

Councillors briefing 2015

Safeguarding adults

Introduction

Adult safeguarding means protecting people's right to live in safety, free from abuse and neglect. It applies to adults with care and support needs who may not be able to protect themselves. It means organisations working together to prevent and to stop people facing the risk of or the actual experience of abuse or neglect.

Safeguarding adults is everybody's business. Any person may recognise and report abuse or neglect, and everyone can play a part in building communities where abuse does not happen.

There are crucial roles for councillors in examining how safeguarding is experienced by local people, how people were consulted and involved in developing policies and monitoring services, and how they were involved in their own safeguarding plans and procedures.

Growing awareness of the prevalence of abuse makes it all the more urgent and necessary for councillors to take action locally to ensure that everyone, including professionals, the voluntary sector and the general public are made aware of abuse and neglect, how to recognise and report it, who is responsible for intervening, and what people's rights are to protection, support, choice and advocacy.

Safeguarding is now seen as a crucial aspect of local authority work. The Care Act states that the local authority is the organisation with overall responsibility for safeguarding locally. But it also links to many local agendas and partnerships, including police and criminal justice, care quality, disability hate crime, community safety and cohesion, domestic violence, forced marriage, and support for carers.

Adult safeguarding policy and practice is moving rapidly into a new era where ensuring values such as preventing harm and promoting dignity, empowerment and choice form the basis of any practice and are taken as seriously as the numbers of safeguarding alerts and the results of investigations into failures.

Key questions and actions for councillors

Councillors need to know what questions to ask to hold to account those responsible for adult safeguarding, to ensure that everyone is following agreed multiagency procedures, and that appropriate links are made between agencies so that people at risk and needing help are not missed. Some of these key questions to ask are below.

Questions to ask in your council

- What training is made available to staff and councillors on safeguarding policies, procedures and practice?
- Whether there are there effective links between adult safeguarding and domestic violence, child protection, victim support, and community safety and cohesion?
- Are the messages from Safeguarding Reviews being taken on board locally?
- Is the safeguarding adults board (SAB) effective in leading and holding individual agencies to account and ensuring effective multiagency working?
- Does the SAB have the resources, both financial and human, to undertake its role effectively and deliver the SAB business plan?
- How well are local partners working together?
- Is the Mental Capacity Act being implemented effectively alongside safeguarding so that people have access to advocacy, and best interest decision making? Is training in legal aspects of safeguarding available for staff?
- Has safeguarding been subject to peer challenge or to other external scrutiny?

Questions to ask about your community

- Are members of the public in your authority area aware of what adult abuse is and do they know what to do if they have concerns about it?
- Are people who need safeguarding services fully involved in and in control of safeguarding processes?
- Is there evidence of the difference that safeguarding work is making to adults in your community? Are people safer, do they feel safer, and are their circumstances improved?

Questions to ask yourself

- Do you know who the lead officer and lead councillor for adult safeguarding are within your council?
- Do you and your fellow councillors know:
 - how the multiagency framework operates?
 - who are the partners in adult safeguarding?
 - how adult safeguarding is monitored and reported?

What is the role of councillors in relation to adult safeguarding?

General roles

As community leaders, championing the wellbeing of their constituents, councillors are in a position to raise awareness of adult safeguarding. They may become aware of individual cases of abuse through their work with constituents and so have a duty to report it.

As part of their governance role, holding council executives and their partners to account, and accounting to their constituents for what has been done, all councillors have a responsibility to ask questions of the executive and other partner organisations about the safety of adults in their area, and about the outcomes of adult safeguarding.

Portfolio holders

The lead member in councils with social services responsibilities has responsibility for the political leadership, accountability and direction of the council's services for adults. The portfolio holder has a role in ensuring that the various departments within a council work together to promote wellbeing, prevent social exclusion and to protect vulnerable adults from abuse.

Members of Overview and Scrutiny Committee (OSC)

Councillors in OSC have a crucial role in ensuring that the system works through holding leaders to account. OSC members need to review the work of safeguarding in the local authority, and to consider the annual report of the Safeguarding Board to find out:

- how abuse is being prevented through good multiagency work and assuring quality care
- how well services work to improve outcomes for people who have experienced harm and abuse
- how far care and protection plans are keeping people safe from abuse

- how agencies are ensuring that people's human rights are respected
- how agencies are enabling people to make decisions about their lives
- how agencies are ensuring that people who lack capacity are able to have their best interests represented
- how services uphold the right to justice for people who have experienced harm or abuse
- how well services address what happens to the people who have harmed or abused others.

Councillors in other relevant roles

Councillors who are members of bodies which have a safeguarding remit such as health and wellbeing boards, Crime and Disorder Partnerships, Hate Crime or Domestic Violence Partnerships, Community Safety Partnerships, Community Cohesion bodies, and NHS Trusts will need some knowledge of adult safeguarding in order to fulfil their responsibilities and know what questions to ask. Many of these bodies may be represented on SABs.

Councillors who are portfolio holders for children's services will need to be aware of the links with adult safeguarding. There may be specific examples where the crossover is particularly clear, for example, the period of transition from children's to adult services or when an adult may be a risk to children.

What is adult safeguarding?

People's wellbeing is at the centre of safeguarding practice, and this includes respecting people's views and feelings about what they want to happen in response to any abuse or neglect.

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 people 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
- address what has caused the abuse or neglect.

Safeguarding adults differs from the safeguarding and protection of children in a number of ways, including different legislation. A key difference is that while there is a legal expectation that children are protected from physical or psychological damage, adults with mental capacity have a right to make their own choices, take risks, be free from coercion, and to make decisions about their own safeguarding plans.

What does adult safeguarding involve?

Prevention

A central aspect of prevention is to ensure that services provided are up to standard, that staff are properly trained and that people receiving services are treated with dignity and their rights are upheld.

Harm needs to be recognised through people in communities looking out for one another. This can be done through public awareness campaigns backed up by information and advice about where to get help. Awareness raising should include specific issues such as domestic abuse, hate crime, elder abuse, fraud and financial abuse. Once help is sought, staff and services need to respond well, so training is required.

It is helpful to have agreed definitions, clear guidance and simple pathways of reporting and responding to harm.

People should be supported to keep themselves safe, empowering people by making sure they have information and by building confidence and assertiveness helps people to be safer and make abuse less likely.

Response to harm

When safeguarding concerns are raised are reported, an enquiry must be made to decide whether any action should be taken, and if so what action and by whom. The adult at risk will need to agree the type of response that they want and how it will be reported and acted on by partner agencies. This requires clear communication, appropriate information sharing, joint working and shared responsibility. The focus must be on the needs and desired outcomes of the adult who is at risk, and ensuring that they are not in immediate danger.

Where people have been abused or neglected they may refuse any action, they have every right to so provided that they have capacity, are not being coerced or unduly influenced and there is no-one else at risk from the abuse.

The aim of safeguarding interventions is to enable people at risk or who have experienced abuse to protect themselves, and to be fully involved in decision making on plans to safeguard them and resolve their circumstances. This may require specific action to ensure that people who lack capacity are supported through advocates and processes so that their best interests are pursued. Justice should be facilitated where adults in need of care and support are the victims of crime.

All involved need to ensure the views of adults are central, that people close to them are involved appropriately, and that the focus is on making a difference to people's lives. More information on current practice and policy on the move to 'making safeguarding personal' can be found on the Local Government Association (LGA) website.

Adults without mental capacity have legal safeguards under the Mental Capacity Act (2005) and must have the representation of an advocate or representative to act in their best interests.

What is abuse or neglect?

Anyone can be at risk of harm, and risk is a complex term to define. In social care it is not possible to estimate risk objectively and accurately, as so much depends on contextual factors and human decisions.

People may be harmed at home, in their communities, in a care home, at hospital, in college or at work, at day and community centres or other places where people spend their time or receive services.

Anyone can abuse adults including:

- spouses/partners
- other family members
- neighbours
- friends
- acquaintances
- local residents
- people who deliberately exploit adults they perceive as vulnerable to abuse
- paid staff or professionals
- volunteers and strangers.

Abuse and neglect can be classified under the following headings:

- Physical abuse – including assault, hitting, slapping, pushing, misuse of medication, restraint or inappropriate physical sanctions.
- Domestic violence – including psychological, physical, sexual, financial, emotional abuse; so called ‘honour’ based violence.
- Sexual abuse – including rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.
- Psychological abuse – including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.
- Financial or material abuse – including theft, fraud, internet scamming, coercion in relation to an adult’s financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- Modern slavery – encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.
- Discriminatory abuse – including forms of harassment, slurs or similar treatment; because of race, gender and gender identity, age, disability, sexual orientation or religion.
- Organisational abuse – including neglect and poor care 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.
- Neglect and acts of omission – including ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, care and support or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating.

- Self-neglect – this covers a wide range of behaviour neglecting to care for one’s personal hygiene, health or surroundings and includes behaviour such as hoarding.

Domestic abuse can refer to any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over, who are or have been intimate partners or family members. Findings from the British Crime Survey show that domestic violence poses a serious risk to women. Women’s Aid estimate that disabled women are twice as likely as non-disabled women to experience domestic abuse.

Forced marriage may be an adult safeguarding issue where one or both spouses do not or cannot consent to the marriage and some element of duress is involved. Duress includes both physical and emotional pressure. People may be at risk of being forced into a marriage if they are not able to protect themselves due to their care and support needs. They may need protection using the adult safeguarding procedures.

Types of harm evolve as society changes and awareness increases. Recently defined forms of harm that councillors should be aware of include:

- ‘mate crime’ (or ‘mate abuse’) – this refers to calculated actions against disabled people by persons they consider to be their friends or have a mutual relationship with, eg acts of cruelty, humiliation, servitude, exploitation and theft
- ‘disability hate crime’ or abuse – this refers to incidents which are perceived by the victim or any other person to be motivated by hostility or prejudice based on a person’s disability or perceived disability.

What is the impact?

Abuse and neglect can lead to negative outcomes such as loss of dignity, negative effects on health, wellbeing and confidence, isolation, substance misuse, emotional trauma, injury and even death. Safeguarding interventions need to take into account the complexities of people’s situations.

It is important to have an understanding of the reasons why people remain in abusive relationships or do not seek help. People may live in fear of abuse but be unwilling to report it because of loyalty or because of threats from the abuser, and fear of consequences such as loss of home or relationships. Some may be afraid of not being believed, or fear pressure from their family or community. People want to be safe but for some people their only human contact is with the abuser. Self-esteem, self-confidence and mental health may be undermined by the long term effects of abuse.

As a result, the victim may lack self-worth, be ashamed or blame themselves. Lack of knowledge or lack of trust of services can make people unwilling to seek help. Disabled or older adults may be more physically vulnerable and unable to escape. Sometimes the victim is the carer of the abuser and feels a sense of obligation to carry on and put up with the abuse. People may also be afraid of what will happen if they report abuse, such as going into a care home or losing contact with relatives.

Safeguarding practice recognises that people have a complex, and often conflicting, feelings about their safety. Sometimes, the person causing the abuse may be very important to the adult concerned and they may want to balance feeling safer with the importance of continuing the relationship. As Lord Justice Mumby stated, “what is the point in making someone safe if you simply make them miserable”. Professional staff have to work with people to work out how to achieve the balance between safety and wellbeing.

What is current safeguarding policy and law?

The Care Act 2014 sets out a new statutory framework for adult safeguarding to clarify the roles and responsibilities of local authorities and other organisations.

The Care Act requires that each local authority must:

- make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect (see paragraph 14.16 onwards). An enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, by whom
- set up a SAB (see paragraph 14.105 onwards);
- arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review (SAR) where the adult has 'substantial difficulty' in being involved in the process and where there is no other suitable person to represent and support them (see chapter 7 on advocacy)
- cooperate with each of its relevant partners (as set out in Section 6 of the Care Act) in order to protect the adult. In their turn each relevant partner must also cooperate with the local authority.

Each area will be expected to ensure that their SAB has a core membership of local authority, the NHS and the police; and must publish a local safeguarding plan and annual reports on progress against that plan, to ensure that member agencies' activities are effectively coordinated.

The Care Act consolidates duties of cooperation between key statutory agencies, and imposes a duty to make (or cause to be made) an enquiry if someone is experiencing or is at risk of abuse or neglect and to decide what action should be taken and by whom.

SABs will be expected to hold Safeguarding Adults Reviews (often previously known as 'Serious Case Reviews') to look into cases where a person dies, who was thought to be at risk and where abuse or neglect was suspected, or where there is reasonable cause for concern about how the case has been handled.

Such reviews in the past have provided considerable learning about how to improve commissioning, inspection, multi-agency working and adult safeguarding procedures.

Safeguarding policy – Making Safeguarding Personal

Chapter 14 of the Statutory Guidance for the Care Act 2014 provides guidance for how the Care Act is put into practice.

A key shift is to refocus on the outcomes people want and to engage in conversations about the right responses to meet the needs of each individual rather than having a 'safeguarding process' that everyone has to fit into.

This has resulted in a widening of the existing focus of data collection for national purposes, which has mainly addressed quantity and outputs (how many referrals, from whom, how long it takes for example). The new focus addresses the priorities and values for safeguarding: empowerment, prevention, protection, proportionality, partnership and accountability.

A focus on outcomes entails working flexibly with people (or their advocates or best interest assessors if they lack capacity) throughout an enquiry into a safeguarding concern, taking into account the way people's expectations and wishes may change as they take more control of their lives.

As above, more information on work by the sector on 'making safeguarding personal' can be found on the LGA website.

Personalisation and choice

Another key policy area is that of personalisation which is intended to give people using social care services more choice and control over the support they receive, including safeguarding services. This on the one hand raises concerns that the freedom for people to choose and arrange their own care brings increased risks of exploitation, and on the other is viewed as giving them greater control and therefore safety. Personalisation and safeguarding can be made to work hand in hand, through enabling people to speak for themselves and make informed choices:

Personalisation needs to work for everyone including those who are least able to access services or those considered at greatest risk. Well designed self-directed support processes should be unique to the individual and have checks and balances built in.

Involvement

Involvement of the people concerned in adult safeguarding is enshrined in the Care Act and statutory guidance.

People who have experienced safeguarding are becoming involved in various ways, for example as members of safeguarding boards or sub-groups, helping to design feedback forms, training staff, and planning community awareness days. Other involvement methods include skills training for people using services, and building relationships of trust with groups such as ethnic minority elders and people with dementia.

Risk management and risk-sharing

The Association of Directors of Adult Social Services (ADASS) and LGA advise that service users and their advocates should be engaged in risk management. They suggest that good risk management should include information sharing agreements, spelling out for SABs, organisations and affected individuals what risks are being taken and how they will be managed. Some localities have set up Risk Enablement Panels and family group conferences to assist with this.

Other relevant legislation

Other relevant legislation includes:

- the Human Rights Act
- the Equality Act
- the Mental Capacity Act and Deprivation of Liberty Safeguards
- the Safeguarding Vulnerable Groups Act
- Domestic Violence Law
- Court of Protection.

The Mental Capacity Act (MCA) 2005 makes it clear that there should always be the presumption that a person has the capacity to make decisions unless it is established otherwise.

It provides a statutory framework to protect and empower adults who may lack capacity (ability) to make all or some decisions about their lives. People who do have capacity and are normally able to make decisions may lose self-confidence and self-esteem in response to having been abused. Serious Case Reviews have shown that sometimes no intervention is made because of an assumption that people were able to make choices when due to their circumstances their ability to make decisions was limited.

As noted above, the MCA also makes provision to ensure that advocacy is available for people who lack capacity during safeguarding processes and for their best interests to be explicitly considered through formal processes.

Which key organisations are responsible for adult safeguarding?

Councils

Local authorities have the lead responsibility for safeguarding adults. Their role is to ensure that there is a local SAB (see below), that the services they provide across the council include people who need care and support, that they commission services that safeguard people's dignity and rights and that they respond to concerns about harm and abuse.

Adult services directors and lead councillors play a leadership role in safeguarding across councils, organisations and communities to make them safer for vulnerable people.

The NHS

NHS managers and staff are crucial in identifying abuse, and play an important role in monitoring and supporting adults at risk. NHS Trust Boards have responsibility for safeguarding activity in their organisations, including holding services to account.

Clinical Commissioning Groups (CCGs) are responsible for commissioning services that are safe and that safeguard people's dignity and rights.

They need to work with partner agencies to develop quality systems that reflect multiagency agreements. They will have a role in promoting safeguarding practice and monitoring the performance of commissioned health providers against minimum standards for safeguarding adults. CCGs are statutory members of SABs

Police and criminal justice system

The police and criminal justice system take a lead where a crime is suspected. The police also have a key role in promoting community safety (working with Community Safety Partnerships). Police and Crime Commissioners act to ensure that their force is effectively offering protection and access to justice for adults in need of care and support. The police are also statutory members of the SAB.

Care Quality Commission (CQC)

The CQC is the statutory regulator for the quality of health and social care in England. It is responsible for registering and monitoring compliance of NHS and social care providers against essential standards of quality and safety. The CQC has developed a protocol setting out its role in safeguarding and the role it takes where safeguarding concerns arise within regulated services.

Providers of care

Providers are responsible for quality services that uphold people's dignity.

Safeguarding adults boards

The Care Act 2014 states that local authorities must set up a SAB to oversee and lead adult safeguarding across the locality and to consider a range of matters that contribute to the prevention of abuse and neglect. These will include the safety of patients in its local health services, quality of local care and support services, effectiveness of prisons and approved premises in safeguarding offenders and awareness and responsiveness of further education services.

SABs are multiagency partnerships involving social care, the police, NHS organisations, housing bodies, and provider organisations.

The Chair of the SAB should be independent of any of the member organisations that make up the board.. Chairs need to have a good understanding of the complex issues involved in adult abuse and of the different agencies involved.

Health and wellbeing boards

Health and wellbeing boards have a key role in linking agencies together and influencing the health and wellbeing of the local population. They will need effective links to SABs.

Additional resources

All of the following (and much more) are available on the LGA website and on the Adult Safeguarding group on the Knowledge Hub:

ADASS and LGA (2013) 'Safeguarding Adults 2013: Advice Note'.

www.local.gov.uk/web/guest/adult-social-care/-/journal_content/56/10180/3917627/ARTICLE

LGA (2015) Adult Safeguarding Improvement Tool

www.local.gov.uk/documents/10180/6869714/Adult+safeguarding+improvement+tool.pdf/dd2f25ff-8532-41c1-85ed-b0bcbb2c9cfa

LGA (2015) Adult Safeguarding and Domestic abuse

www.local.gov.uk/c/document_library/get_file?uuid=5928377b-8eb3-4518-84ac-61ea6e19a026&groupId=10180

LGA (2015) Care and support reform implementation – resources for adult safeguarding as part of Care Act implementation

www.local.gov.uk/care-support-reform/-/journal_content/56/10180/6523063/ARTICLE

LGA (2014) Making Safeguarding Personal

www.local.gov.uk/web/guest/adult-social-care/-/journal_content/56/10180/6074789/ARTICLE

LGA 2014 Resources for Safeguarding Adults Boards

www.local.gov.uk/web/guest/adult-social-care/-/journal_content/56/10180/5650175/ARTICLE

LGA (2014) Roles and Responsibilities in adult safeguarding

www.local.gov.uk/web/guest/adult-social-care/-/journal_content/56/10180/6167659/ARTICLE

LGA 2014 Safeguarding Adults: Learning from Peer Challenges

www.local.gov.uk/web/guest/adult-social-care/-/journal_content/56/10180/4036117/ARTICLE



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