

## **Safeguarding Adults Policy and Procedures**

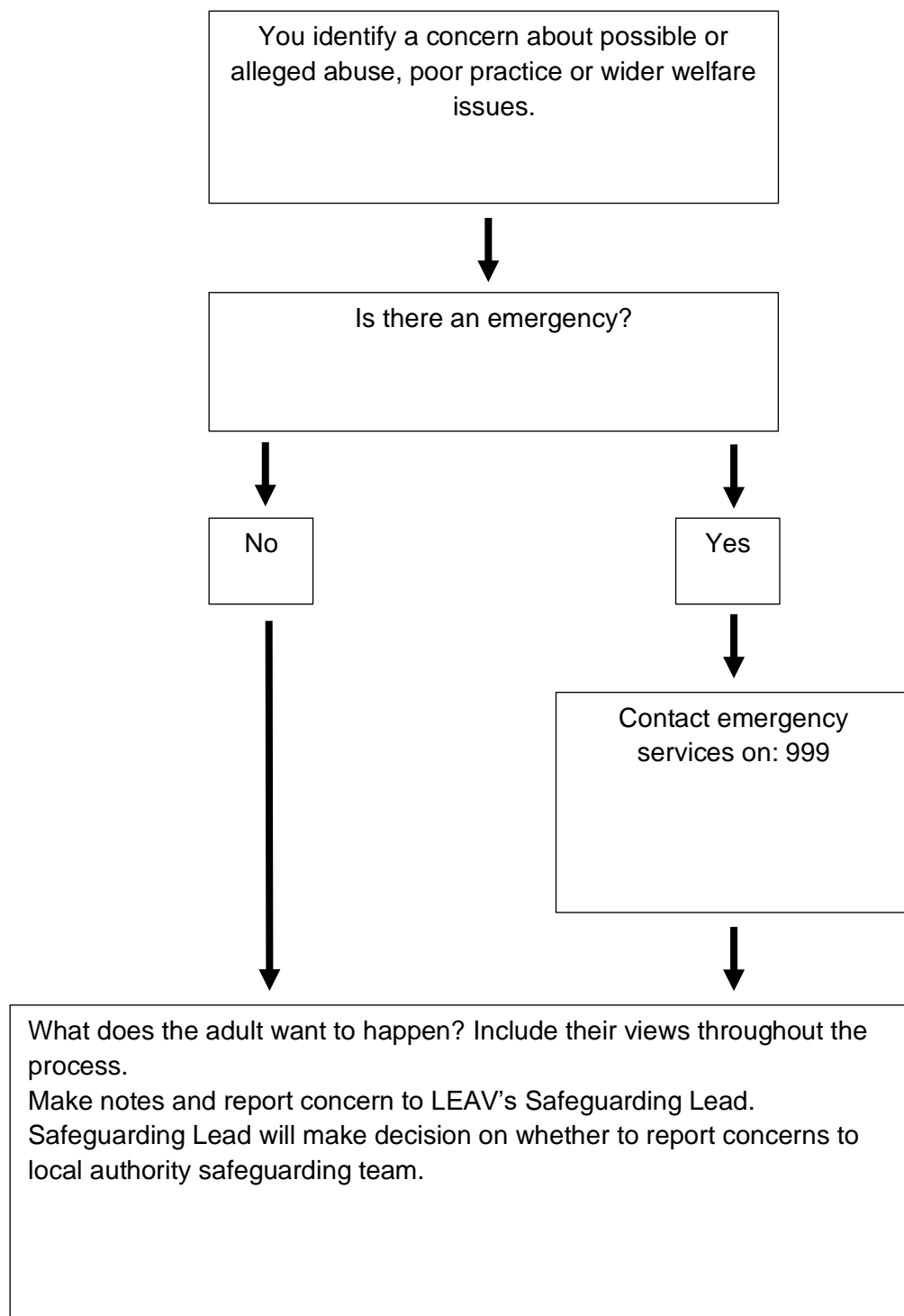
**Lambeth Elderly Association from Vietnam (LEAV)**

## Do you have concerns about an adult?

### Safeguarding is everyone's responsibility.

If you have concerns about an adult's safety and or wellbeing you must act on these.

It is not your responsibility to decide whether or not an adult has been abused. It is however your responsibility to act on any concerns.



# **The Lambeth Elderly Association from Vietnam's (LEAV) Safeguarding Adults Policy and Procedures**

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## **Introduction**

LEAV provides services to a wide range of Vietnamese elderly people who reside in Lambeth and surrounding boroughs. We carry out most of our work at our community centre, but we also undertake home visits to support our least mobile clients.

We recognise that some of our clients will be adults with care and support needs and we acknowledge that adults with these needs can be the victims of abuse and we have therefore adopted the procedures set out in this safeguarding policy in accordance with statutory guidance.

LEAV is committed to creating and maintaining a safe and positive environment and accepts our responsibility for safeguarding the welfare of all adults involved in activities or services offered by LEAV in accordance with the Care Act 2014.

LEAV's safeguarding adults policy and procedures apply to all individuals involved in LEAV's activities and services. All staff members and volunteers of LEAV can play an important part in promoting the safety and protection of the vulnerable adults with whom LEAV works. The aim of this policy is to ensure that any vulnerable adults are protected and kept safe from harm while they are in receipt of services from LEAV.

## **Principles**

The guidance given in the policy and procedures is based on the following principles:

- All adults, regardless of age, ability or disability, gender, race, religion, ethnic origin, sexual orientation, marital or gender status have the right to be protected from abuse and poor practice to be in safe environments.
- LEAV will seek to ensure that our services are inclusive and make reasonable adjustments for any ability, disability or impairment, we will also commit to continuous development, monitoring and review
- The rights, dignity and worth of all adults will always be respected
- We recognise that ability and disability can change over time, such that some adults may be additionally vulnerable to abuse, in particular those adults with care and support needs

- We all have a shared responsibility to ensure the safety and wellbeing of all adults and will act appropriately and report concerns whether these concerns arise within the LEAV centre or in the wider community
- All allegations will be taken seriously and responded to quickly in line with LEAV's Safeguarding Adults Policy and Procedures
- LEAV recognises the role and responsibilities of the statutory agencies in safeguarding adults and is committed to complying with the procedures of the Local Safeguarding Adults Boards.

### **The six principles of adult safeguarding**

The Care Act 2014 sets out the following principles that should underpin safeguarding of adults:

- **Empowerment** - People being supported and encouraged to make their own decisions and informed consent.  
"I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens."
- **Prevention** – It is better to take action before harm occurs.  
"I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help."
- **Proportionality** – The least intrusive response appropriate to the risk presented.  
"I am sure that the professionals will work in my interest, as I see them and they will only get involved as much as needed."
- **Protection** – Support and representation for those in greatest need.  
"I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want."
- **Partnership** – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse  
"I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me."
- **Accountability** – Accountability and transparency in delivering safeguarding.

“I understand the role of everyone involved in my life and so do they.”

### **Making Safeguarding personal**

‘Making safeguarding personal’ means that adult safeguarding should be person-led and outcome-focussed. 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, well-being and safety.

Wherever possible discuss safeguarding concerns with the adult to get their view of what they would like to happen and keep them involved in the safeguarding process, seeking their consent to share information outside of the organisation where necessary.

### **Wellbeing Principle**

The concept of wellbeing is threaded throughout the Care Act and it is one that is relevant to adult safeguarding. Wellbeing is different for each of us however the Act sets out broad categories that contribute to our sense of wellbeing. By keeping these themes in mind, we can all ensure that adult participants can take part in LEAV’s services and activities fully. The components of wellbeing are:

- 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 their day-to-day life (including over care and support provided and the way they are provided)
- Participation in work, education, training or recreation
- Social and economic wellbeing
- Domestic, family and personal domains
- Suitability of the individual’s living accommodation
- The individual’s contribution to society.

### **Guidance and legislation**

The practices and procedures within this policy are based on the principles contained within the UK legislation and Government Guidance and have been developed to complement the Safeguarding Adults Boards policy and procedures

They take the following into consideration:

- The Care Act 2014

- The Protection of Freedoms Act 2012
- Domestic Violence, Crime and Victims (Amendment) Act 2012
- The Equality Act 2010
- The Safeguarding Vulnerable Groups Act 2006
- Mental Capacity Act 2005
- Sexual Offences Act 2003
- The Human Rights Act 1998
- The Data Protection Act 1998
- The General Data Protection Regulation 2018

## **Definitions**

To assist working through and understanding this policy a number of key definitions need to be explained:

**Adult** is anyone aged 18 or over.

**Adult at Risk** is a person aged 18 or over who:

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

**Adult in need of care and support** is determined by a range of factors including personal characteristics, factors associated with their situation or environmental and social factors.

Naturally, a person's disability or frailty does not mean that they will inevitably experience harm or abuse. In the context of safeguarding adults, the likelihood of an adult in need of care and support experiencing harm or abuse should be determined by considering a range of social, environmental and clinical factors, not merely because they have an impairment or illness.

In recent years there has been a marked shift away from using the term 'vulnerable' to describe adults potentially at risk from harm or abuse.

**Abuse** is a violation of an individual's human and civil rights by another person or persons (See section 4 for further explanations).

**Adult safeguarding** is protecting a person's right to live in safety, free from abuse and neglect.

**Capacity** refers to the ability to make a decision at a particular time, for example when under considerable stress. The starting assumption must always be that a person has the capacity to make a decision unless it can be established that they lack capacity (MCA 2005).

### **Types of abuse and neglect**

There are different types and patterns of abuse and neglect and different circumstances in which they may take place. The Care Act 2014 identifies the following as an illustrative guide and is not intended to be exhaustive list as to the sort of behaviour which could give rise to a safeguarding concern.

**Self-neglect** – this covers a wide range of behaviour: neglecting to care for one's personal hygiene, health or surroundings.

**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.

**Domestic abuse and coercive control** – including psychological, physical, sexual, financial and emotional abuse. It also includes so-called 'honour' based violence. It can occur between any family members.

**Discriminatory abuse** – discrimination is abuse which centres on a difference or perceived difference particularly with respect to race, gender or disability or any of the protected characteristics of the Equality Act.

**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.

**Physical abuse** – including hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions.

**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.

**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.

**Neglect** – including ignoring medical or physical care needs, failure to provide access to appropriate health social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating.

**Emotional or psychological abuse** – this includes threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.

**Not included in the Care Act 2014 but also relevant:**

**Cyber bullying** – cyber bullying occurs when someone repeatedly makes fun of another person online or repeatedly picks on another person through emails or text messages, or uses online forums with the intention of harming, damaging, humiliating or isolating another person. It can be used to carry out many different types of bullying (such as racist bullying, homophobic bullying, or bullying related to special educational needs and disabilities) but instead of the perpetrator carrying out the bullying face-to-face, they use technology as a means to do it.

**Forced marriage** – forced marriage is a term used to describe a marriage in which one or both of the parties are married without their consent or against their will. A

forced marriage differs from an arranged marriage, in which both parties consent to the assistance of a third party in identifying a spouse. The Anti-social Behaviour, Crime and Policing Act 2014 make it a criminal offence to force someone to marry. The forced marriage of adults with learning disabilities occurs when the adult does not have the capacity to consent to the marriage.

**Mate crime** – a ‘mate crime’ as defined by the Safety Net Project as ‘when vulnerable people are befriended by members of the community who go on to exploit and take advantage of them. It may not be an illegal act but still has a negative effect on the individual.’ Mate Crime is carried out by someone the adult knows and often happens in private. In recent years there have been a number of Serious Case Reviews relating to people with a learning disability who were murdered or seriously harmed by people who purported to be their friend.

**Radicalisation** – the aim of radicalisation is to attract people to their reasoning, inspire new recruits and embed their extreme views and persuade vulnerable individuals of the legitimacy of their cause. This may be direct through a relationship, or through social media.

### **Signs and indicators of abuse and neglect**

Abuse can take place in any context and by any kind of perpetrator. Abuse may be inflicted on LEAV’s service users or volunteers by anyone including the victim’s family members or other service users. It also possible that volunteers or staff may suspect that someone is being abused or neglected outside of the LEAV centre.

There are many signs and indicators that may suggest someone is being abused or neglected. These include but are not limited to:

- Unexplained bruises or injuries
- Belongings or money going missing
- Losing or gaining weight / becoming unkempt
- A change in the behaviour or confidence
- Self-harm
- Fear of a particular group or individual
- Disclosure of abuse
- Overt bullying.

## **What to do if you have a concern or someone raises concerns with you.**

- It is not your responsibility to decide whether or not an adult has been abused. It is however everyone's responsibility to respond to and report concerns.
- If you are concerned someone is in immediate danger, contact the police on 999 straight away. Where you suspect that a crime is being committed, you must involve the police.
- If you have concerns and/or you are told about possible or alleged abuse, poor practice or wider welfare issues you must report this to the LEAV Safeguarding Lead, or, if the Safeguarding Lead is implicated, then report to the LEAV Management Board.
- Before raising your concern with the LEAV Safeguarding Lead, remember *Making Safeguarding Personal*. It is good practice to seek the adult's views on what they would like to happen next and to inform the adult you will be passing on your concern.
- The person should then be as involved in the safeguarding process as they want to be.

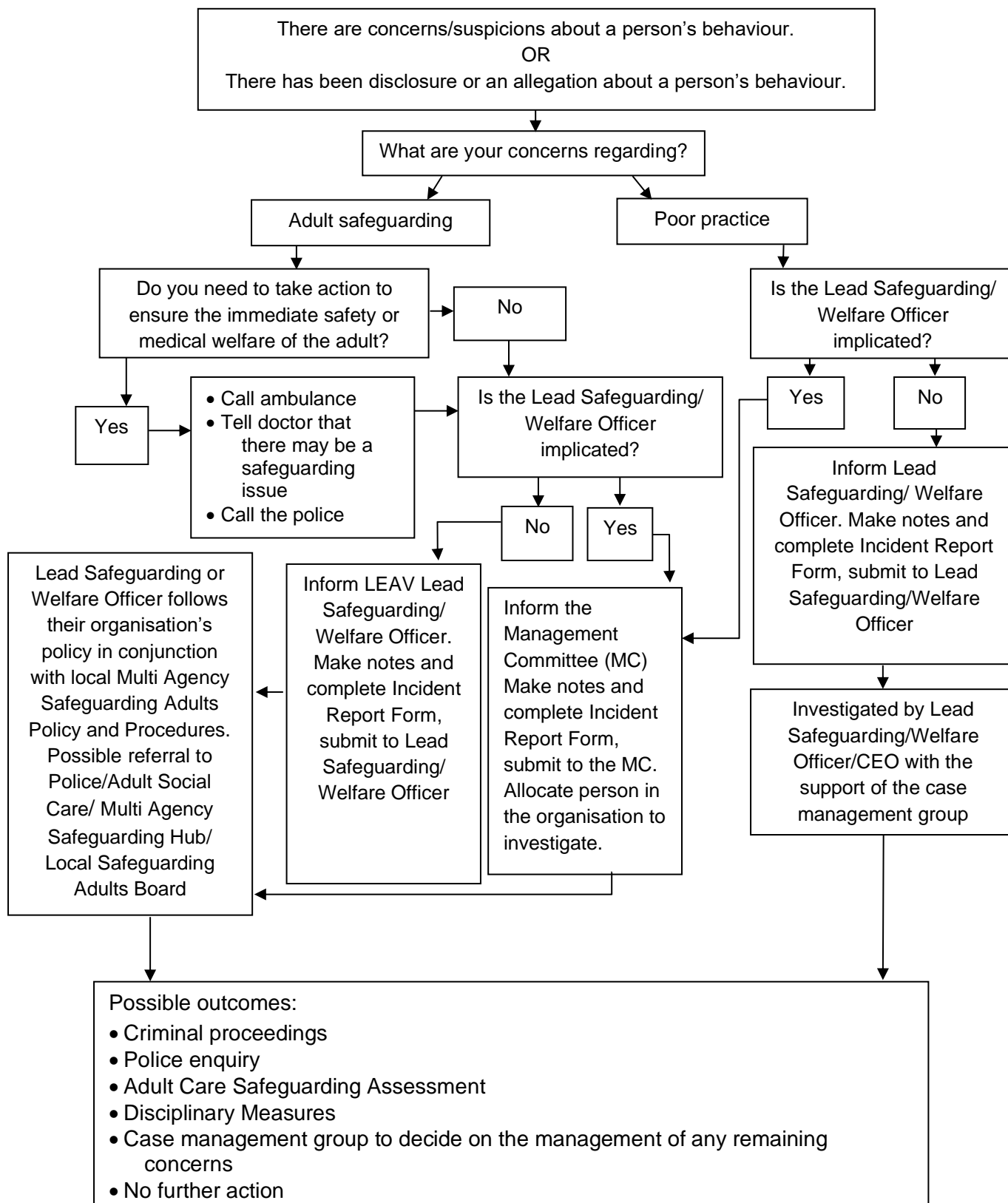
### **1. How to respond to a concern**

- Make a note of your concerns
- Make a note of what the person has said using his or her own words as soon as practicable. Complete an Incident Form and submit to the LEAV Safeguarding Lead
- Remember to make safeguarding personal. Discuss your safeguarding concerns with the adult, obtain their view of what they would like to happen, but inform them it's your duty to pass on your concerns to your lead safeguarding or welfare officer
- Describe the circumstances in which the disclosure came about.
- Take care to distinguish between fact, observation, allegation and opinion. It is important that the information you have is accurate
- Be mindful of the need to be confidential at all times, this information must only be shared with your Safeguarding Lead or others on a strictly need-to-know basis

- If the matter is urgent and relates to the immediate safety of an adult at risk then contact the emergency services immediately.

# Safeguarding Adults Flowchart

## Dealing with Concerns, Suspicions or Disclosure



**Remember to involve the adult at risk throughout the process wherever possible and gain consent for any referrals to social care if the person has capacity.**

## **Roles and responsibilities of those within the Lambeth Elderly Association from Vietnam (LEAV)**

### **LEAV's responsibilities**

- To ensure that staff and volunteers are aware of this policy and are adequately trained
- To notify the appropriate agencies if abuse is suspected
- To cooperate with other agencies and the local authority in safeguarding investigations
- To DBS check all volunteers and staff that have direct access to vulnerable adults
- To report concerns in regard to a volunteer or staff member to the Disclosure and barring service.
- To check at recruitment and at regular intervals Staff and volunteers DBS's (every three years) and at recruitment all applicants references (see screening policy)
- To ensure that this policy is kept up to date
- Any concerns raised will be recorded on the appropriate form and spreadsheet and notes kept on the database. All information will be kept confidential (see confidentiality policy), these concerns will be kept for as long as necessary.

### **LEAV is committed to having the following in place:**

- A Safeguarding Lead to produce and disseminate guidance and resources to support the policy and procedures
- A clear line of accountability within the organisation for work on promoting the welfare of all adults
- Procedures for dealing with allegations of abuse or poor practice against members of staff and volunteers
- A Disciplinary Panel, as required for a given incident, if appropriate and should a threshold be met
- Arrangements to work effectively with other organisations to safeguard and promote the welfare of adults, including arrangements for sharing information
- Appropriate whistle-blowing procedures and an open and inclusive culture that enables safeguarding and equality and diversity issues to be addressed.

### **Good practice, poor practice and abuse**

It can be difficult to distinguish poor practice from abuse, whether intentional or accidental. It is not the responsibility of any individual involved in LEAV to make judgements regarding whether or not abuse is taking place, however, all LEAV personnel have the responsibility to recognise and identify poor practice and potential abuse, and act on this if they have concerns.

**Review date**

This policy will be reviewed every two years or sooner in the event of legislative changes or revised policies and best practice. Date of last review: February 2022.

Safeguarding Lead: My Diep, [myd@leav.org.uk](mailto:myd@leav.org.uk)

## Appendix 1 Incident Report Form

### Safeguarding Adults Incident form

To be completed as fully as possible if you have concerns regarding an adult. It is important to inform the adult about your concerns and that you have a duty to pass the information onto the safeguarding officer. The safeguarding officer will then look at the information and start to plan a course of action, in conjunction with yourself, the adult involved and if necessary social care or other relevant organisations.

Section 1 – details of adult at risk	
Name of adult	
Address	
Date of Birth	
Age if date of birth not known	
GP practice (if known)	
Contact number	
Section 2 – your details	
Name	
Contact phone number(s)	
Email address	
Line manager or alternative contact	
Name of organisation/ club	
Your Role in organisation	
Section 3 – details of Concern	



Detail what you have seen/been told/other that makes you believe the adult at risk is being abused or is at risk of abuse (include dates/times/evidence from records/photos etc.)

Section 4 - Abuse type(s) – please tick as many as you feel may apply		
Physical	Psychological	Financial
Sexual	Discriminatory	Organisational (formerly institutional)
Neglect	Hate incident/crime	Mate Crime
Internet abuse	Modern slavery	Female genital Mutilation (FGM)
Forced Marriage	Domestic abuse	Radicalisation
Self-Neglect		
Section 5 - Have you discussed your concerns with the adult? What are their views, what outcomes have they stated they want (if any)?		
Section 5A – Reasons for not discussing with the adult		
Adult lacks capacity		
Adult unable to communicate their views		
Discussion would increase the risk		
State why the risks would increase		
Section 5B - Have you discussed your concerns with anyone else? E.g. carer/parent. What are their views?		

Section 6 – What action have you taken /agreed with the adult to reduce the risks?	
Information passed to Safeguarding Officer, confirm details:	Referral to Social Care Confirm details:
Contact with the police Confirm details:	Referral to other agency – please confirm details:
Other – please state what	
No action agreed – state why	
Section 7 – Risk to others	
Are any other adults at risk Yes/No – delete as appropriate	
If yes state why and what actions have been taken to address these?	
Are any children at risk Yes/No Delete as appropriate	
If yes state why and what actions have been taken to address these?	
Signed:	
Date:	

OFFICE USE ONLY

Section 8 – sharing the concerns (To be completed by Safeguarding Lead)

Details of your contact with the adult at risk. Have they consented to information being shared outside of LEAV?

Details of contact with the Social Care Team where the adult at risk lives – advice can be still sought without giving personal details if you do not have consent for a referral.

Details of any other agencies contacted

Details of the outcome of this concern

## **Appendix 2**

### **Guidance and information**

#### **Making Safeguarding Personal**

There has been a cultural shift towards *Making Safeguarding Personal* within the safeguarding process. This is a move from prioritising outcomes demanded by bureaucratic systems. The safeguarding process used to involve gathering a detailed account of what happened and determining who did what to whom. Now the outcomes are defined by the person at the centre of the safeguarding process.

The safeguarding process places a stronger emphasis on achieving satisfactory outcomes that take into account the individual choices and requirements of everyone involved.

“What good is it making someone safer if it merely makes them miserable?” – Lord Justice Mundy, “What Price Dignity?” (2010)

What this means in practice is that adults should be more involved in the safeguarding process. Their views, wishes, feelings and beliefs must be taken into account when decisions are made.

The Care Act 2014 builds on the concept, stating that: “We all have different preferences, histories, circumstances and lifestyles so it is unhelpful to prescribe a process that must be followed whenever a concern is raised.”

However, the Act is also clear that there are key issues that should be taken into account when abuse or neglect are suspected, and that there should be clear guidelines regarding this.

<https://www.local.gov.uk/topics/social-care-health-and-integration/adult-social-care/making-safeguarding-personal>

## **Capacity – Guidance on Making Decisions**

The issue of capacity or decision making is a key one in safeguarding adults. It is useful for organisations to have an overview of the concept of capacity.

We make many decisions every day, often without realising. We make so many decisions that it's easy to take this ability for granted.

But some people are only able to make some decisions, and a small number of people cannot make any decisions. Being unable to make a decision is called "lacking capacity".

To make a decision we need to:

- Understand information
- Remember it for long enough
- Think about the information
- Communicate our decision

A person's ability to do this may be affected by things like learning disability, dementia, mental health needs, acquired brain injury, and physical ill health.

The Mental Capacity Act 2005 (MCA) states that every individual has the right to make their own decisions and provides the framework for this to happen.

The MCA is about making sure that people over the age of 16 have the support they need to make as many decisions as possible.

The MCA also protects people who need family, friends, or paid support staff to make decisions for them because they lack capacity to make specific decisions.

Our ability to make decisions can change over the course of a day.

Here are some examples that demonstrate how the timing of a question can affect the response:

- A person with epilepsy may not be able to make a decision following a seizure.
- Someone who is anxious may not be able to make a decision at that point.
- A person may not be able to respond as quickly if they have just taken some medication that causes fatigue.

In each of these examples, it may appear as though the person cannot make a decision. But later in the day, presented with the same decision, they may be able to at least be involved.

The MCA recognises that capacity is decision-specific, so no one will be labelled as entirely lacking capacity. The MCA also recognises that decisions can be about big life-changing events, such as where to live, but equally about small events, such as what to wear on a cold day.

To help you to understand the MCA, consider the following five points:

1. Assume that people are able to make decisions, unless it is shown that they are not. If you have concerns about a person's level of understanding, you should check this with them, and if applicable, with the people supporting them.
2. Give people as much support as they need to make decisions. You may be involved in this – you might need to think about the way you communicate or provide information, and you may be asked your opinion.
3. People have the right to make unwise decisions. The important thing is that they understand the implications. If they understand the implications, consider how risks might be minimised.
4. If someone is not able to make a decision, then the person helping them must only make decisions in their "best interests". This means that the decision must be what is best for the person, not for anyone else. If someone was making a decision on your behalf, you would want it to reflect the decision you would make if you were able to.
5. Find the least restrictive way of doing what needs to be done.

Remember:

- You should not discriminate or make assumptions about someone's ability to make decisions, and you should not pre-empt a best-interest's decision merely on the basis of a person's age, appearance, condition, or behaviour.
- When it comes to decision-making, you could be involved in a minor way, or asked to provide more detail. The way you provide information might influence

a person's ultimate decision. A person may be receiving support that is not in-line with the MCA, so you must be prepared to address this.

### **Consent and Information Sharing**

Workers and volunteers should always share safeguarding concerns in line with their organisation's policy, usually with their safeguarding lead or welfare officer in the first instance, except in emergency situations. As long as it does not increase the risk to the individual, the worker or volunteer should explain to the person that it is their duty to share their concern with their safeguarding lead or welfare officer.

The safeguarding lead or welfare officer will then consider the situation and plan the actions that need to be taken, in conjunction with the adult at risk and in line with the organisation's policy and procedures and local safeguarding adults board policy and procedures.

To make an adult safeguarding referral you need to call the local safeguarding adults team. This may be part of a MASH (Multi-Agency Safeguarding Hub). A conversation can be had with the safeguarding adults team without disclosing the identity of the person in the first instance. If it is thought that a referral needs to be made to the safeguarding adults team, consent should be sought where possible from the adult at risk.

Individuals may not give their consent to the sharing of safeguarding information with the safeguarding adult's team for a number of reasons. Reassurance, appropriate support and revisiting the issues at another time may help to change their view on whether it is best to share information.

If they still do not consent, then their wishes should usually be respected. However, there are circumstances where information can be shared without consent such as when the adult does not have the capacity to consent, it is in the public interest because it may affect other people or a serious crime has been committed. This should always be discussed with your safeguarding lead and the local authority safeguarding adults team.

If someone does not want you to share information outside of the organisation or you do not have consent to share the information, ask yourself the following questions:



- Is the adult placing themselves at further risk of harm?
- Is someone else likely to get hurt?
- Has a criminal offence occurred? This includes: theft or burglary of items, physical abuse, sexual abuse, forced to give extra money for lessons (financial abuse) or harassment.
- Is there suspicion that a crime has occurred?

If the answer to any of the questions above is 'yes' - then you can share without consent and need to share the information.

When sharing information there are seven Golden Rules that should always be followed.

1. Seek advice if in any doubt
2. Be transparent - The GDPR is not designed to prevent people from sharing information but rather to ensure that personal information is shared appropriately; except in circumstances where by doing so places the person at significant risk of harm.
3. Consider the public interest - Base all decisions to share information on the safety and well-being of that person or others that may be affected by their actions.
4. Share with consent where appropriate - Where possible, respond to the wishes of those who do not consent to share confidential information. You may still share information without consent, if this is in the public interest.
5. Keep a record - Record your decision and reasons to share or not share information.
6. Accurate, necessary, proportionate, relevant and secure - Ensure all information shared is accurate, up-to-date; necessary and share with only those who need to have it.
7. Remember the purpose of the GDPR is to ensure personal information is shared appropriately, except in circumstances where by doing so may place the person or others at significant harm.

### **Appendix 3 - Good Recruitment Practice**

Legally, anyone undertaking a role that involves contact with, or responsibility for, children or other vulnerable adults should be taken through a safer recruitment process. Some individuals may not be suitable to work with adults at risk due to gaps in their understanding, skills, or knowledge. There may also be some concerns about their previous conduct.

If appropriate for the role, the Disclosure and Barring Service (DBS) can disclose and check against their barred list. But this is only one part of a safe recruitment process. In all cases regarding the vetting of paid and voluntary staff, best practice dictates a thorough checking of a candidate's training and qualifications.

All of the following should form the basis of safe recruitment and best practice when recruiting individuals to work with adults at risk:

- Detailed application forms
- Self-disclosure
- Robust interviews that cover safeguarding, equality, and diversity knowledge and skills
- Reference checks
- A thorough induction process
- Verification of qualifications and experience
- Risk assessments

Once the person is in the role, there should be a probationary period and review, as well as regular safeguarding training that includes safeguarding adults at risk.

Disclosure and Barring Service (DBS)

The DBS was created in 2012 when the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged. A DBS check was formally known as a CRB check. It is a means of supplying your organisation with the information you need to help you make correct recruitment and placement decisions. This is particularly vital when it comes to positions involving children and adults at risk.

DBS checks are only one part of the recruitment process, and the eligibility for undertaking them primarily relates to social and health care activity. If your organisation does not operate in these areas, you should first and foremost follow the good practice guidelines detailed above.

A key point to remember is that, although an individual may have an opportunity to come into contact with children or adults with care and support needs, this in itself does not make them eligible for a DBS check. Their eligibility to apply for a check depends on the specific role they will perform while conducting their duties within your organisation.

All specific enquiries regarding DBS checks of staff and volunteers in your organisation should be directed through to the Disclosure and Barring Service. The following information is given as a basic guide for your organisation.

### Types of DBS Checks

There are three types of DBS checks:

- Basic – Contains details of convictions and conditional cautions considered to be unspent under the terms of the Rehabilitation of Offenders Act 1974.
- Standard – Shows filtered convictions, cautions, warnings, and reprimands that are held on the police national computer.
- Enhanced – Shows everything that the standard check does, plus some additional discretionary information.
- Enhanced With Barred List Check – Shows everything that the Enhanced check does plus an additional check of the appropriate “barred list” for the work being done.

### Your Organisation’s Legal Duties

1. You must not knowingly allow a barred person to work in Regulated Activity (see below).
2. You must inform the DBS if an individual is removed from Regulated Activity because they have harmed, or because they pose a risk of harm to vulnerable groups (including children).

### Regulated Activity

Regulated Activity is a legal phrase used to describe specific circumstances where individuals are working or volunteering with children or adults who are at risk because of help or treatment they are receiving.

The definition of Regulated Activity is different for children and adults.

For adults, the type of activity that’s classed as Regulated Activity is clearly set out in government guidance. Unless individuals are undertaking these activities, your organisation should not request an enhanced DBS check.

The definition of Regulated Activity focuses on the type of activity and contact an individual may have with an adult at risk. Unlike the definition of Regulated Activity with children, the definition for adults does not stipulate a frequency requirement. For adults at risk, the activity alone means an individual is in Regulated Activity, and one instance is enough to qualify.

### Types of Regulated Activity

Within the legal framework, an individual is defined as being in Regulated Activity with adults at risk if any one of the following six conditions is met:

1. The individual is in contact with the person by providing healthcare. This only includes first aid when it is provided on behalf of an organisation dedicated to providing first aid, such as St. John's Ambulance Service.
2. The individual is in contact with a person by providing personal care. This can include physical assistance with eating, drinking, going to the toilet, washing, bathing, dressing, oral care, or care of the skin, hair, or nails because of the adult's age, illness, or disability.
3. The individual is in contact with the person in providing social work.
4. The individual is in contact with the person in assisting with general household matters. Examples including managing the person's cash, paying the person's bills, or shopping on their behalf.
5. The individual is in contact with the person in assisting in the conduct of their affairs. This can be as a result of:
  - a) Lasting power of attorney under the Mental Capacity Act 2005
  - b) Enduring power of attorney within the meaning of the Mental Capacity Act 2005
  - c) Being appointed as the adult's deputy under the Mental Capacity Act 2005
  - d) Being an Independent Mental Health Advocate
  - e) Being an Independent Mental Capacity Advocate
6. The individual is in contact with the person in conveying. Any drivers and any assistants are in Regulated Activity if they transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care, or relevant social work. However, "conveying" does not include licensed taxi drivers or licensed private hire drivers, and it does not include trips taken for purposes other than

to receive health care, personal care, or social work. Pleasure trips, for example, are excluded.

#### Vetting Individuals Who Are Not in Regulated Activity

If the individuals at your organisation are not in regulated activity, but you feel there's an opportunity for them to build up a relationship of trust with an adult at risk, what can you do to vet them?

#### Working With Adults With Care and Support Needs

It may be that people who are not in regulated activity are 'working with adults' if they meet the requirements that are set out in the Police Act (Criminal Records) Regulations 2002, as amended. Organisations should look into this if the majority of people are receiving a health care or social care are receiving a service. If the role satisfies the criteria then people will be eligible for an enhanced check with no check against the barred list.

#### Basic Checks

Basic checks are not dependent on roles and would show details of any unspent convictions.

Consider, On An Individual Basis, the Need to Conduct a DBS Disclosure.

This can only be used where there is eligibility to request it, and this is dependent on the role the individual holds.

You should first ensure that safe recruitment processes are in place.

Consider, on an individual basis, the need to conduct a DBS disclosure. This can only be used where there is eligibility to request it, and this is dependent on the role the individual holds.

The DBS states that organisations have the responsibility to assess whether a DBS certificate at either Standard or Enhanced level is necessary for a specific role in line with the relevant legislation, and also taking into account any sector-specific statutory guidance on the matter. However, job roles should be assessed individually to confirm whether they meet the eligibility criteria. You should not blanket-check all roles.

## **Appendix 4**

### **Legislation and Government Initiatives**

### **Sexual Offences Act 2003**

<http://www.legislation.gov.uk/ukpga/2003/42/contents>

The Sexual Offences Act introduced a number of new offences concerning vulnerable adults and children. [www.opsi.gov.uk](http://www.opsi.gov.uk)

### **Mental Capacity Act 2005**

<http://www.legislation.gov.uk/ukpga/2005/9/introduction>

Its general principle is that everybody has capacity unless it is proved otherwise, that they should be supported to make their own decisions, that anything done for or on behalf of people without capacity must be in their best interests and there should be least restrictive intervention. [www.dca.gov.uk](http://www.dca.gov.uk)

### **Safeguarding Vulnerable Groups Act 2006**

<http://www.legislation.gov.uk/ukpga/2006/47/contents>

Introduced the new Vetting and Barring Scheme and the role of the Independent Safeguarding Authority. The Act places a statutory duty on all those working with vulnerable groups to register and undergo an advanced vetting process with criminal sanctions for non-compliance. [www.opsi.gov.uk](http://www.opsi.gov.uk)

### **Deprivation of Liberty Safeguards**

<https://www.gov.uk/government/collections/dh-mental-capacity-act-2005-deprivation-of-liberty-safeguards>

Introduced into the Mental Capacity Act 2005 and came into force in April 2009. Designed to provide appropriate safeguards for vulnerable people who have a mental disorder and lack the capacity to consent to the arrangements made for their care or treatment, and who may be deprived of their liberty in their best interests in order to protect them from harm.

### **Disclosure & Barring Service 2013**

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

Criminal record checks: guidance for employers - How employers or organisations can request criminal records checks on potential employees from the Disclosure and Barring Service (DBS). [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service)

### **The Care Act 2014 – statutory guidance**

<http://www.legislation.gov.uk/ukpga/2014/23/introduction/enacted>

The Care Act introduces new responsibilities for local authorities. It also has major implications for adult care and support providers, people who use services, carers and advocates. It replaces No Secrets and puts adult safeguarding on a statutory footing.

### **Making Safeguarding Personal Guide 2014**

<http://www.local.gov.uk/documents/10180/5852661/Making+Safeguarding+Personal+-+Guide+2014/4213d016-2732-40d4-bbc0-d0d8639ef0df>

This guide is intended to support councils and their partners to develop outcomes-focused, person-centred safeguarding practice.

### **General Data Protection Regulation Guide 2018**

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>

