

Safeguarding Service Users from Abuse or Harm: The Policy Context: In-depth

Summary

MKEC first priority is to keep their service users safe from any form of abuse or harm. Abuse can be a single act or actions repeated over time. Unsafe practices from, say, poor standards of nutrition, hygiene or infection control, neglect of pressure sores or incorrect moving and transferring methods could also be harmful. They would show that the service is failing its users in its duty of care to keep them safe.

This topic covers the statutory framework on safeguarding vulnerable adults from abuse or harm, in line with the Care Act 2014 (and the Social Services and Well-being (Wales) Act 2014), and the Fundamental Standards that are part of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (and equivalent standards for Wales).

It should be used with the [Safeguarding: Developing Sound Practice](#) topic and related policies.

Employers' Duties

The registered manager will:

- be familiar with all current national policies and guidance on the safeguarding of adults who are at risk of abuse and neglect
- be extra vigilant about the safeguarding of service users during the Covid-19 emergency
- comply with all legislative requirements concerning the safeguarding of vulnerable people receiving a service
- regularly review their policies and procedures to ensure that they are in line with the current regulations and statutory guidance
- receive training in all aspects of the safeguarding of adults at risk and provide leadership to their staff on these crucial aspects of their practice
- provide staff with adequate training on safeguarding issues
- produce and maintain policies and procedures on the safeguarding of service users from abuse
- have policies to address possible verbal and physical abuse against their staff
- be familiar with their local adults safeguarding authority procedures

- co-operate with other relevant local organisations on matters relating to abuse and protection, recognising that safeguarding is everyone's responsibility
- support staff who report actual or suspected abuse, including whistleblowers
- obtain full information about staff recruits
- refer staff who have been found guilty of misconduct as a result of harming a service user to the Disclosure and Barring Service (DBS).

Employees' Duties

All care staff who have contact with service users should:

- fully understand their service's policies and procedures on safeguarding its service users from abuse/harm
- continue to receive training as required or recommended by the local area safeguarding adults' authority
- understand their legal requirements to put the best interests of service users over all other interests when it is known or suspected that they are being abused, including abuse by carers or relatives
- understand the implications of any investigations into their own conduct concerning possible abuse of service users
- understand the implications of being found guilty of misconduct by causing harm or injury to service users or putting them at risk of being harmed or injured
- ensure that service users are being fully protected during the Covid-19 emergency.

In Practice

CQC Standards Compliance

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 13

Regulation 13: Safeguarding service users from abuse and improper treatment

The intention of this regulation is to safeguard people who use services from suffering any form of abuse or improper treatment while receiving care and treatment. Improper treatment includes discrimination or unlawful restraint, which includes inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005.

To meet the requirements of this regulation, providers must have a zero tolerance approach to abuse, unlawful discrimination and restraint. This includes:

- 1) neglect
- 2) subjecting people to degrading treatment

- 3) unnecessary or disproportionate restraint
- 4) deprivation of liberty.

Key question: Is It Safe?

Regulation 13 is framed to give CQC the powers to take a tough approach to breaches of safeguarding responsibilities.

The CQC inspection approach is based on its key question, S1: How are people, including children and families, protected from bullying, harassment, avoidable harm and abuse that may breach their human rights? (Revised 2017).

The KLOE sub-questions under S1 (S1–S6) show the evidence sought by inspectors that a care service is complying with its safeguarding responsibilities.

- MKEC are communicating to their staff how people in the service are protected from abuse and avoidable harm.
- Care service staff are protecting their service users from abuse and avoidable harm, and are always helping them to keep their dignity and respect.
- Service users are not being subject to any form of discrimination that could amount to discriminatory abuse.
- Care service staff are recognising the signs of potential abuse and know what to do if safeguarding concerns are raised.
- Service users understand what keeping safe means and are being supported by the service to keep safe.
- Service users know how to raise any concerns about their safety and are being supported by the service to raise them whenever necessary.
- Service users, who are subject to safeguarding alerts, have access to advocates, who can represent their interests in any ensuing investigations.
- Service users' care records show that they are well safeguarded and how.

Quality ratings

The revised ratings characteristics for S1 are summarised and simplified as follows. It is important to look at the whole profile in each rating level as well as the individual characteristics. Services must give high priority to their safeguarding policies and procedures, and auditing systems to comply fully with Regulation 13 and to achieve at least a good quality rating.

- | | |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Outstanding | <ul style="list-style-type: none">• The service has an innovative, creative, comprehensive and inclusive approach to keeping people safe, which is completely |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

person-centred, and in line with equality principles; including where the service is being provided to children and families.

- The service enables and manages positive but safe risk taking.
- Service users are fully involved in keeping themselves and others safe.
- Staff are comprehensively trained and put their training into person-centred safeguarding practice and in promoting equality.
- Service users know they have a right to raise safekeeping concerns and would not hesitate to do so; feeling secure that they will be listened to and supported.

Good

- The service keeps its users consistently safe and protected from bullying, harassment, avoidable harm, neglect and abuse.
- The service has effective safeguarding systems, policies and procedures, and manages safeguarding concerns promptly.
- Where applicable, a service will take a preventive and proactive approach to safeguarding children in line with local policies and strategies.
- Investigations, where needed, are thorough, open, transparent and objective.
- The service respects people's rights, including the right to equal treatment, and, where it must intervene to keep people safe, it acts in their best interests.
- All staff have a comprehensive awareness and understanding of abuse (ie are well-trained) and know what to do to keep people safe from abuse and avoidable harm.
- Service users can raise concerns without fear of recrimination in line with the service's safeguarding policies.

Requires Improvement

- The service does not give safeguarding sufficient priority so that its users are not always safe and protected from abuse and neglect.
- Because safeguarding is not given sufficient priority, staff are not always aware of concerns and might not respond promptly to them.
- The service might not be properly engaged in local safeguarding arrangements; including regarding any services provided to

children and families, and the approach being taken might not be sufficiently child-centred.

- Staff might not fully understand or carry out the service's safeguarding policies and procedures.
- Staff safeguarding training is not comprehensive or up to date, and, these shortfalls are reflected in their practice.
- Neither staff nor service users know how to raise concerns and are not comfortable in doing so.
- They might not get proper support if they do raise concerns.

Inadequate

- There is evidence that service users have experienced, or are at significant or immediate risk of, bullying, harassment, avoidable harm, neglect or abuse.
- People do not have their human rights respected and equality is not promoted.
- Staff are not up to date with safeguarding training, and do not follow service or local procedures when required.
- Staff do not recognise or respond appropriately to abuse.
- Neither service users nor staff are supported to raise safeguarding concerns, and they can feel actively discouraged or even fearful about doing so.

Defining Adult Abuse/Harm

Safeguarding policies are framed around a definition of abuse based on the following.

Abuse of a vulnerable adult can occur:

- from a single event or a series of repeated harmful acts
- because of failure to act to prevent or stop people from being abused
- within an otherwise trusting relationship.

Abuse is likely to be one or more of the following:

- physical, including bullying and harassment
- psychological
- financial
- sexual

- neglect, including self-neglect and acts of omission (as described in Regulation 13 of the Fundamental Standards).

It can also be experienced as a result of discrimination (discriminatory abuse) and as behaviour that is built into some organisational or institutional cultures (institutional abuse).

The Statutory Guidance to the Care Act 2014 (Chapter 14) describes other forms of abuse that fall within the statutory responsibilities of local authorities and other public bodies. They include domestic abuse/violence and modern slavery (including sexual exploitation, etc). (See also [Safeguarding: Developing Sound Practice](#) topic.)

The Safeguarding Vocabulary

“Safeguarding” has become accepted as the term to use in preference to “protection”, certainly in headline terms. This is a more general term that relates to all aspects of a person’s welfare, while “protection” refers to “investigation and intervention where it is suspected that abuse may have occurred”.

The replacement of “vulnerable adult” by “adult at risk” follows the practice adopted in Scotland under its Adult Support and Protection (Scotland) Act 2007, and is thought to provide a clearer understanding of the safeguarding issues to be addressed.

The Association of Directors of Adult Services (ADASS) in its *Safeguarding Adults 2011* statement, also expressed a preference for the replacement of “abuse” by “harm”. However, the Care Act 2014 statutory guidance (Chapter 14) uses both terms, usually “abuse” as the actions that result in “harm” as the outcome. Similarly, a person could be considered “at risk” of abuse and, therefore, at risk of being harmed.

Some local safeguarding authorities have accordingly reframed their policies in “adults at risk” terms and to change the use of the word “abuse” to “harm”. MKEC are thus advised to check local usage and amend their policies in line with local practice.

Government Safeguarding Policies

Chapter 14 “Safeguarding” of the updated (2018) statutory guidance to the Care Act 2014 indicates that local safeguarding arrangements and developments should be underpinned by the following six principles:

- empowerment — supporting people to make decisions and have a say in their care
- protection — support and representation for those in greatest need
- prevention — it is better to act before harm occurs
- proportionality — safeguarding must be built on proportionality and a consideration of people’s human rights
- partnership — local solutions through services working with their communities

- accountability — safeguarding practice and arrangements should be accountable and transparent.

In addition, the guidance emphasises the importance of taking a broad community approach to establishing safeguarding arrangements. All partner organisations must recognise that adult safeguarding arrangements are there to protect individuals. (See [Making Safeguarding Personal](#).)

The Social Services and Well-being (Wales) Act 2014) takes a similar person-centred approach to the Care Act.

Local Safeguarding Adults Boards (SABs)

Under the Care Act 2014, local authorities must set up a Safeguarding Adults Board (SAB) — many had in fact done so prior to the Act. The main purpose of a SAB is to make sure that there are safeguarding arrangements in place to help and protect vulnerable adults in its area. The Board in terms of membership and its running will reflect a multi-agency approach to keeping people safe from harm who (as described in 14.2 of the statutory guidance):

- have needs for care and support (whether or not the local authority is meeting any of those needs)
- are experiencing, or at risk of, abuse or neglect
- are unable to protect themselves from either the risk of, or the experience of abuse or neglect.

SABs have a statutory duty to make enquiries into and take appropriate action in relation to reports of actual or suspected abuse causing harm to anyone who meets the above criteria and who are over the age of 18.

SABs also are responsible for ensuring that care services (among others) provide all the necessary training for their staff and volunteers on the local policy, procedures and professional practices. SABs should expect that organisations provide:

- basic mandatory induction training to ensure that staff are aware that abuse can take place and have a duty to report it
- more detailed awareness training, which should include training on recognition of abuse and the procedures that are to be followed in their particular organisation
- specific training for those who will be undertaking enquiries, which could include care service managers
- training for registered persons, elected members and members of public bodies advanced and post — qualifying training for those with specialist responsibilities, eg for carrying out serious case reviews.

MKEC should note that many local authorities and health service partners are developing Multi-Agency Safeguarding Hubs (MASH) that cover both children's and vulnerable adults' safeguarding.

Making Safeguarding Personal

As also reflected in the revised Care Act statutory guidance, local safeguarding policies are being underpinned by the Making Safeguarding Personal (MSP) initiative, which has been developed by the Local Government Association (LGA) with the Association of Directors of Adult Social Services (ADASS), and other national partners. The MSP aims for:

- a person-centred approach so that safeguarding is done with, not to, people
- practice that achieves meaningful improvement to people's circumstances rather than just on "investigation" and "conclusion"
- an approach that utilises social work skills rather than just "putting people through a process"
- an approach that enables practitioners, families, teams and SABs to know what difference has been made.

The programme was started to support the implementation of the Care Act 2014, and has published several reports, including *Making Safeguarding Personal Temperature Check* (2016) to help local organisations assess their progress with the recommended approach. (For further information, see [LGA](#) and [ADASS](#) websites.)

Responsibilities of MKEC

A care service should have adult safeguarding policies and procedures in line with local policies (which in turn are in line with the Care Act 2014 and its statutory guidance (revised 2018)).

The Care Act 2014 statutory guidance indicates that a care service's policies and accompanying procedures should include:

- a commitment to promoting wellbeing, preventing harm and responding effectively if concerns are raised
- statements of roles and responsibilities to ensure that all staff and people associated with the service understand their roles and responsibilities and limitations to their roles
- what people must do when dealing with allegations of abuse, which could occur under different circumstances
- how to respond to emergencies that require actions to ensure immediate the processes for initially assessing abuse and neglect and deciding when intervention is appropriate

- the arrangements for reporting to the police, urgently when necessary
- how the service can access support and advice from the SAB (or MASH), police and other services together with full contact details
- how to record allegations of abuse and neglect, the making of alerts and all subsequent actions
- how issues arising are addressed, eg seeking the consent of the individual concerned and decisions are made, eg to alert the police and/or SAB/CQC/other persons or organisation at the different stages in the process.

Alerting the SAB/MASH to incidents of abuse/harm

If a care manager has evidence or suspicion that abuse/harm has occurred or is likely to occur, they should refer the matter to the relevant local safeguarding adults' board — this is known as an “alert”.

The local authority safeguarding staff will usually decide whether to hold a multidisciplinary strategy meeting to determine the appropriate form of action. The outcome will determine how the service should be involved and if it will need to carry out its own staff disciplinary investigation, or whether some other form of investigation will be needed by the police, local authority and/or the Care Quality Commission (CQC).

Notifying the Care Quality Commission

MKEC should also note that Regulation 18(e) “Notification of Other Incidents” of the Care Quality Commission Regulations 2009 includes a requirement to notify the CQC of “any abuse or allegation of abuse in relation to a service user”. A footnote describes abuse to mean:

- sexual abuse
- physical or psychological ill-treatment
- theft, misuse or misappropriation of money or property, or
- neglect and acts of omission which cause harm or place at risk of harm.

MKEC must therefore ensure that they report to CQC all incidents of alleged or actual abuse that fall within the scope of the regulation without delay using their online forms, and can be penalised for failing to do so. In borderline instances, it is advisable to make the notification. The same incidents are likely to be that will need to be reported to the local safeguarding adults board at the same time.

Other actions

A manager who receives a report of actual or suspected abuse should take immediate action to stop further harm to the service user concerned. The abused service user may

need help, support or additional protection. The manager should then raise an alert with the local safeguarding authority without delay.

The manager might also refer the matter to the police depending on the seriousness of the abuse. The service has then a duty to co-operate with any other appropriate agency in the course of further investigations. A police investigation, which will be based on evidence of a criminal offence having been committed, will always receive priority in the implementation of any agreed strategy.

MKEC will then need to ensure that they do not impede the police in any way from completing their investigation and contaminate the evidence gathering process. In any individual case they should take advice from the police and SAB about the measures they should take to enable the police to complete their enquiries successfully.

The policy and procedures should detail the actions to be taken in response to allegations, evidence or investigations of any form of abuse.

Managers should refer to their local SAB/MASH website for information on the exact procedures to be followed.

Staff found guilty of abuse/causing harm and, therefore, misconduct must always be referred to the Disclosure and Barring Service (DBS) for possible inclusion on its barred lists.

Consent, Confidentiality and the Sharing of Information

As a general rule a person's consent should be obtained before interventions are made on their behalf or information is passed on about them. In some circumstances this could create a dilemma for care managers if they needed to consider, say, raising an alert with the local safeguarding authority about a service user whom they know is subject to abuse by a third party but who has declined any intervention from outside bodies.

Legal guidance suggests that their wishes can be overruled where, for example, there are risks of other people being harmed, but there will be many cases where they will have to balance the issues involved.

The Care Act 2014 statutory guidance (Chapter 14) provides further information on how consent issues should be addressed within the framework of the Act, including situations where the person to be safeguarded might lack the mental capacity to give their consent on the procedures to be followed following evidence of their being harmed or that they are at risk of being harmed.

The Social Institute for Excellence (SCIE) has produced substantial guidance on these issues, including updated information (January 2019) on the sharing of information and the implications of new data protection laws and on safeguarding during the Covid-19 emergency. (See <https://www.scie.org.uk/consultancy/policies-procedures-review>)

The Role of the CQC

The Care Quality Commission (CQC) role is as follows.

- Checking that MKEC have effective systems and processes to help keep children (eg who are in hospital) and adults safe from abuse and neglect.
- Using its “Intelligent Monitoring” systems to assess risks to adults and children using services and to make sure the right people act at the right time to help keep them safe.
- Acting promptly on safeguarding issues discovered during inspections, raising them with the provider and, if necessary, referring safeguarding alerts to the local authority, police or other relevant body.
- Speaking with service users, staff and relevant others on safeguarding issues.
- Taking regulatory action to correct any shortfalls in the service’s safeguarding arrangements, and to maintain improvements.
- Publishing CQC’s findings about safeguarding in their inspection reports and quality ratings.
- Supporting and sharing information with the local authority when conducting safeguarding inquiries or investigations.
- Explaining its safeguarding role to the public, providers and other organisation so that everyone is clear what it is.
- Sharing information and intelligence where appropriate to help local SABs identify and address safeguarding matters.

Where a safeguarding alert suggests breaches of regulations or lack of fitness of registered persons, the CQC will consider the regulatory action needed and undertake that work in partnership with the other relevant agencies. Otherwise it will pass back any concern raised directly with it for local procedures to be followed.

Safeguarding and the Mental Capacity Act 2005

The Mental Capacity Act 2005, together with its [Code of Practice](#), has important implications for safeguarding policies and practice, particularly in relation to deprivation of liberty.

(For further information, see [Human Rights and Deprivation of Liberty](#) and [Mental Capacity](#) topics.)

Whistleblowing

The CQC has published a guide to help health and social care staff who need to raise concerns about their workplace, because patients or people receiving care, colleagues or whole organisations might be affected. [Raising a Concern with CQC: A Quick Guide for Health](#)

and Care Staff about Whistleblowing gives advice on speaking out about poor care and what legal protection staff have if they do raise concerns.

As part of a drive to ensure that staff can raise “genuine concerns” about standards “without fear of reprisal”, the [whistleblowing helpline for NHS staff](#) has been extended to staff and employers in the social care sector. CQC contact details are Report a concern if you are a member of staff - CQC website address:

<https://www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-staff>

Give feedback on care CQC website address: <https://www.cqc.org.uk/give-feedback-on-care>

Telephone number 03000 616161

Public Interest Disclosure Act 1998

Care service managers and owners should note that the Public Interest Disclosure Act 1998 protects all workers, including contract and agency workers whose work is controlled by the employer, allowing them to make a public disclosure in good faith if they have a reasonable belief that one of the following events has occurred, is occurring or is likely to occur:

- a criminal offence
- a failure to comply with a legal obligation
- a miscarriage of justice
- a risk to someone’s health or safety
- damage to the environment
- concealment of any of the above events.

Managers must make sure that an employee will not be penalised as a result of their disclosure, such as dismissal, victimisation or withholding of a pay rise. If they do suffer following a disclosure, they may seek redress through an employment tribunal.

Training

To comply with the current statutory requirements and to deal confidently with protection and abuse issues, care service managers will need training in the following areas:

- recognising abuse/harm wherever it occurs
- investigating allegations of abuse/harm
- national and local safeguarding policies and procedures

- handling verbal and physical abuse from service users and others
- supporting staff who report actual or suspected abuse/harm, including whistleblowers
- obtaining information about staff recruits
- passing on information appropriately on staff who are found to be unsuitable for work with adults at risk of harm.

Where possible the training of managers relating to abuse should be multi-agency in nature. Local Safeguarding Adults' Authorities should be contacted to ensure that all training is integrated with current local practice and guidelines and to enlist staff on their training programmes.

All new and existing staff must receive training in safeguarding principles and practice, which should be regularly refreshed and updated. Staff new to care work must achieve the learning outcomes for Standard 10 Safeguarding Adults and 11 Safeguarding Children of the Care Certificate framework (and equivalent learning outcomes for Wales and Scotland).

Checks should be made that established staff have achieved the Care Certificate standards and refresher training using the Care Certificate framework should be provided where indicated.

List of Relevant Legislation

- Data Protection Act 2018
- [Care Act 2014](#)
- Social Services and Well-being (Wales) Act 2014
- Equality Act 2010
- Health and Social Care Act 2008
- Adult Support and Protection (Scotland) Act 2007
- Mental Capacity Act 2005 (and Deprivation of Liberty Safeguards)
- Human Rights Act 1998
- Public Interest Disclosure Act 1998
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

Further Information

Publications

- *Care and Support Statutory Guidance: Issued Under the Care Act 2014* (updated October 2018), Department of Health and Social Care, available on the [GOV.UK website](#)

- *Code of Conduct for Healthcare Support Workers and Adult Social Care Workers in England* (2013), Department of Health and Social Care, Skills for Care and Skills for Health, available on the [Skills for Health website](#)
- *Guidance for Providers on Meeting the Regulations* (2015)
- *How CQC Regulates: NHS GP Practices and GP Out-of-hours Services — Provider Handbook* (2016), Care Quality Commission, available on the [CQC website](#)
- *In Safe Hands* (Wales Guidance), available at www.gov.wales
- *Key Lines of Enquiry, Prompts and Ratings Characteristics for Adult Social Care Services* (revised 2017), Care Quality Commission, available on the [CQC website](#)
- *Mental Capacity Act 2005 Code of Practice*, [Department for Constitutional Affairs](#)
- *Positive and Proactive Care: Reducing the Need for Restrictive Interventions* (2014), Department of Health and Social Care, available on the [GOV.UK website](#)
- *Providers' Handbook*, Care Quality Commission, available on the [CQC website](#)
- *Raising a Concern with CQC: A Quick Guide for Health and Care Staff About Whistleblowing*, Care Quality Commission, available on the [CQC website](#)
- *Safeguarding Adults at Risk of Harm: A Legal Guide for Practitioners* (Adults' Services SCIE Report 50) (2011, sections updated 2019), Social Care Institute for Excellence, available on the [SCIE website](#)
- *Safeguarding Adults: A National Framework of Standards for Good Practice and Outcomes in Adult Protection Work*, [Association of Directors of Social Services](#)
- *Statement of Government Policy on Adult Safeguarding* (2011), Department of Health and Social Care, available on the [GOV.UK website](#)

Organisations

- **Action on Elder Abuse**
- <http://www.elderabuse.org.uk>
- Action on Elder Abuse works to protect, and prevent the abuse of, vulnerable older adults — the only charity in the UK and Ireland working exclusively on the issue.
- **Age UK**
- <https://www.ageuk.org.uk>
- Age UK was formed from a merger between Age Concern and Help the Aged and is the leading organisation to advocate for the rights and interests of older people. Its range of factsheets and other information is especially informative.
- **Association of Directors of Adult Social Services (ADASS)**
- <https://www.adass.org.uk>
- The Association website includes guidance on a range of subjects relevant to the conduct of a care service.
- **Care Inspectorate Wales (CIW)**
- <http://www.careinspectorate.wales>

- The inspectorate is the independent regulator of social care and childcare in Wales. It registers, inspects and takes action to improve the quality and safety of services.
 - **Care Quality Commission (CQC)**
 - <https://www.cqc.org.uk>
 - The Care Quality Commission is the regulatory body for health and social care in England. It monitors, inspects and regulates health and social care services.
 - **Local Government Association (LGA)**
 - <http://www.local.gov.uk>
 - The LGA is the national voice of local government, working with councils to support, promote and improve local government.
 - **Speak Up — NHS Whistleblowing Service**
 - <https://speakup.direct>
 - Speak Up is delivered by Social Enterprise Direct on behalf of the Department of Health. The service is an innovative and dynamic approach specifically aimed at employees and managers of NHS and Social Care organisations in England and Wales who want to report concerns about wrongdoing, malpractice or fraud. The number is 0800 072 4725 for a free, independent and confidential service. There is also an email address and an online form which can be completed.
 - **Protect (formerly Public Concern at Work)**
 - <http://www.pcaw.co.uk>
 - Protect aims to make whistleblowing work for individuals, organisations and communities, and to protect whistleblowers from recrimination.
 - **Social Care Institute for Excellence (SCIE)**
 - <https://www.scie.org.uk>
 - The Social Care Institute for Excellence (SCIE) identifies good practice and embeds it in everyday social care provision; providing briefings on research and latest developments and training resources on a range of topics.
-