improve the chances of safeguarding adults in the way that they want to be safeguarded.

This document should be read in conjunction with the following documents:

- Age UK York Staff Guidelines, Action Plan, Service Managers Guidelines & CYC Safeguarding Adults Alerter Form
- Care Act 2014 (sections 42-46)
- Care and Support Statutory Guidance 2014
- Safeguarding Adults: West & North Yorkshire & York Multi-Agency Policy & Procedures, December 2015

The Mental Capacity Act 2005 is pertinent throughout this document, and staff should ensure that all decisions and actions are taken in line with the requirements of the Act.

The Care Act puts adult safeguarding on a legal footing and requires each Local Authority to set up a Safeguarding Adults Board (SAB) with core membership from the Local Authority, the Police and the NHS (specifically local Clinical Commissioning Group/s). One of the key functions of the SAB is to ensure that the policies and procedures governing adult safeguarding are fit for purpose and can be translated into effective adult safeguarding practice.

The Counter-Terrorism and Security Act, 2015 created the Prevent Statutory Duty at Section 26. This imposed a duty on the NHS and all health care providers funded by the NHS. Age UK York regards itself as bound by this statutory duty and the Trustees of Age UK York have appointed a Prevent Lead who is the Chief Officer. (See paragraphs 4, 5, 8, 9 and 17, below.)

2.0 Principles.

This policy and procedures are based on the six principles of safeguarding that underpin all adult safeguarding work. These are;
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<th>The Professionals Experience</th>
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<td><strong>Empowerment</strong></td>
<td>Adults are encouraged to make their own decisions and are provided with support and information.</td>
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<tr>
<td><strong>Prevention</strong></td>
<td>Strategies are developed to prevent abuse and neglect that promotes resilience and self-determination.</td>
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<td><strong>Proportionate</strong></td>
<td>A proportionate and least intrusive response is made balanced with the level of risk.</td>
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<td><strong>Protection</strong></td>
<td>Adults are offered ways to protect themselves, and there is a coordinated response to adult safeguarding.</td>
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<td><strong>Partnerships</strong></td>
<td>Local solutions through services working together within their communities.</td>
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<td>Accountability and transparency in delivering a safeguarding response.</td>
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The Care Act and Guidance state that safeguarding:
- Is person led
- Engages the person from the start, throughout and at the end to address their needs
- Is outcome focused
- Is based upon a community approach from all partners and providers
3.0 What is Safeguarding?

Safeguarding is defined as 'protecting an adult’s right to live in safety, free from abuse and neglect.' (Care and Support statutory guidance, chapter 14). Adult safeguarding is about preventing and responding to concerns of abuse, harm or neglect of adults. Staff should work together in partnership with adults so that they are:
- Safe and able to protect themselves from abuse and neglect;
- Treated fairly and with dignity and respect;
- Protected when they need to be;
- Able easily to get the support, protection and services that they need.

3.1 The aims of Adult Safeguarding 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;
- Provide information and support in accessible ways to help adults understand the different types of abuse, how to stay safe and what to do to raise a concern about the safety or well-being of an adult; and address what has caused the abuse.

4.0 Prevention.

Section 2 of the Care Act requires Local Authorities to ensure the provision of preventative services (i.e. services which help prevent or delay the development of care and support needs, or reduce care and support needs). Organisations should take a broad community approach to establishing safeguarding arrangements, working together on prevention strategies.

4.1 Who do adult safeguarding duties apply to?
In the context of the legislation, specific adult safeguarding duties apply to any adult who:
- Has care and support needs, and
- Is experiencing, or is at risk of, abuse or neglect, and
- Is unable to protect themselves from either the risk of, or the experience of abuse or neglect, because of those needs.

Within the scope of this definition are:
- All adults who meet the above criteria regardless of their mental capacity to make decisions about their own safety or other decisions relating to safeguarding processes and activities;
- Adults who manage their own care and support through personal or health budgets;
- Adults whose needs for care and support have not been assessed as eligible or which have been assessed as below the level of eligibility for support;
- Adults who fund their own care and support;
- Children and young people in specific circumstances as detailed in the Age UK York Safeguarding Children Policy and Procedures;
4.2 Adult safeguarding duties also apply to individuals who are regarded as vulnerable or susceptible to radicalisation and consequent involvement in terrorism or extremist activity. All Age UK York service users, by virtue of their need for support or assistance in some way, should be regarded as potentially vulnerable. There is no 'profile' of anyone potentially susceptible to radicalisation. In all cases of doubt, Age UK York workers must discuss their concerns with the Prevent Lead, the Chief Officer.

5.0 Adult Safeguarding Procedures.

The safeguarding leads within Age UK York are responsible for providing:

1. Managerial support and direction to staff in that organisation
2. Decision making for concerns raised by members of staff and / or members of the public

12.1 What is an adult safeguarding concern?
An adult safeguarding concern is any worry about an adult who has or appears to have care and support needs, that they may be subject to, or may be at risk of, abuse and neglect and may be unable to protect themselves against this.
A concern may be raised by anyone, and can be:

1. An active disclosure of abuse by the adult, where the adult tells a member of staff that they are experiencing abuse and / or neglect;
2. A passive disclosure of abuse where someone has noticed signs of abuse or neglect, for example clinical staff who notice unexplained injuries;
3. An allegation of abuse by a third party, for example a family / friend or neighbour who have observed abuse or neglect or have been told of it by the adult;
4. A complaint or concern raised by an adult or a third party who doesn't perceive that it is abuse or neglect. Complaint officers should consider whether there are safeguarding matters;
5. A concern raised by staff or volunteers, others using the service, a carer or a member of the public;
6. An observation of the behaviour of the adult at risk;
7. An observation of the behaviour of another;
8. Patterns of concerns or risks that emerge through reviews, audits and complaints or regulatory inspections or monitoring visits (CQC, Monitor etc.).

12.2 What to do to raise an alert
All staff, both paid and volunteer, concerned for an older person are required to raise there concerns with their line manager or with one of the four safeguarding leads at Age UK York immediately.
All staff should consult the ‘Age UK Staff Guidelines: Responding to Safeguarding Alert’ form to understand the process of raising a concern. Information regarding what to do in regards to raising an alert during out of office hours is also stated on this form.

6.0 Risk Management.

Safeguarding is fundamentally managing risk about the safety and wellbeing of an adult in line with the above six principles. The aim of risk management is:
- To promote, and thereby support, inclusive decision making as a collaborative and
empowering process, which takes full account of the individual's perspective and views of primary carers;
- To enable and support the positive management of risks where this is fully endorsed by the multi-agency partners as having positive outcomes;
- To promote the adoption by all staff of ‘defensible decisions' rather than ‘defensive actions’.

7.0 Co-Operation.

Section 6 of the Care Act 2014 describes a general duty to co-operate between the Local Authority and other organisations providing care and support. This includes a duty on the Local Authority itself to ensure co-operation between its adult care and support, housing, public health and children's services.

Section 7 of the Care Act 2014 provides a new ability to request co-operation from a relevant partner or another local authority, in relation to an individual case. The local authority or relevant partner must co-operate as requested, unless doing so would be incompatible with their own duties or have an adverse effect on the exercise of their functions.

If an organisation is refusing to share information, the organisation conducting an enquiry can escalate to the SAB to consider using Section 45 of the Care Act 2014, (powers) which puts an obligation on organisations to comply with a request for information in order that the SAB can perform its duties.

The Care Act 2014 sets out five aims of co-operation between partners which are relevant to care and support, although it should be noted that the purposes of co-operation are not limited to these matters. The five aims include:

1. Promoting the wellbeing of adults needing care and support and of carers;
2. Improving the quality of care and support for adults and support for carers (including the outcomes from such provision);
3. Smoothing the transition from children’s to adults’ services;
4. Protecting adults with care and support needs who are currently experiencing or at risk of abuse or neglect and
5. Identifying lessons to be learned from cases where adults with needs for care and support have experienced serious abuse or neglect.

8.0 Information Sharing.

Sharing the right information, at the right time with the right people, is fundamental to good safeguarding practice, but it has been highlighted as a difficult area of practice. The Care Act 2014 Section 45 ‘supply of information’ duty, covers the responsibilities of others to comply with requests for information as detailed above. Sharing information between organisations as part of day-to-day safeguarding practice is already covered in the common law duty of confidentiality, the Data Protection Act 2018, the Human Rights Act 1998 and the Crime and Disorder Act 1998.

As a general principal people must assume it is their responsibility to raise a safeguarding concern if they believe an adult at risk is suffering or likely to suffer abuse or neglect, and / or are a risk to themselves or another, rather than assume someone else will do so. They should share the information with the local authority and / or the police if they believe or suspect that a crime has been committed or that the individual is immediately at risk. Helpful guidance is set out in the Caldicott Principles.
The requirements of the Counter-Terrorism and Security Act, 2015, s. 26, the Prevent Statutory Duty, have been adopted by Age UK York. Thus, workers having any concerns must raise them with the Prevent Lead, the Chief Officer, immediately they become concerned. ‘Information sharing’ (this paragraph) and ‘Confidentiality’ (paragraph 9, below) require that individuals are treated with respect and information about them is not generally shared with others. However, in any case of doubt, Age UK York workers have an immediate duty to discuss their concerns with the Prevent Lead, the Chief Officer.

9.0 Confidentiality.

A duty of confidence arises when sensitive personal information is obtained and / or recorded in circumstances where it is reasonable for the subject of the information to expect that the information will be held in confidence.

Adults at risk provide sensitive information and have a right to expect that the information that they directly provide and information obtained from others will be treated respectfully and that their privacy will be maintained.

The challenges of working within the boundaries of confidentiality should not impede taking appropriate action. Whenever possible, informed consent to the sharing of information should be obtained. However:

- Emergency or life-threatening situations may warrant the sharing of relevant information with the relevant emergency services without consent.
- The law does not prevent the sharing of sensitive, personal information within organisations. If the information is confidential, but there is a safeguarding concern, sharing it may be justified.

The law does not prevent the sharing of sensitive, personal information between organisations where the public interest served outweighs the public interest served by protecting confidentiality – for example, where a serious crime may be prevented.

Whether information is shared with or without the adult at risk’s consent, the information sharing process should abide by the principles of the Data Protection Act 2018. In those instances where the person lacks the mental capacity to give informed consent, staff should always bear in mind the requirements of the Mental Capacity Act 2005, and whether sharing it will be in the person’s best interest.

The Data Protection Act 2018 should not be a barrier to sharing information. It provides a framework to ensure that personal information about living persons is shared appropriately.

10.0 Wellbeing.

Section 1 of the Care Act 2014 states that Local Authorities must promote wellbeing when carrying out any of their care and support functions in respect of a person. This may sometimes be referred to as ‘the wellbeing principle’ because it is a guiding principle that puts wellbeing at the heart of care and support. For safeguarding, this would include safeguarding activities in the widest community sense and is not confined to safeguarding enquiries under Section 42 of the Care Act 2014.

Paragraphs 14.14 and 14.15 of the Guidance support the need for the safeguarding to be person led and outcome focused.

“14.14. In addition to these principles, it is also important that all safeguarding partners take a broad community approach to establishing safeguarding arrangements. It is vital that all
organisations recognise that adult safeguarding arrangements are there to protect individuals. We all have different preferences, histories, circumstances and life-styles, so it is unhelpful to prescribe a process that must be followed whenever a concern is raised.

14.15. Making safeguarding personal means it should be person-led and outcome-focused. It engages the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety.”

“Wellbeing" is a broad concept, and it is described as relating to the following areas: Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional wellbeing;
- Protection from abuse and neglect;
- Control by the individual over day-to-day life (including over care and support provided and the way it is provided);
- Participation in work, education, training or recreation;
- Social and economic wellbeing;
- Domestic, family and personal;
- Suitability of accommodation;
- The individual's contribution to society

11.0 Values: Supporting adults at risk of abuse and neglect.

Safeguarding has the highest priority across all organisations. There is a shared value of placing safeguarding within the highest of corporate priorities. Organisations are judged on the effectiveness of safe communities and their values towards safeguarding adults who may be at risk of abuse or neglect. Values include:
- People are able to access support and protection to live independently and have control over their lives;
- Appropriate safeguarding options should be discussed with the adult at risk according to their wishes and preferences. They should take proper account of any additional factors associated with the individual’s disability, age, gender, sexual orientation, 'race', religion, culture or lifestyle;
- The adult at risk should be the primary focus of decision making, determining what safeguards they want in place and provided with options so that they maintain choice and control;
- All action should begin with the assumption that the adult at risk is best-placed to judge their own situation and knows best the outcomes, goals and wellbeing they want to achieve;
- The individual's views, wishes, feelings and beliefs should be paramount and are critical to a personalised way of working with them;

There is a presumption that adults have mental capacity to make informed decisions about their lives. If someone has been assessed as not having mental capacity, to make decisions about their safety, decision making will be made in their best interests as set out in the Mental Capacity Act 2005 and Mental Capacity Act Code of Practice;
- People will have access to supported decision making;
- Adults at risk should be given information, advice and support in a form that they can understand and be supported to be included in all forums that are making decisions
about their lives. The maxim ‘no decision about me without me’ should govern all decision making;

All decisions should be made with the adult at risk and promote their wellbeing and be reasonable, justified, proportionate and ethical;

- Timeliness should be determined by the personal circumstances of the adult at risk;
- Every effort should be made to ensure that adults at risk are afforded appropriate protection under the law and have full access to the criminal justice system when a crime has been committed.

12.0 **Types and indicators of abuse and neglect.**

The Care and Support statutory guidance identifies types of abuse, but also emphasises that organisations should not limit their view of what constitutes abuse or neglect. The specific circumstances of an individual case should always be considered. All of these factors need to be satisfied for a safeguarding enquiry to be addressed in accordance with Section 42 of the Care Act.

13.0 **Adults at risk who cause harm.**

Where the person alleged to cause harm is also an adult at risk, the safety and wellbeing of both the individual subject to possible abuse, and the person alleged to have caused harm needs to be addressed separately. In most cases, this can be considered through the application of Section 42 enquiries as appropriate. The least intrusive action should be taken to support adults using the service. The provider is responsible for ensuring that actions are taken that support the person alleged to have caused harm in consultation and collaboration with commissioners, and the safety and wellbeing of other adults using the service. Commissioners are responsible for ensuring that the service meets the assessed needs of adults and that regular reviews are carried out to ensure this.

14.0 **Disclosure & Barring Service (DBS).**

The Disclosure & Barring Service (DBS) has been set up by the Home Office. Its role is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, both adults and children. It replaces the Criminal Records Bureau and Independent Safeguarding Authority. The DBS carries out criminal record checks for anyone employed in a ‘regulated activity’. Employers concerned about a member of staff must refer the matter to the DBS if the person has caused harm, or poses a risk of harm to vulnerable groups. Other organisations, such as CQC or local authorities, can make referrals. The DBS has the power to bar people from working with vulnerable adults and / or children.

15.0 **Equality & Diversity.**

It is every person’s human right to live a life free from abuse and neglect. Every adult at risk has an equal right to support and protection within the procedure regardless of their individual differences or circumstance. This policy applies equally to;

- All adults at risk as defined within this policy
Throughout safeguarding adults, due regard must be given to individual differences, including age, gender reassignment, disability, religion or belief, sex, sexual orientation, race or racial group, caring responsibilities, class, culture, language, pregnancy and marital or civil partnership status.

16.0 Commissioning for Quality.

The Care Act 2014 puts emphasis on greater integration of services provided by the Local Authority and its relevant partners to:

1. Create a service market of diverse and quality services
2. Foster continuous improvements in the quality and effectiveness of provider services; and
3. Foster a workforce whose members are able to ensure the delivery of high quality services.

Quality services are those that place the health and welfare of people who use services as paramount and deliver positive outcomes. These are evidenced in the characteristics of the service through policy, procedures, standards, and structures for overseeing and maintaining service delivery to the requirements set by the Regulator (CQC) and / or by robust contract monitoring. In some instances, a Local Authority may not contract with a provider; neither may the provider be subject to the CQC inspection regime. Providers, who fall under this category, will still need to maintain health and safety standards and where it delivers care and support through regulated activity, it should still have quality and safeguarding measures in place.

17.0 Duty of the Prevent Lead

17.1 The Trustees of Age UK York have appointed the Chief Officer as Prevent Lead for Age UK York;

17.2 All workers with any concerns about possible radicalisation or the vulnerability of any service user or other individual to be radicalised must discuss their concerns immediately with the Prevent Lead;

17.3 The Prevent Lead will access the voluntary Channel programme. This is a Local Authority-led multi-agency panel, which decides on what the most appropriate support package for that person will be;

17.4 The Prevent Lead will reassure any worker who is uncertain that they are right in voicing their concerns and will keep the Trustee Board informed, as appropriate.