

# 1. CONTEXT, PRINCIPLES AND VALUES

## 1.1 Context

The [Care Act](#) puts adult safeguarding on a legal footing and requires each Local Authority to set up a Safeguarding Adults Board (SAB – [Section 43<sup>x</sup>](#)) with core membership from the Local Authority, the Police and the NHS (specifically local Clinical Commissioning Group/s). It has the power to include other relevant bodies ([See appendix 4](#)). 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.

Berkshire SABs are asked to adopt this policy and procedures so that there is consistency across Berkshire in the way in which adults are safeguarded from neglect or abuse. All organisations involved in safeguarding are asked to adopt this policy and procedures in respect of their relevant roles and functions, but may wish to add local practice guidance, protocols and organisation operation manuals. These procedures should also be used in conjunction with partnerships and individual organisations' procedures on related issues such as fraud, disciplinary procedures and health and safety.

### 1.1.1 Principles

The policy and procedures are based on **The Six Principles of Safeguarding** that underpin all adult safeguarding work.

|                      |  |  |
|----------------------|--|--|
| <b>Empowerment</b>   | Adults are encouraged to make their own decisions and are provided with support and information.           | I am consulted about the outcomes I want from the safeguarding process and these directly inform what happens  |
| <b>Prevention</b>    | Strategies are developed to prevent abuse and neglect that promotes resilience and self-determination.     | I am provided with easily understood information about what abuse is, how to recognise the signs and what I can do to seek help  |
| <b>Proportionate</b> | A proportionate and least intrusive response is made balanced with the level of risk.                      | I am confident that the professionals will work in my interest and only get involved as much as needed   |
| <b>Protection</b>    | Adults are offered ways to protect themselves, and there is a co-ordinated response to adult safeguarding. | I am provided with help and support to report abuse. I am supported to take part in the safeguarding process to the extent to which I want and to which I am able  |
| <b>Partnerships</b>  | Local solutions through services working together within their communities.                                | I am confident that information will be appropriately shared in a way that takes into account its personal and sensitive nature. I am confident that agencies will work together to find the most effective responses for my own situation |
| <b>Accountable</b>   | Accountability and transparency in delivering a  | I am clear about the roles and responsibilities of all those involved in the   |

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.

The Berkshire multi-agency adult safeguarding policy and procedures are built on strong multi-agency partnerships working together, with adults to prevent abuse and neglect where possible, and provide a consistent approach when responding to safeguarding concerns. This entails joint accountability for the management of risk, timely information sharing, co-operation and a collegiate approach that respects boundaries and confidentiality within legal frameworks.

### 1.1.2 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'.

Effective risk management strategies identify risks and provide an action or means of mitigation against each identified risk, and have a mechanism in place for early escalation if the mitigation is no longer viable. Contingency arrangements should always be part of risk management. Risk assessments and risk management should take a holistic approach and partners should ensure that they have the systems in place that enable early identification and assessment of risk through timely information sharing and targeted multi-agency intervention. ( [See Practice Section 3](#) )

### 1.1.3 Co-operation and Information Sharing

Learning from recommendations of Safeguarding Adult Reviews, the importance of effective multi-agency working is a common feature. The Local Authority retains responsibility as the lead co-ordinating organisation. All other relevant organisations and partners, including NHS bodies; the Departments of Social Security, Employment and Training; the Police and Probation Services owe legal duties in relation to safeguarding of adults. Organisations contributing to effective inter-agency working can achieve this through creative joint working partnerships that focus on positive outcomes for the individual(s). Co-operation between organisations that take a broad community approach to establishing safeguarding arrangements, working

together on prevention strategies and awareness raising also supports the aims and objectives of Health and Wellbeing Boards, and Community Safety Partnership. ([See Appendix 4](#))

Local authorities and partner organisations should co-operate in order to deliver effective safeguarding, both at a strategic level and in individual cases, where they may need to ask one another to take specific action in that case.

[Section 6, the Care Act 2014](#)<sup>xi</sup> 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, the Care Act 2014](#)<sup>xii</sup> 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, Care Act 2014 powers](#)<sup>xiii</sup>, 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:

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

Organisations that refuse to comply with requests for co-operation or information should provide written reasons for the refusal.

The SAB needs to be assured that any shared learning identifies where co-operation has strengthened adult safeguarding and where improvements may be needed, publicising the effectiveness in its annual report.

#### **1.1.4 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](#)<sup>xiii</sup> 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 1998](#)<sup>xiv</sup>, [the Human Rights Act 1998](#)<sup>xv</sup> and the [Crime and Disorder Act 1998](#)<sup>xvi</sup>.

As a general principle 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](#)<sup>xvii</sup>

Partner organisations may be asked to share information through agreed information sharing protocols. SCIE has produced helpful [practice guidance](#).<sup>xviii</sup> Each SAB should have a protocol in place for information sharing, with clear governance on how it will be implemented.

Berkshire has a joint [Information Sharing Protocol](#).

### 1.1.5 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

1998. 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](#)<sup>vii</sup>, and whether sharing it will be in the person's best interest.

The Data Protection Act 1998 should not be a barrier to sharing information. It provides a framework to ensure that personal information about living persons is shared appropriately.

## 1.2 Wellbeing

[Section 1 of the Care Act 2014](#)<sup>xix</sup> 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](#)<sup>xx</sup> ([See Procedures section 4](#)).

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; and the case study below helps illustrate this.*

*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

All organisations working with adults who are or may be at risk of abuse and neglect, must aim to ensure that they remain safeguarded from it. This should underpin every activity through consistent safeguarding adults work. This includes any safeguarding activity that is outside the scope of a Section 42 Care Act 2014 enquiry.

Wellbeing is central to the NHS strategies encompassed within the [Compassion in Practice programme](#)<sup>xxi</sup> and the [Ministry of Justice commitment to support victims](#)<sup>xxii</sup>. The wellbeing principle should apply to all agencies involved in safeguarding adults.

### **1.3 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.