

## Safeguarding Adults Policy and Procedures

Pecan

DECEMBER 2023

In our policy we set out the basic procedures and practicalities first:

**Safeguarding is everyone’s responsibility.** All adults have the right to be protected from abuse and poor practice.

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 an adult has been abused. It is, however, your responsibility to act on any concerns.

- Make sure the adult at risk is safe and that their welfare needs are met.
- Speak out to the Safeguarding Officer, and in their absence the Deputy Safeguarding Officer, and in their absence the CEO – tell them the concern, how it was raised, and any immediate actions taken.
- Fill in an Incident Report Form.

Role	Name	Contact Details
Safeguarding Officer	Deborah Hayman-Nkhoma	<a href="mailto:deborah.hayman-nkhoma@pecan.org.uk">deborah.hayman-nkhoma@pecan.org.uk</a>
Deputy Safeguarding Officer	Gbemisola Oguntuyo-Oloyede	<a href="mailto:Gbemisola.Oguntuyo-Oloyede@pecan.org.uk">Gbemisola.Oguntuyo-Oloyede@pecan.org.uk</a>
Chief Executive Officer	Peter Edwards	<a href="mailto:Peter.edwards@pecan.org.uk">Peter.edwards@pecan.org.uk</a>
Safeguarding Lead Trustee	Jennifer Brown	<a href="mailto:gateway2education@yahoo.co.uk">gateway2education@yahoo.co.uk</a>
<b>Making a Referral</b>		
<b>Adults with a physical or sensory disability and older people (65 year and above)</b>		
E: <a href="mailto:OPPDCcontactteam@southwark.gov.uk">OPPDCcontactteam@southwark.gov.uk</a>		T: 020 7525 3324
<b>Adults aged 18 to 65 with a mental illness</b>		
E: <a href="mailto:MHContact@southwark.gov.uk">MHContact@southwark.gov.uk</a>		T: 020 7525 0088
<b>Adults with a learning disability</b>		
E: <a href="mailto:LearningDisabilitiesDuty@southwark.gov.uk">LearningDisabilitiesDuty@southwark.gov.uk</a>		T: 020 7525 2333
<b>Review date:</b> Every year or sooner in the event of legislative changes or revised policies and best practice.		

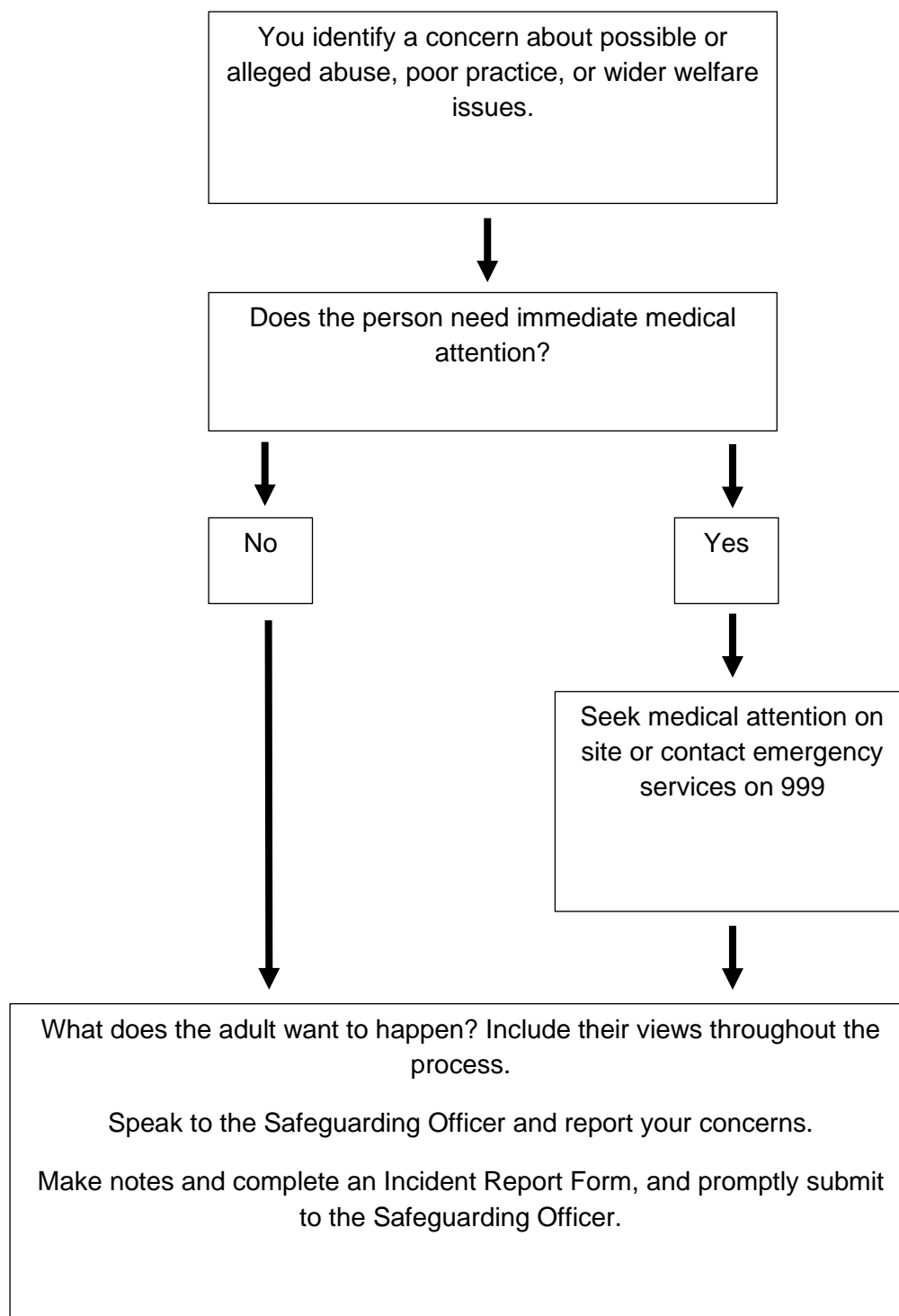


## Do you have concerns about an adult?

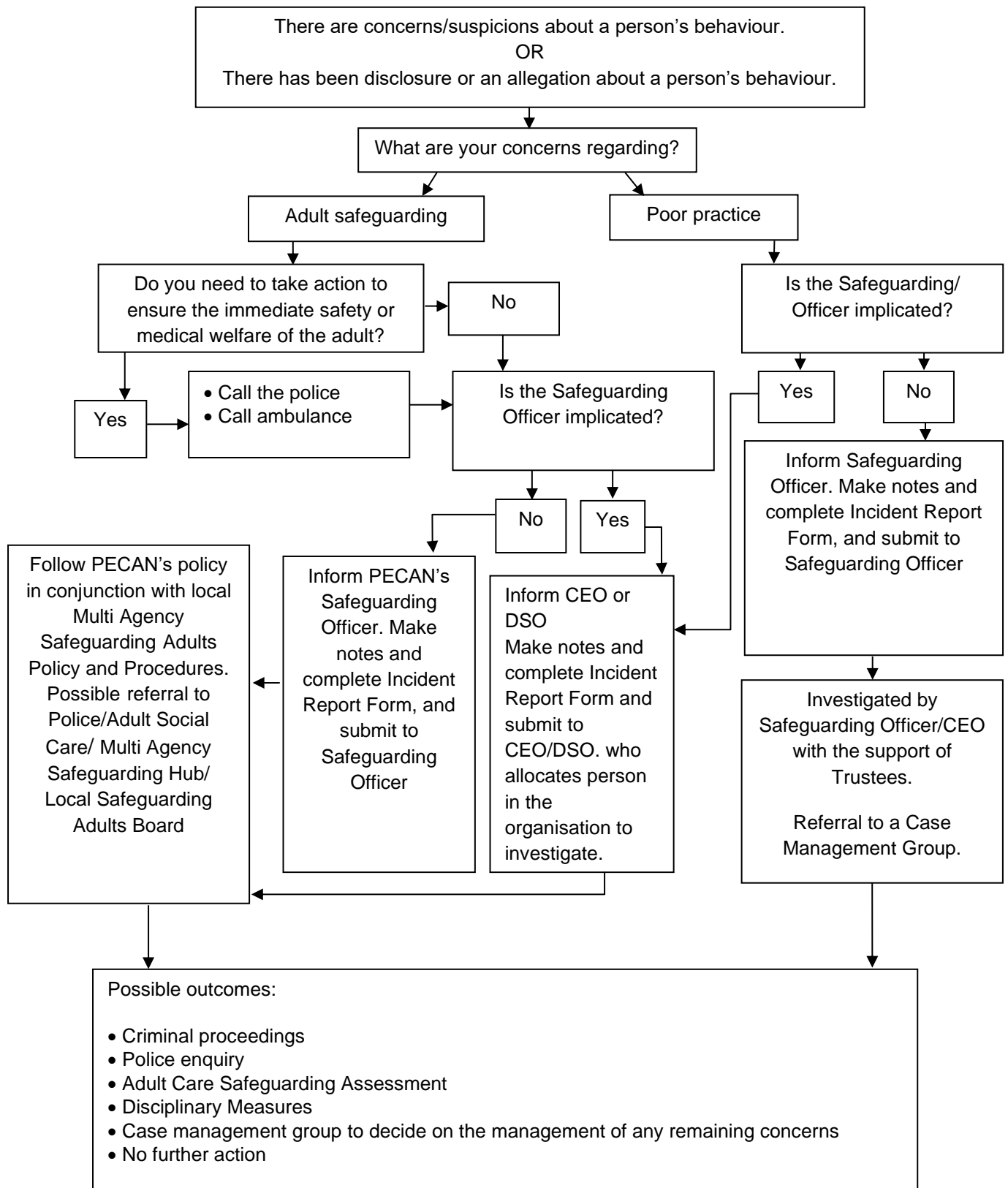
**Safeguarding is everyone's responsibility.** All adults have the right to be protected from abuse and poor practice.

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 an adult has been abused. It is, however, your responsibility to act on any concerns.



## 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**

**Example: Safeguarding Adults Incident Form**

- If the adult is thought to be in immediate danger, always call the police on 999 first.
- Fill in as fully as possible if you have concerns about an adult.
- 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.

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

<b>Section 4 - Abuse type if know (leave blank if uncertain)</b>		
Physical	Psychological	Financial
Sexual	Discriminatory	Organisational/ institutional
Neglect	Hate incident/crime	Mate Crime
Internet abuse	Modern slavery	Female genital Mutilation (FGM)
Forced Marriage	Domestic abuse	Radicalisation
Self-Neglect	Other	
<b>Section 5 - Have you discussed your concerns with the adult? What are their views? What outcomes have they stated they want (if any)?</b>		
<b>Section 5A – Reasons for not discussing with the adult</b>		
<b>Adult lacks capacity</b>		
<b>Adult unable to communicate their views</b>		

<b>Discussion would increase the risk</b>	
State why the risks would increase:	
Section 5B - Have you discussed your concerns with anyone else? E.g. their social worker  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 specify:	
No action agreed – state why:	
Section 7 – Risk to others	
Are any other adults at risk? Yes/No – delete as appropriate	

<b>If yes state, why and what actions have been taken to address these?</b>	
<b>Are any children at risk</b>	<b>Yes/No Delete as appropriate</b>
<b>If yes state, why and what actions have been taken to address these?</b>	
<b>Signed:</b>	
<b>Date:</b>	

<b>OFFICE USE ONLY</b>
<b>Section 8 – sharing the concerns (To be completed by Lead Safeguarding Officer)</b>
<b>Details of your contact with the adult at risk. Have they consented to information being shared outside of the organisation?</b>
<b>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</b>
<b>Details of any other agencies contacted</b>



**Details of the outcome of this concern**

## **PECAN Safeguarding Adults Policy and Procedures**

### **Our Commitment**

PECAN is committed to making and keeping a safe and positive environment and we accept the responsibility to safeguard the welfare of all adults involved in accordance with the Care Act 2014.

PECAN's safeguarding adults policy and procedures apply to all individuals involved in PECAN.

PECAN will encourage and support partner organisations, to adopt and demonstrate their commitment to the principles and practice of equality as set out in this safeguarding adults policy and procedures.

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## 1. 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 and to participate in an enjoyable and safe environment.
- PECAN will seek to ensure that our activity is 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, especially those adults with care and support needs.
- We all have a shared responsibility to ensure the safety and well-being of all adults and will act appropriately and report concerns whether these concerns arise within PECAN for example inappropriate behaviour of a staff member or volunteer, or in the wider community.
- All allegations will be taken seriously and responded to quickly in line with PECAN's Safeguarding Adults Policy and Procedures.
- PECAN 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 connects the person in a conversation about how best to respond to their safeguarding situation in a way that enriches 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 in activity. 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 make sure that adult participants can take part in PECAN activities fully.

- 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.

## 2. 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

## 3. 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 environment and social factors. Naturally, 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 purely because they may be defined by one or more of the above descriptors. 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). See Appendix 2 for guidance and information.

#### 4. 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 a guide and illustration. It is not an exhaustive list of 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 and includes behaviour such as hoarding.

**Modern Slavery** – includes 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 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 because 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 to 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 several 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.

## 5. Signs and indicators of abuse and neglect

Abuse can take place in any context and by all manner of perpetrator. Abuse may be inflicted by anyone an adult meets at PECAN. Or an adult may be being abused or neglected outside of the PECAN setting. 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 – or lack of medical attention when an injury is present.
- Person has belongings or money going missing.
- Person is not attending/no longer enjoying their sessions. You may notice that a participant in a team has been missing from sessions and is not responding to reminders.
- Someone losing or gaining weight/an unkempt appearance. This could be an adult whose appearance becomes unkempt, does not wear suitable clothing, and deterioration in hygiene.
- A change in the behaviour or confidence of a person. For example, an adult may be looking quiet and withdrawn when other people are there, in contrast to their key worker whom they greet with a smile.
- They may self-harm.
- They may have a fear of a particular group or individual.
- They may tell you/another person they are being abused – i.e. a disclosure.
- Harassing of an adult participant because they are or are perceived to have protected characteristics.
- Not meeting the needs of the participant. E.g. this could be training without a necessary break.
- A staff or volunteer intentionally striking a participant.

- Another participant who sends unwanted sexually explicit text messages to an adult with learning disabilities they are training alongside.
- This could be an adult threatening another adult with physical harm and/or persistently blaming them for poor performance.

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

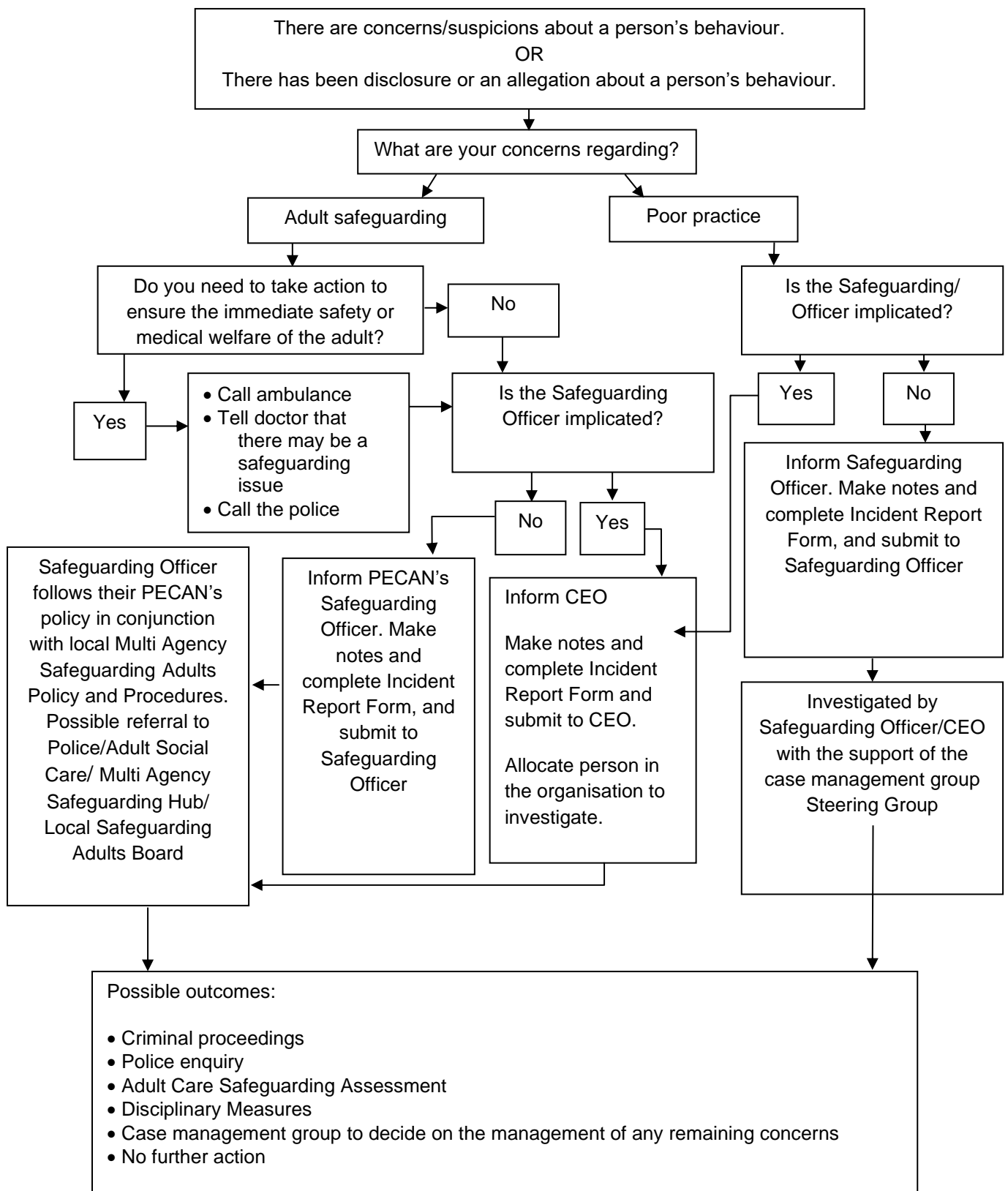
- It is not your responsibility to decide whether an adult has been abused. It is, however, everyone's responsibility to respond to and report concerns.
- If you are concerned someone is in immediate danger, contact the police on 999 straight away. Where you suspect that a crime is being committed, you 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 PECAN Safeguarding Officer. Or, if the Safeguarding Officer is implicated, then report to the PECAN CEO.
- When raising your concern with the Safeguarding Officer, 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.
- It is important when considering your concern that you keep the person informed about any decisions and action taken, and always consider their needs and wishes.

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

- Make a note of your concerns.
- Make a note of what the person has said using their own words as soon as practicable. Complete an Incident Form and submit to the PECAN Lead Safeguarding or Welfare Officer.
- 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 PECAN's Safeguarding Officer.
- Describe the circumstances in which the disclosure came about.
- Take care to make a distinction between fact, observation, allegation, and opinion. It is important that the information you have is accurate.
- Be mindful of the need to be confidential always. This information must only be shared with your Safeguarding Officer, and others only on a 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 by telephoning 999.

## 8. 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**



## 9. Roles and responsibilities of those within PECAN

PECAN is committed to having the following in place:

- A Safeguarding Officer 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 Steering Group or Case Management or Case Referral Group that effectively deals with issues, manages concerns, and refers to a disciplinary panel where necessary (i.e. where concerns arise about the behaviour of someone within PECAN).
- A Disciplinary Panel will be formed 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.
- Clear codes of conduct are in place for staff, volunteers, participants, and other relevant individuals.

## 10. Good practice, poor practice, and abuse

### Introduction

It can be difficult to distinguish poor practice from abuse, whether intentional or accidental.

It is not the responsibility of any individual involved in PECAN to make judgements regarding whether abuse is taking place or not. However, all PECAN personnel have the responsibility to recognise and identify poor practice and potential abuse, and act on this if they have concerns.

### Good practice

PECAN expects that all staff and volunteers:

- Adopt and endorse the PECAN Code of Conduct.

### Everyone should:

- Aim to make the experience of PECAN safe and enjoyable.
- Promote fairness.
- Not tolerate the use of prohibited or illegal substances.
- Treat all adults equally and preserve their dignity. This includes giving participants in groups similar attention, time, and respect.

## 11. Relevant Policies

This policy should be read in conjunction with the following policies:

- Safeguarding Children & Young People
- Vision, Mission Values
- Whistle Blowing
- Equal Opportunities
- Code of Conduct
- Lone Working

- Client Complaints
- Personal Communication & Online
- Internet for Staff / Clients
- Disability
- Bullying and Harassment
- Investigations, Hearings, Appeals
- Social Media
- Health and Safety

## **12. Further Information**

Policies, procedures and supporting information are available on the PECAN website:  
<https://www.pecan.org.uk/downloads>

## Appendix 1

### Incident Report Form

#### Example: Safeguarding Adults Incident Form

- If the adult is thought to be in immediate danger, always call the police on 999 first.
- Fill in as fully as possible if you have concerns about an adult.
- 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.

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

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)

**Section 4 - Abuse type if know (leave blank if uncertain)**

Physical	Psychological	Financial
Sexual	Discriminatory	Organisational/ institutional
Neglect	Hate incident/crime	Mate Crime
Internet abuse	Modern slavery	Female genital Mutilation (FGM)
Forced Marriage	Domestic abuse	Radicalisation
Self-Neglect	Other	

**Section 5 - Have you discussed your concerns with the adult? What are their views? What outcomes have they stated they want (if any)?**

Empty space for recording responses to Section 5.

**Section 5A – Reasons for not discussing with the adult**

<b>Adult lacks capacity</b>		
<b>Adult unable to communicate their views</b>		
<b>Discussion would increase the risk</b>		
State why the risks would increase:		
<b>Section 5B - Have you discussed your concerns with anyone else? E.g. their social worker</b>  <b>What are their views?</b>		
<b>Section 6 – What action have you taken /agreed with the adult to reduce the risks?</b>		
<b>Information passed to Safeguarding Officer, confirm details:</b>	<b>Referral to Social Care Confirm details:</b>	
<b>Contact with the police Confirm details:</b>	<b>Referral to other agency – please confirm details:</b>	
<b>Other – please specify:</b>		
<b>No action agreed – state why:</b>		
<b>Section 7 – Risk to others</b>		

<b>Are any other adults at risk? Yes/No – delete as appropriate</b>
<b>If yes state, why and what actions have been taken to address these?</b>
<b>Are any children at risk Yes/No Delete as appropriate</b>
<b>If yes state, why and what actions have been taken to address these?</b>
<b>Signed:</b>
<b>Date:</b>

<b>OFFICE USE ONLY</b>
<b>Section 8 – sharing the concerns (To be completed by Lead Safeguarding Officer)</b>
<b>Details of your contact with the adult at risk. Have they consented to information being shared outside of the organisation?</b>
<b>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</b>
<b>Details of any other agencies contacted</b>

**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 consider the individual choices and requirements of everyone involved. What this means in practice is that adults should be more involved in the safeguarding process. Their views, wishes, feelings and beliefs must be considered when decisions are made.

The Care Act 2014 is clear that there are key issues that should be considered 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.
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 were 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-interests decision merely based on 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 Officer in the first instance, except in emergency situations. If it does not increase the risk to the individual, the worker or volunteer should explain to them that it is their duty to share their concern with their Safeguarding Officer.

The Safeguarding 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 the Safeguarding Officer will 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 will 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 several reasons. Reassurance, appropriate support and revisiting the issues at another time may help them further consider 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 money (financial abuse) or harassment.
- Is there suspicion that a crime has occurred?

If the answer to any of the questions above is 'yes' - then the Safeguarding Officer 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 Data Protection Act (DPA) is not a barrier to sharing information but to ensure that personal information is shared appropriately; except in circumstances whereby 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, and necessary, and share with only those who need to have it.
7. Remember the purpose of the Data Protection Act (DPA) is to ensure personal information is shared appropriately, except in circumstances whereby doing so may place the person or others at significant harm.

## Appendix 3

### 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.

**Appendix 4**  
**Useful contacts**

**Ann Craft Trust**

Website: [www.anncrafttrust.org](http://www.anncrafttrust.org)

Email: [Ann-Craft-Trust@nottingham.ac.uk](mailto:Ann-Craft-Trust@nottingham.ac.uk)

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