

Safeguarding Adults

A Practitioners Guide

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BIRMINGHAM
SAFEGUARDING
ADULTS
BOARD

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Safeguarding Adults Practitioners Guide

Part 1 Introduction

This guide has been produced as a quick reference to Safeguarding Adults in Birmingham and should be used in conjunction with the current Safeguarding Adults: Policy, Procedure and Good Practice Guide. This guide promotes that it is every adult's right to live in safety, be free from abuse or fear of abuse by others and live an independent life-style free from discrimination based on race, culture, gender, age, impairment or sexual orientation.

Birmingham City Council has a responsibility as the Local Authority (DOH, 2000 - 'No Secrets') to lead and co-ordinate the development of local policies and procedures for the Safeguarding of vulnerable adults from abuse. Other statutory agencies have a responsibility to ensure the development, ownership and effectiveness of their local procedures in line with the Safeguarding of vulnerable adults (DOH, 2000 - 'No Secrets').

This shared responsibility is reflected in the commitment of the Birmingham Safeguarding Adults Board (BSAB) to the Safeguarding Vision for Birmingham. The Vision is 'to promote and protect individual human rights, independence and wellbeing and secure assurance that the person thought to be at risk stays safe, is effectively safeguarded against abuse, neglect, discrimination, embarrassment or poor treatment and is treated with dignity, respect and enjoys a high quality of life' (BSAB Making a Difference, 2007: 3).

If you wish to access the revised "Safeguarding Adults: Policy, Procedures and Good Practice Guide" it is available at:

www.birmingham.gov.uk/safeguardingadults

Definitions

The Birmingham Safeguarding Adults Board (BSAB) has agreed the following definitions:

1.1 Who is a vulnerable adult?

A vulnerable adult is any person:

- who is aged 18 years and over
- who is or may be in need of community care services because of frailty, learning or physical or sensory disabilities or mental health issues
- who is or may be unable to protect him or herself from significant harm or exploitation

Please note: if you are concerned that someone who is less than 18 years old is being abused or is at risk of abuse, you must contact the Children, Young People and Families Directorate as they have responsibility for all child protection/safeguarding concerns

1.2 What is Safeguarding?

Safeguarding Adults is a phrase which includes all work which enables an adult “who is or may be eligible for community care services to retain independence, wellbeing and choice and to access their human right to live a life that is free from abuse and neglect” ([Safeguarding Adults ADSS 2005](#)).

There are three main strands to Safeguarding:

Prevention: developing and sustaining preventative strategies, making sure that services provided to vulnerable adults promote their wellbeing and that all organisations follow, for example, safe recruitment and selection procedures, including training and supervision.

Empowerment: raising public awareness, developing and sending out publicity and information to enable people to recognise abuse and know how to protect themselves and/or seek help if they experience or witness abuse.

Adult Protection: recognising, reporting and responding effectively to alleged abuse or neglect of a vulnerable adult when it occurs. This includes policies, procedures, training and raising awareness.

1.3 What is abuse?

Abuse is a violation of an individual’s human and civil rights by any other person or persons. It may consist of single or repeated acts. It may be an act of neglect or an omission, or it may occur when a vulnerable adult is persuaded to enter into a financial transaction or sexual act to which he or she has not consented, or cannot consent.

Abuse results in significant harm, or exploitation of, the vulnerable person. It may be perpetrated by anyone who has power over the person whether they are a carer or relative, a paid member of staff or professional, or as a result of persistently poor care or a rigid and oppressive regime. Whilst not all crime will be considered as abuse most abuse of a vulnerable adult could be a crime.

The main forms of abuse are:

- physical
- sexual
- psychological
- financial or material
- neglect and acts of omission
- discriminatory
- institutional

Part 2 How will I know if someone may be being abused?

Information suggesting that abuse may have occurred can come from a variety of sources, for example:

- allegations made by another person
- a person saying or showing that they have been mistreated
- an admission from someone who says they are harming an adult
- someone noticing signs and symptoms of abuse

2.1 Physical indicators of abuse

Research has shown that there are no physical signs that act as definite indicators of abuse. This reflects the individual nature of each abusive situation. However the following points can help to inform awareness that abuse could be occurring.

2.1.2 Bruises

Some people may incur bruising relatively frequently because of certain conditions affecting balance, mobility etc. These bruises are most likely to be on knees, shins, arms and elbows. A person who has fallen on their face may have a bruised forehead and nose, or cut lip.

The circumstances of the following types of bruising should be explored with the vulnerable adult:

- hand slap marks
- marks made by an implement
- pinch or grab marks
- grip marks – this could indicate that the person has been shaken, inappropriately restrained or forcibly moved
- bruised eyes
- bruising to breasts, buttocks, lower abdomen, thighs and genital or rectal areas could be an indicator of sexual abuse. Sometimes bruising will be confined to grip marks where a person has been held so that sexual abuse can take place

There may be a pattern to the occurrence of the bruising, for example after a weekend.

2.1.3 Other types of injury

People do have accidents. However some types of injury are less likely to be accidental than others and sometimes adults may have “accidents” because they have not been provided with an adequately safe environment. Such injuries can be burns, scalds, fractures and poisoning.

Some indicators of these are:

- burns inside the mouth, inside arms and on the genitals
- cigarette burns, burns with an object
- carpet burns on body trunk
- bite marks
- injuries which have not received treatment
- any injuries, bleeding, or soreness in the genital or rectal area which could be an indicator of sexual abuse
- persistent vulva reddening and discharge (may indicate sexually transmitted disease)

The physical signs that a professional is able to see will clearly depend upon the type of job that they do.

2.1.4 Signs of neglect

The person who is neglected may show signs such as:

- underweight, sudden loss of weight and/or always hungry/thirsty
- soreness, chafing due to lack of assistance given to personal hygiene
- deterioration of condition of skin around pressure areas
- untreated injuries or medical conditions

The environment that the person lives in may present a significant risk through inadequate health and safety measures.

The person may have been left unattended or without suitable arrangements for their care. The lack of a care plan or medical equipment in relation to, for example, a pressure sore, in a care or hospital setting may indicate possible neglect.

The person's emotional and physical wellbeing may be affected by their need for love, care, food, warmth, security and stimulation.

2.2 Signs of financial abuse

There are no definite indicators that a vulnerable adult is being financially abused. However the following should be fully explored:

- financial situation not in keeping with income (for example bills unpaid, no heating on in cold weather, lack of food, worrying about finances)
- benefit and/or bank books being held by another person where the vulnerable adult is unclear as to the financial arrangements
- someone who does not knowingly receive their personal allowance or the mobility component of Disability Living Allowance
- care homes or care homes with nursing that cannot produce appropriate records of residents' finances

Part 3 Who may be at risk of abuse and where does it happen?

3.1 Abuse can happen anywhere at any time, for example:

- In a person's own home
- In someone else's home (including a relative or carer's home)
- In a care home or a care home with nursing
- At a day centre
- In a health setting including hospitals
- At a college/educational setting
- At work
- In a public place

3.2 Any person can become vulnerable to abuse but most people are not vulnerable all of the time. There are factors which might increase someone's vulnerability to abuse:

- There is a relationship where someone has influence over the person thought to be at risk, whether physical, emotional or financial
- The person providing care is having difficulties in caring for the person thought to be at risk because the care needs exceed the carer's ability to meet them
- Adults living with other family members where the family members are financially dependent on the vulnerable adult's income or property.
- Adults who are isolated/or living alone and dependent on others (paid or unpaid) to provide for their care needs
- A personal or family history of violent behaviour, domestic violence, alcoholism, drug abuse or mental illness etc.
- The carer's own emotional and social needs are not met
- Breakdown in the vulnerable adult's relationship with the carer/s.
- Financial difficulties often leading to poor living conditions
- Carers are not receiving any practical and/or emotional support from other family members or professionals
- Serial abusing in which the abuser seeks out and 'grooms' vulnerable individuals. Sexual abuse usually falls into this pattern as do some forms of financial abuse
- One-off abuse such as theft because money has been left around.

- Abuse which arises because pressures have built up and/or because of difficult or challenging behaviour
- Neglect of needs because those around them are not able to be responsible for their care. This may be because the carer has difficulties such as debt, alcohol or mental health problems
- Institutional abuse which includes poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and poorly trained staff
- Unacceptable 'treatments' or programmes which include restrictions or punishment such as withholding food /drink / cigarettes, being kept away from others, unnecessary and unauthorised use of control and restraint or over-medication.
- Failure of agencies to make sure staff receive guidance about anti-racist and anti-discriminatory practice
- Failure to access health and social care services
- Misuse of benefits and/or use of the subject's money by other members of the household or service providers
- Fraud or threats in connection with wills property or other assets
- Adults who lack capacity to protect themselves from abuse

3.3 Self Neglect

Concerns may also arise for the person thought to be at risk due to their own lack of self-care or risky behaviour. Individuals have the right to choose their lifestyle or take risks. However, staff have a duty of care to ensure that individuals have the capacity to understand the risk implications of the decisions they make. In some circumstances a mental capacity assessment may need to be undertaken ([see Appendix 2](#)). Actions can be taken under Best Interest decision making where a person lacks capacity to make decisions to do with self care.

Self neglect, where the person has capacity and where there is no allegation that someone else is abusing the person, should be addressed through the usual care management and inter-agencies processes, not using the Safeguarding Adults procedure. This does not preclude setting up a meeting with other agencies to plan how risks can be minimised and help offered.

Part 4 An overview of the Safeguarding Adults process

4.1 What to do if you have concerns

If you have concerns that a vulnerable adult is or may be being abused you must follow your agency's internal Safeguarding Adults procedure and

- Ensure the vulnerable person is safe - take any necessary emergency action to protect the person, including dialling 999 if necessary
- Allegations of assault(in any setting) must be reported to the police immediately
- Preserve/take care not to contaminate any evidence if you believe a crime may have taken place
- Avoid interviewing the person at risk if you need to clarify with them what has happened ask them to Tell, Explain or Describe. You only need sufficient information to enable you to raise the alert
- Alert the Adults and Communities Directorate (see contact points by service group, which includes a list of the hospital social work teams, on page 14)
- If there is already a social work team involved with the vulnerable adult then you should make contact with them.
- If the concern arise out of office hours (office hours: Mon-Thurs 8.45am-17.15pm, Fri 8.45am-16.15pm) contact the Emergency Duty Team on 0121 675 4806)
- Be sure to stress when you contact the Adults and Communities Directorate that you have a safeguarding concern about a vulnerable adult
- Pass on your concerns as soon as possible and certainly within 12 hours of becoming aware of the abuse
- Initial contact should be made verbally but you must then complete the Safeguarding Adults Multi-Agency Alert Form (see page 19 for details on how to obtain the form) and send it to the relevant social work team
- Please note that these guidelines do not replace any obligations you or your agency may have through registration requirements, contractual conditions, legal duties and internal agency guidelines in relation to whistle blowing or disciplinary procedures. These should be followed alongside this guide
- If you have concerns but are unsure whether to raise the alert, you must consult the relevant Adults and Communities social work team

- If you need to make a Safeguarding Alert and the practitioner/team you contact is not responsive you can ask to speak to the manager and/or consult the Adults and Communities Directorate Safeguarding Adult Team (tel: 0121 675 5385)

4.2 What if the person who you are concerned about does not want you to seek help or raise an Alert?

If the person you are concerned about has the mental capacity to make decisions in relation to safeguarding themselves from abuse (see [Appendix 2](#)) and does not want you to take any action on the safeguarding concern you must tell them that you:

- have a duty to advise your line manager
- may need to raise an alert with the Adults and Communities Directorate (particularly where other people may be at risk of abuse, for example where the alleged perpetrator is a paid carer)
- cannot agree to keep allegations of abuse “secret”
- can assure the vulnerable person that you will only share relevant information with those agencies involved in Safeguarding and that there is a joint Information Sharing Protocol which all agencies need to follow. Please go to part 4.3 for more information.

This does not mean that the vulnerable adult can/will be forced to comply with any process, merely that you have a duty to take action when a Safeguarding concern is raised.

The Safeguarding Adult procedure may still be opened and followed where a vulnerable adult does not want to either discuss the alleged abuse or where they do not wish to take up any of the support that might be offered to reduce/remove the risk. This is to ensure firstly, that a vulnerable adult is made aware of how agencies might be able to offer support or protection and secondly, that where the alleged abuser is a paid employee, the risk to other service users is addressed.

4.3 Confidentiality and Information Sharing

The Safeguarding Adults procedure can only be successful if all agencies and their staff share relevant information in an appropriate and timely manner. Staff must follow the joint Information Sharing Protocol* and are bound by this and by the ethical and statutory requirements that cover confidentiality and data protection.

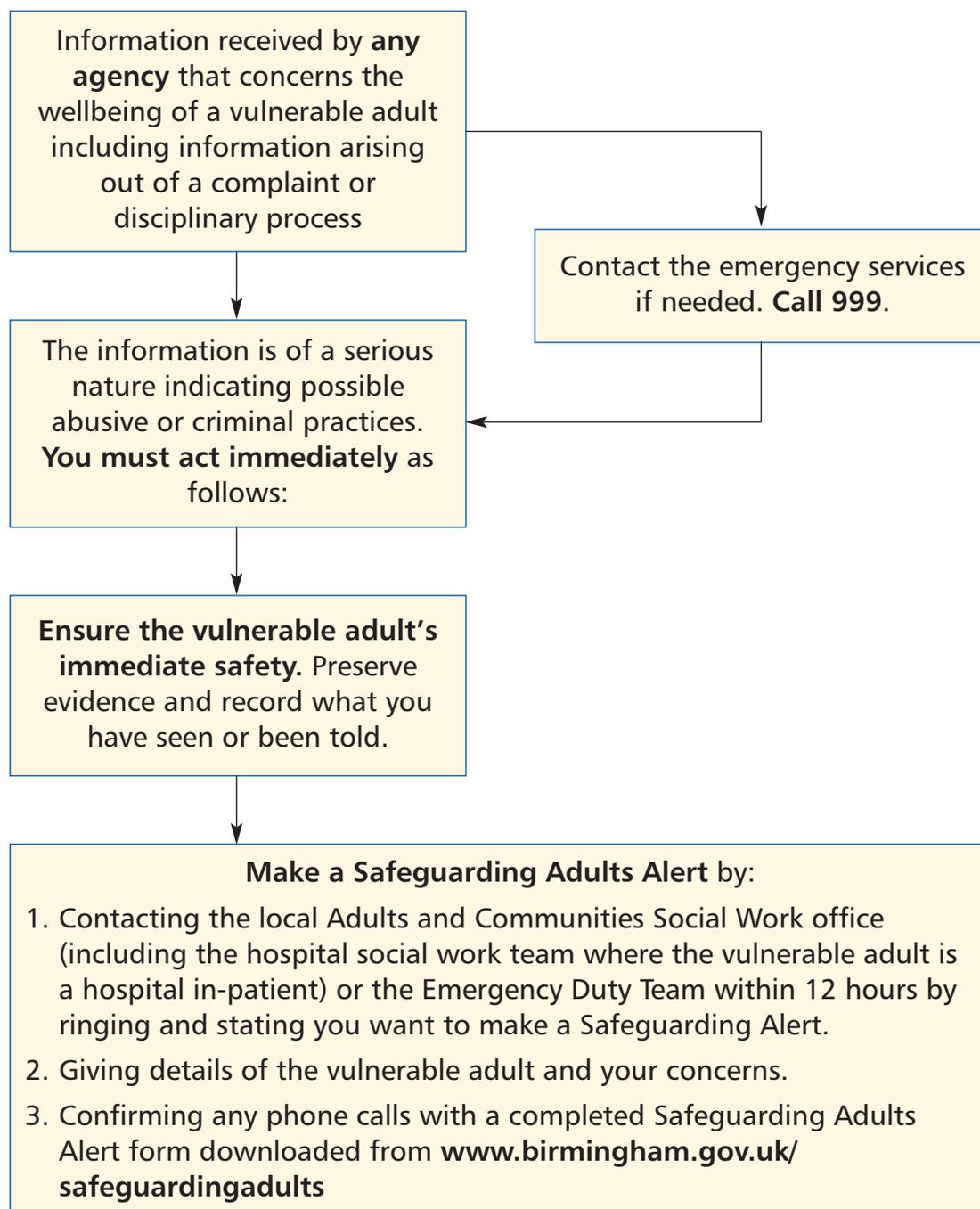
Health agencies and the Adults and Communities Directorate are governed by the Caldicott Principles and these have been used to develop the joint Information Sharing Protocol.

The joint Information Sharing Protocol* is intended to support the multi-agency Safeguarding Adult procedures in clarifying the roles and responsibilities of professionals, staff or volunteers, when faced with

suspected abuse or inadequate care of a person thought to be at risk. Information may also be shared if action needs to be taken on a preventative basis.

- * To access the joint Information Sharing Protocol go to Birmingham City Council's website: www.birmingham.gov.uk/safeguardingadults and follow the Policies and Procedures link.

4.4 Flowchart: Making an Alert. What to do if you suspect abuse



This flowchart should be followed alongside your agency's internal Safeguarding Adult procedures.

4.5 Adults and Communities contact information

Office Hours: Mon-Thurs 8.45am–17.15pm, Fri 8.45am-16.15pm

Older People’s Access Service

Phone: 0121 303 1234

Fax: 0121 303 6245

Minicom: 0121 303 6230

E-mail: olderpeoplesaccessservice@birmingham.gov.uk

Physical Disabilities Access Service

Phone: 0121 303 3335

Fax: 0121 303 8877

Learning Disabilities

Phone: 0121 303 2202

Fax: 0121 303 6244

Mental Health:

Heart of Birmingham

Phone: 0121 303 5188 (Temporary number – to be replaced)

Fax: 0121 685 7601

South Birmingham

Phone: 0121 678 2830

Fax: 0121 678 2801

Birmingham East and North

Phone: 0121 685 7988

Fax 0121 685 7847

Emergency Duty Team:

Out of office hours (including weekends)

Phone: 0121 675 4806

Hospital Social work Teams:

Good Hope Hospital

Phone: 0121 424 7880

Heartlands and Solihull Hospital

Phone: 0121 424 1622

Moseley Hall Hospital

Phone: 0121 442 3509

Royal Orthopaedic Hospital

Phone: 0121 685 4194

Sandwell and West Birmingham

Phone 0121 507 4623
or 4622 or 4626

Selly Oak Hospital (part of University Hospitals Birmingham)

Phone: 0121 627 8677

Queen Elizabeth Hospital (part of University Hospitals Birmingham)

Phone: 0121 627 2350

West Heath Hospital

Phone: 0121 627 8237

West Midlands Police contact information

Emergency contact number: 999

If you think a crime has been committed call the police on 0345 113 5000

4.6 What happens after the Alert is made?

On Day 1	<p>Alert Safeguarding concern is reported to Adults and Communities (A&C) Social Work Team.</p> <p>Referral A&C worker gathers information and checks if Vulnerable Adult is safe and whether they are aware of the Alert and have capacity in relation to the safeguarding concern. (see Appendix 2 Mental Capacity Act 2005 re possibly involving an Independent Mental Capacity Advocate).</p> <p>Worker consults Adult Abuse Investigator (AAI) if a crime is suspected. The Social Work Safeguarding Manager decides whether to proceed with the safeguarding procedures and notifies involved agencies (including the Alerter) of the decision.</p>
By Day 5	<p>Strategy Discussion/Meeting (Multi-agency) To assess the level of risk to the Vulnerable Adult and share information. To agree if an assessment/investigation is needed and if so by whom, when, where, how etc including discussion of any capacity issues or access/communication needs of the Vulnerable Adult. To draw up an interim Safeguarding Action Plan to support the Vulnerable Adult and set a Case Conference date.</p>
By Day 28	<p>Safeguarding Assessment/Investigation (Single or multi-agency) To assess the level of risk to the Vulnerable Adult and possible options under the safeguarding procedures. The assessment/investigation is completed (where possible) and the outcome/progress is reported back to the Safeguarding Manager. Proceed to a Case Conference.</p>
By Day 38	<p>Case Conference (Multi-agency) To include the Vulnerable Adult if they have the capacity to be involved. To assess the level of risk to the vulnerable adult. To review progress/consider outcome of the assessment/investigation. To share information and, if there are ongoing concerns, agree a Safeguarding Action Plan and set date to review.</p>
By Day 122	<p>Review (Multi-agency) To include the Vulnerable Adult if they have the capacity to be involved. To review the Safeguarding Action Plan, assess the current level of risk to the Vulnerable Adult. If risks remain, the Safeguarding Plan will continue (with any adjustments required). A further date to review in 3 months (or less) must be set.</p>

Part 5 Roles and Responsibilities after an Alert is made

5.1 The Vulnerable Adult should be central to the Safeguarding process

It is important that the Vulnerable Adult is contacted as soon as it is safe (for them) to do so, to enable them to choose (where they have mental capacity) whether they wish to be subject to this process, how they wish to be supported and whether they wish to accept any help/assistance to deal with the safeguarding concerns (see [Appendix 2 Mental Capacity Act 2005](#)).

They should be offered the support of an advocate if they need this including an Independent Mental Capacity Advocate where they have been assessed as lacking capacity to safeguard themselves (see [Appendix 2 Mental Capacity Act 2005](#)).

Every effort should be made by all staff involved to support and act in the best interests of the vulnerable adult at all times.

5.2 All Staff:

- must be familiar with both their internal Safeguarding Policy and Procedure and the Birmingham Safeguarding Adult: Policy, Procedure and Good Practice Guide

5.3 All Agencies

It is the responsibility of all involved agencies (statutory, private, independent or voluntary)

- to co-operate with the safeguarding process
- to attend/contribute to meetings
- to share relevant information to protect the Vulnerable Adult who is known/believed to be at risk of abuse
- to contribute to any Safeguarding Action Plans drawn up to protect the Vulnerable Adult.

5.4 Local Authority Social Work Team Managers

As part of their Safeguarding role

- must co-ordinate the Safeguarding process
- decide on the basis of the concerns raised whether to open the Safeguarding process or proceed in another way,
- ensure relevant agencies are contacted/consulted
- arrange for discussion/meetings to be held
- chair any meetings held

- draw up any required Safeguarding Action Plans in conjunction with the vulnerable adult and any involved agencies
- arrange for the distribution of minutes/action plans
- ensure that any Safeguarding Action Plan drawn up is reviewed

5.4 West Midlands Police

Each Local Policing Unit (LPU) has a Public Protection Unit (PPU) which includes Vulnerable Persons Officers (VPO's). One of the VPO's roles is to act in a consultative and liaison capacity between WMP and the Local Authority social work teams. They will:

- investigate abuse and can advise as to whether a crime may have been committed
- keep the Safeguarding Manager informed of the progress of any police investigation
- advise the Vulnerable Adult about the legal options available to them, including possible sanctions against the abuser, to make themselves safe and support them in making decisions about how to proceed.

5.5 Health

- Provide information in relation to the service users health condition and /or health service input
- Participate in strategy discussions / meetings / case conferences and assist in the implementation of agreed actions
- Act as a link between the health sector and Adults and Communities.

5.6 Care Quality Commission

The Care Quality Commission (CQC) regulates health and adult social care services in England, whether they're provided by the NHS, local authorities, private companies or voluntary organisations. They also protect the rights of people detained under the Mental Health Act. Before 1 April 2009, this work was carried out by the Healthcare Commission, the Mental Health Act Commission and the Commission for Social Care Inspection. These organisations no longer exist.

The CQC ensures that essential common quality standards are being met where care is provided and work towards the improvement of care services. They aim to promote the rights and interests of people who use services. Their work brings together independent regulation of health, mental health and adult social care. Their main activities are:

- Registration of health and social care providers to ensure they are meeting essential common quality standards
- Monitoring and inspection of all health and adult social care

- Using enforcement powers, such as fines and public warnings or closures, if standards are not being met
- Improving health and social care services by undertaking regular reviews of how well those who arrange and provide services locally are performing and special reviews on particular care services, pathways of care or themes where there are particular concerns about quality
- Reporting the outcomes of their work so that people who use services have information about the quality of their local health and adult social care services. It helps those who arrange and provide services to see where improvement is needed and learn from each other about what works best.

CQC staff will:

- alert Adults and Communities where they become aware of a Safeguarding concern when the local authority is not already aware about an incident
- contact the Police if any Alert/concern appears to involve criminal activity.
- co-operate with but not lead any safeguarding assessment and undertake work in partnership with other agencies under the safeguarding process.
- participate in strategy meetings/discussions or case conferences where they determine there is a need
- provide the chair of all strategy discussions/meetings held about a regulated service with appropriate information, whether or not CQC staff attend.

Appendices

Appendix 1:

The Safeguarding Adults Multi Agency Alert Form (ACF0030)

The ACF0030 Safeguarding Adults Multi-Agency Alert form can be accessed through the following link:

www.birmingham.gov.uk/safeguardingadults

Once on the page look under the heading “Links to other pages” and click on “Policy and Procedures”. On the Policy and Procedure page you will find the Safeguarding Adults Multi-Agency Alert form, together with the Safeguarding Adults: Policy, Procedures and Good Practice Guide and the Information Sharing Protocol.

The Safeguarding Alert should be raised with the Adults and Communities Directorate within 12 hours of the suspected abuse becoming known. In most instances the initial Alert will be raised verbally with the Adults and Communities Directorate. It must then be followed up with a completed Safeguarding Adults Multi-Agency Alert form.

It is important that the form contains all available information about the alleged abuse, the vulnerable adult, and any alleged perpetrator (where identified) but the person making the Alert is not expected to interview the vulnerable adult prior to alerting

The form should be used by all agencies/organisations that need to Alert the Adults and Communities Directorate to the possible/actual abuse of a vulnerable adult.

Appendix 2:

Mental Capacity Act 2005

The Mental Capacity Act (MCA) 2005 provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for themselves. Everyone working with and/or caring for an adult who may lack capacity to make specific decisions must comply with this Act when making decisions or acting for that person.

The Act is intended to be enabling and supportive to people who lack capacity, not restricting and controlling of their lives. It aims not only to protect people who lack capacity to make particular decisions, but also to maximise their ability to make decisions, or to participate in decision making, as far as they are able to do so.

There are 5 statutory principles which underlie the Act:

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

The Mental Capacity Act Code of Practice ([DCA 2007](#)) supports the MCA 2005 and has statutory force which means that certain categories of people have a legal duty to have regard to it when working with or caring for adults who may lack capacity to make decisions for themselves.

All staff need to familiarise themselves with the code which can be accessed via www.publicguardian.gov.uk or via the Office of the Public Guardian (Tel: 0845 330 2900).

If you suspect a vulnerable adult is being abused and that they may lack capacity to protect themselves, then a capacity assessment will need to be carried out.

The MCA includes a 2 stage test to help determine whether a person has capacity to make a particular decision or not and the Code of Practice gives detailed guidance as to how this assessment should be carried out and by whom.

Staff guidance and good practice: each agency should have internal guidance on the MCA 2005 which is integrated into staff members' daily roles and responsibilities. This should include detail about how to carry out a capacity assessment

The Role of the Independent Mental Capacity Advocate (IMCA)

The Independent Mental Capacity Advocate (IMCA) role was introduced by the Mental Capacity Act 2005. The aim of the service is to provide independent safeguards for people who lack capacity to make important decisions, where, at the time the decision needs to be made, they have no-one else to support them or represent them or to be consulted (other than paid staff). However, where the decision to be made relates to a Safeguarding concern an IMCA can be appointed whether or not family, friends or others are involved.

In essence the IMCA is required to try to

- ascertain the views, wishes and beliefs of the vulnerable adult
- provide information to assist the decision making process
- ensure that any decisions taken are in the best interests of the person who lacks capacity

The IMCA service is commissioned through the Local Authority and administered by Advocacy Matters. They can be contacted on 0121 354 6136.

The role of the IMCA is detailed in the Mental Capacity Act Code of Practice, section 10 (see above for link to code).

Interface between DoLS and Safeguarding Adults Procedures

The Deprivation of Liberty Safeguards (DoLS) were introduced with the amended Mental Health Act 2007, but the code of practice for DoLS was published under sections 42 and 43 of the Mental Capacity Act 2005.

The DoLS were introduced to provide a legal framework around deprivation of liberty. The purpose was to prevent breaches of human rights legislation as in the “Bournewood” judgement which led to the legislation. The DoLS provide safeguards for people who lack capacity to make decisions relating to their care or treatment and apply in hospital and care homes/care homes with nursing. They do not apply to people living in alternative forms of accommodation, including their own home. The Court of Protection can be asked to consider possible deprivations of liberty occurring outside of a hospital or care home setting.

DoLS will safeguard individuals against the possibility of an unlawful deprivation of liberty. The Safeguarding Adult procedures will only be triggered if there is a case of abuse to be considered. The following are examples of circumstances where a safeguarding alert may arise:

- Where someone involved in a Best Interest Assessment becomes aware of abuse.
- Where a potential Deprivation of Liberty is seen by a person visiting or working in a care/hospital setting and after they alert the service manager the issue is not addressed /or an authorisation is not sought.
- Where a Deprivation of Liberty authorisation is refused and the service / organisation does not take steps to amend the way care or treatment is offered with the effect that a Deprivation of Liberty continues unlawfully.
- A Deprivation of Liberty has been authorised with conditions and the conditions are not met

DoLS introduces the statutory right of access to an Independent Mental capacity Advocate (IMCA) for individuals and their representatives.

Adults and Communities Directorate staff have access to a DoLS procedure manual(draft) to assist them in identifying unlawful deprivations and in planning for the authorisation of lawful deprivation. The process and procedures for the safeguards will provide a legal framework to protect individuals who may be subject to a deprivation of liberty.

Each agency's internal guidance on the Mental Capacity Act 2005 should include reference to their responsibilities (where applicable) under the DoLS.

There is a DoLS Code of Practice (2008) which supplements the MCA 2005 Code of Practice and staff need to familiarise themselves with this.

The code can be accessed via www.publicguardian.gov.uk or via the Office of the Public Guardian (0845 330 2900)

Appendix 3: Adult Safeguarding and the Law

'No Secrets' (2000) provides guidance for Local Authorities to ensure that there are multi agency arrangements for the protection of vulnerable adults. However, there is no specific legislation currently in relation to Safeguarding Adults. This does not mean that the law cannot be used to protect vulnerable adults, for example, the Human Rights Act (1998) enshrines the right to liberty and security ([Article 5.1](#)) and the Mental Capacity Act (2005) provides a framework for acting on behalf of someone who lacks capacity as well as including a new criminal offence of wilful ill treatment or neglect. There are numerous other pieces of legislation which may assist when dealing with Safeguarding Adult issues such as criminal and civil law or law relating to care practice.

If workers are unsure or suspect that a crime may have been committed, they should inform the VPO / police officer who can advise them on criminal law matters and make a decision on police involvement. Likewise the Court of Protection can advise in relation to some civil issues such as the use/abuse of Lasting Powers of Attorney.

If staff of any organisation feels that they need legal advice in relation to an adult safeguarding issue, they should follow their agreed internal process to request/access this advice.

Appendix 4: The Independent Safeguarding Authority and the Vetting and Barring Scheme 2009

These were introduced by the Safeguarding Vulnerable Groups Act 2006 to provide protective measures to protect children and vulnerable adults.

The Independent Safeguarding Authority (ISA) is a public body based in Darlington. The main aim of the ISA is to prevent unsuitable people from working with children and vulnerable adults.

It will do this by

- assessing every person who wants to work or volunteer with vulnerable people. Potential employees and volunteers will need to apply to register with the ISA. Applicants will be assessed using data gathered by the Criminal Records Bureau (CRB), including relevant criminal convictions, cautions, police intelligence and other appropriate sources.
- storing information about people's ISA status for employers and voluntary organisations to use when they are recruiting. Only applicants who are judged not to pose a risk to vulnerable people can be ISA-registered. Once the scheme has been fully rolled out, employers who work with vulnerable people will only be allowed to recruit people who are ISA-registered
- placing people on one of two ISA Barred lists. The ISA will make decisions about who should be on these lists as part of the new Vetting and Barring Scheme.

The first phase of the Vetting and Barring Scheme was introduced in October 2009.

It is now a criminal offence for individuals barred by the ISA to work or apply to work with children or vulnerable adults in a wide range of posts - including most NHS jobs, Prison Service, education and childcare. Employers also face criminal sanctions for knowingly employing a barred individual across a wider range of work;

The three former barred lists (POCA, POVA and List 99) have been replaced by two new ISA-barred lists; one for vulnerable adults and one for children

Employers, local authorities, professional regulators and other bodies have a duty to refer to the ISA, information about individuals working with children or vulnerable adults where they consider them to have caused harm or pose a risk of harm. Referral forms and referral guidance are available.

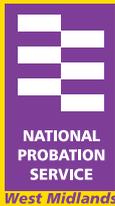
If, as a result of initiating and following the Safeguarding Adult process, it is believed that an employee (of any organisation) has harmed a vulnerable adult, then the employer must refer to the Vetting and Barring Scheme for a decision to be made as to whether or not to place the employee on one of the barred lists.

Criminal Record Bureau (CRB) checks on individuals wanting to work with either vulnerable adults or children continue as previously in order to support organisations recruiting people into positions of trust. The ISA works in partnership with the CRB, the latter provides the administrative arm to support the ISA's primary function of making barring decisions.

Further information and guidance is available from www.isa-gov.org.uk



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To download a pdf copy of this guide, visit www.birmingham.gov.uk/safeguardingadults

To request a copy of the Safeguarding Practitioners Guide, please call the Safeguarding Adults Team on **0121 675 5385**.

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