The Vulnerable Adult Safeguarding Policy

1. INTRODUCTION

1.1 Safeguarding means protecting a people's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action (Care and Support Statutory Guidance DoH October2014).

1.2 Organisations should always promote the adult's wellbeing in their safeguarding arrangements. People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating "safety" measures that do not take account of individual well-being (14.8). 'Well-being' is defined in Section 1 of the Care Act (2014) as follows:

1.3 "Well-being", in relation to an individual, means that individual's well-being so far as relating to any of the following:

- personal dignity (including treatment of the individual with respect);
- physical and mental health and emotional well-being;
- protection from abuse and neglect;
- control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
- participation in work, education, training or recreation;
- social and economic well-being;
- domestic, family and personal relationships;
- suitability of living accommodation;
- the individual's contribution to society.

1.4 The response to safeguarding concerns must be personal to the individual. Making safeguarding personal means it should be person-led and outcome-focused. It engages the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety.

1.5 **Care Act 2014**

The Care Act 2014 received Royal Assent on 14th May 2014 and came into force from 1st April 2015.The Act sets out the local authority's responsibility for protecting adults with care and support needs from abuse or neglect, for the first time in primary legislation. The Care and Support Statutory Guidance was published in October 2014 and chapter 14 "Safeguarding" replaces the previous statutory guidance relating to adult safeguarding ("No Secrets" Department of Health 2000). The Care Act 2014 is vital to

ensure clear accountability, roles and responsibilities for helping and protecting adults with care and support needs who are experiencing, or at risk of, abuse or neglect as a result of those needs. Local Authorities are given a lead role in coordinating local safeguarding activity.

1.6 The Act sets out a clear legal framework for how Local Authorities and other parts of the system (including health providers) should protect adults at risk of abuse or neglect. The Local Authorities new safeguarding duties mean that they must:

- **lead a multi-agency local adult safeguarding system that seeks to prevent abuse and neglect and stop it quickly when it happens;**
- **make enquiries, or request others to make them, when they think an adult with care and support needs may be at risk of abuse or neglect and they need to find out what action may be needed;**
- **establish Safeguarding Adults Boards, including the local authority, NHS and police, which will develop, share and implement a joint safeguarding strategy;**
- **carry out Safeguarding Adults Reviews when someone with care and support needs dies as a result of neglect or abuse and there is a concern that the local authority or its partners could have done more to protect them;**
- **arrange for an independent advocate to represent and support a person who is the subject of a safeguarding enquiry or review, if required.**

1.7 The following six key principles, as set out in many national Safeguarding Adults documents - most recently the Care and Support Statutory Guidance (2014), must underpin all adult safeguarding work:

- **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 treats 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."

2. PURPOSE AND SCOPE

2.1 This policy fully supports and reflects the core principles and content contained within the Care Act 2014, the associated Care and Support Statutory Guidance DH (October 2014)and the London Multi-Agency Adult Safeguarding Policy and Procedures (2015)

2.2 SCT upholds the commitment to Safeguard Adults at Risk by:

- respecting and upholding their human rights;
- always giving full consideration to their needs, interests and wishes;
- working together to reduce the likelihood of abuse or neglect of adults at risk;
- co-operating in the provision of a professional response to any concerns raised which is robust, proportionate and timely.

2.3 This policy:

- ensures all SCT staff are provided with clarity regarding their duties and responsibilities to safeguard adults at risk;
- provides detailed guidance on the process for both the identification and the reporting of adults at risk of abuse concerns. The ultimate aim is to provide the safest possible care for adults at risk of abuse through consistent application by all staff of the principles within this document;
- reinforces the importance of inter-agency working with the aim of achieving the best possible outcomes for those who we are aiming to protect from risk of abuse;

and procedures also aim to make sure that each adult at risk maintains:

- choice and control;
- safety;
- health;
- quality of life;
- dignity and respect.

2.4. **Person-centred safeguarding**

SCT understands that the most important thing to remember when it comes to safeguarding is to make the person that they are supporting their top priority, and to treat them with respect and dignity, which

includes actively involving them in any decisions that need to be made about their care and wellbeing and allowing them where capable to be the ultimate decision maker in their decisions.

3. TERMINOLOGY

3.1 **Who does Safeguarding apply to?**

The safeguarding duties apply to an adult who:

- has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- is experiencing, or 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

(Care and Support Statutory Guidance DoH October2014)

3.2 An adult at risk may be a person who:

- is frail due to ill health, physical disability or cognitive impairment*;
- has a learning disability;
- has a physical disability and/or a sensory impairment;
- has mental health needs including dementia or a personality disorder;
- has a long-term illness/condition;
- misuses substances or alcohol;
- is limited in their capacity to make decisions and is in need of care and support.

This list is not exhaustive

*Please note:

This does not mean that just because a person is frail or has a disability they are inevitably 'at risk'. For example, a person with a disability who has mental capacity to make decisions about their own safety could be perfectly able to make informed choices and protect themselves from harm. In the context of Safeguarding Adults, the vulnerability of the adult at risk is related to how able they are to make and exercise their own informed choices free from duress, pressure or undue influence of any sort, and to protect themselves from abuse, neglect and exploitation. It is important to note that people with capacity can also be vulnerable.

3.3 An adult at risk's vulnerability is influenced by a range of interconnected factors including personal characteristics, factors associated with their situation or environment and social factors. Safeguarding an adult at risk and positive interventions by staff can have a positive impact on outcomes. The role of SCT's Safeguarding Adults Operational Lead is to complement and advise the work of others to positively impact on those factors that staff have an opportunity to influence. Some of these are described below;

3.4 **Vulnerability Influences**

Negative Influences Personal or social factors increasing vulnerability	Positive Influences Personal or social factors decreasing vulnerability
Limited mental capacity to make decisions about their own safety including fluctuating mental capacity associated with mental illness	Having mental capacity to make decisions about their own safety
Poor physical or mental health	Good physical and mental health
Communication difficulties	Able to communicate effectively using aids if required
Being dependent on others for basic personal care and activities of daily life	Limited dependency upon others or able to self-direct care as needed
Low self-esteem	Self-confidence and high self- esteem
Experience of abuse as a child or in adult life	Positive life experiences
Social isolation, limited range of positive relationships	Socially engaged, several positive relationships
Limited understanding of own rights	Good understanding of own rights

3.5 An Adult at Risk may also abuse a carer, abuse other vulnerable people, neglect him or herself or deliberately harm themselves.

4. CATEGORIES OF ABUSE

This is not intended to be an exhaustive list but an illustrative guide as to the sort of behaviour which could give rise to a safeguarding concern, as set out in the Care and Support Statutory Guidance document (DoH 2014).

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

4.2 **Domestic violence** – including psychological, physical, sexual, financial, emotional abuse; so called 'honour' based violence.

4.3 **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.

4.4 **Psychological abuse** – including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.

4.5 **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.

4.6 **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.

4.7 **Discriminatory abuse** – including forms of harassment, slurs or similar treatment; because of race, gender and gender identity, age, disability, sexual orientation or religion.

4.8 **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.

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

4.10 **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.

4.11 Further information regarding types of abuse and possible indicators can be found using the following link: http://www.scie.org.uk/publications/ataglance/69-adults-safeguarding-types-and-indicators-of-abuse.asp

4.12 **Crossing Boundaries**

It is not unusual for service users to form a dependence on a staff member, or for a close bond to develop between a staff member and service user, so it is important to maintain appropriate boundaries whilst seeking to build trust. It is also important that staff ensure their appearance and behaviour are above reproach at all times and to be aware of anything that may indicate a service user has crossed a boundary and is forming an attachment that goes beyond what might be considered professional.

Some examples of "inappropriate" behaviours may be:

- Acts of affection, verbal or physical
- Requests to meet socially
- Requests for personal information
- Personal gifts/cards
- Anything implying an exclusive or special relationship

- Request to keep something secret
- Infatuation
- Requests for extra one to one help

Staff and volunteers have a similar responsibility not to engage in these behaviours as well.

In some more serious cases, these “boundaries”, when crossed, can lead to actions that are deemed as criminal offences such as:

- Harassment, sexual or other

“Causing alarm or distress' offences under section 2 of the Protection from Harassment Act 1997 as amended (PHA), and 'putting people in fear of violence' offences under section 4 of the PHA”

5. DUTIES AND RESPONSIBILITIES

5.1 The Board has ultimate responsibility for:

- all aspects of the safeguarding of adults at risk within SCT.
- the allocation of resources to ensure compliance with this policy.
- ensuring managers and staff are aware of their responsibilities and implement this policy.

5.2 The **Director of Operations is the Executive Lead for Safeguarding Adults** within the staff team and the **Administration Assistant is Safeguarding Adults Operational Lead**.

5.3. The Executive Lead for Safeguarding Adults is responsible for reviewing this policy at least every two years or more frequently if there are changes in legislation.

5.4 The Executive Lead is responsible for managing allegations against “people of trust” and staff and will work in partnership with the Operational Lead.

5.5. The Safeguarding Adults Operational Lead is responsible for:

- assisting the SCT in meeting its statutory duties and responsibilities relating to adult safeguarding;
- interpreting national and local policy and best practice and advise SCT accordingly;
- ensuring SCT can provide rigorous evidence;
- leading on provision of information, training and policy;
- auditing compliance of the Safeguarding Adults policy;
- oversee the investigating and response to Serious Incidents that relate to safeguarding, ensuring timescales are met and learning is cascaded.

5.6. **Responsibility of Employees and Volunteers**

SCT believes that all service users have the right to protection from harm at all times, we therefore, want all those attend our courses or have contact with our organisation to enjoy and benefit from what we offer in safety.

It is the duty of all employees and trainees working for SCT to safeguard the welfare of vulnerable adults we work with by reporting any concerns about possible harm or abuse that is discovered or suspected. SCT will ensure that the appropriate steps are taken to protect them from neglect and physical, sexual or emotional abuse.

Employees and trainees will at all times show respect for and understanding of the rights, safety and welfare of the Vulnerable Adults who participate in our programmes and conduct themselves in a way that reflect the principles of SCT.

SCT will do this by:

- Ensuring that all employees who have unsupervised access to vulnerable adults are appropriately checked for their suitability;
- Undertaking appropriate risk assessments and taking all necessary steps to minimise and manage risks;
- Letting vulnerable adults know how to voice concerns or complaints about anything they may be unhappy or concerned about.

It is important that all employees and volunteers working with service users understand that the nature of their work and the responsibilities related to it, place them in a position of trust. On occasion it may also place them in a position of vulnerability.

This policy aims to:

- Support Managers in setting clear expectations of behaviours and/or codes of practice relevant to the services being provided.
- Assist employees and volunteers working with services users to work safely and responsibly and to monitor their own standards and practice in accordance with HR policies and procedures.
- Give a clear message to staff that certain behaviours are unacceptable and can lead to situations that are unwelcome, unsafe, potentially dangerous and possibly illegal. Where appropriate, disciplinary or legal action will be taken.
- Support safer recruitment practices.
- Minimise the risk of misplaced or malicious allegations made against employees and volunteers who work with service users.
- Reduce the possibility that positions of trust might be abused or misused.

5.8 **Definitions**

- **Employee**: Refers to any person who is a paid member of SCT staff whether PAYE or Freelance.

- **Volunteer**: Refers to any person with an agreement to provide volunteer services to SCT.
- **Manager**: Refers to those employees who have responsibility for managing services including the supervision of employees and/or volunteers at any level.
- **Service User**: Refers to those using SCT services in recovery, training and work experience.

6. PROCEDURE

SCT's responsibility in five steps

6.1 **Recognise**

Know what the abuse of vulnerable adults is and knows of which signs and symptoms professionals should be aware of.

6.2. **Respond**

Respond appropriately, ask yourself: if this is an allegation from a vulnerable adult against a member of staff or volunteer; a disclosure from a vulnerable adult; suspicions regarding the conduct of other members; or concerns from a staff member regarding a vulnerable adult?

If the information is coming from a vulnerable adult, do not lead or probe questions. Employees should remain calm, listen and reassure them that you will talk to the Safeguarding Officer to work out how to keep them safe. Do not make false promises about being able to keep the information secret. If a vulnerable adult discloses that they have been or are being abused, the disclosure must be passed immediately to the Safeguarding Officer who will take advice from the appropriate authorities and decide how to respond. Disclosures of abuse must be recorded by the employee receiving them as soon as possible, using the vulnerable adults own words. The record should be signed and dated and should also state the time and place of disclosure.

6.3. **Report**

Any concern about the welfare of the vulnerable adult must be reported to the Safeguarding Officer as a matter of priority. It is the responsibility of the Safeguarding Officer to make a judgement about how to proceed or to take advice from the appropriate statutory services.

The Safeguarding Officer name and contact details are displayed in a communal area within individual shops and/or project areas.

6.4. **Record**

A record of exactly what has happened, using the words used by the vulnerable adult (if they have made a disclosure) or what you have observed or noticed that has resulted in your concern.

The statement should be recorded and where possible, signed or declared that it was made by the vulnerable adult and kept in a secure place by the Safeguarding Officer.

6.5. **Refer**

The Safeguarding Officer will take advice from the appropriate statutory agency and will respond according to their guidance, whilst making also making a vulnerable adult referral to the relevant authority if necessary.

6.6 **Support for the Staff Member**

6.7 At the first mention of concern by the any staff member, regular support must be put in place. This can include regular telephone contact; face to face meetings etc. as often as the situation warrants and should be by mutual arrangement.

6.8 Regular formal supervision should be conducted to assess the current situation, the welfare of the staff member, and for any issues to be addressed.

6.9 The staff member should be allocated a designated person who will be available as often as could be reasonably expected to be alongside as support for as long as necessary even if the matter has been resolved. This can be the manager, another suitable staff member or an outside Counsellor.

6.10 **Variations**

Each project will have different boundaries depending on the level of contact and the nature of the relationship with service users. It is important the each new staff member is inducted thoroughly into the appropriate code of conduct for that project.

Safeguarding of staff should be included in the project risk assessment

The subject should be re-visited and monitored regularly at in-house staff meetings and managers' meetings.

6.11 **Managing a disclosure from a vulnerable adult a conversation about possible abuse**

Below is the procedure to start a conversation with the adult with safeguarding needs and how to conduct a mental capacity assessment.

The Manager must always consider the communication needs and capacity of the adult to understand the information they are being provided with and their ability to make decisions.

Specifically, they should:

- Speak to them in a private and safe place to inform them of the concerns
- Speak to them at their own pace

- Obtain their views on what has happened and what they want done about it
- Provide information about the safeguarding adults process and how it could help to make them safer
- Ensure that they understand the parameters of confidentiality
- Explain how they will be kept informed, particularly if they have communication needs
- Consider how the abusive experience might impact on the ongoing delivery of services, particularly personal care arrangements and access arrangements
- Explore their immediate protection needs
- At all times ensuring that the adult is aware that they are the decision maker
- All effort is made to assist the service user to understand options available to them
- All risk is discussed with the service user and their view on how to manage the risk
- Recognise the potential conflict of interest between service user and carer and ensure that the service user has the right to self-determination

In the event that the adult does not have capacity to make decisions for themselves, any action taken or decisions made on their behalf must be made in their 'best interests'.

The consent of the adult is a significant factor in deciding what action to take in response to an allegation but this in turn will depend on the capacity of the adult to make a decision.

The safeguarding procedures are based on an assumption of capacity and the right of the individual to make their own choices, even unwise ones.

6.12 In situations where the adult alleging abuse decides they do not want action taken and they have been supported to weigh up the risks and benefits of their decision (possibly by referral to an advocate or peer supporter) the manager should ensure that:

- They have been given information about where to get help if they change their mind or if the abuse or neglect continues and they subsequently want support to promote their own safety.
- They are offered support to build confidence and self-esteem (if appropriate) and strategies to better help them protect themselves should be discussed
- The referrer/manager must assure themselves that the decision to withhold consent is not made under undue influence, coercion or intimidation.
- The referrer should make a record of the concern, the discussion with the adult, the adult's decision and reasons for their decision. The record should also include the referrer/managers views on the adult's capacity to make this decision. This decision should be regularly reviewed by the manager.
- If the referrer/manager feels uncomfortable making this decision alone, they should seek a consultation with their local adults safeguarding team to discuss the situation, without naming the individual, and document any advice they are given. They may advise on whether to override the adult's decision not to refer.

6.13 **Action to be taken if you have a concern about a vulnerable adults' safety and well-being**

- Act immediately
- Contact the appropriate Local Authority team is the allegation is deemed serious enough by the Safeguarding Adults Operational Lead
- Allegations or suspicions made about a member of staff must be passed to the Safeguarding Officer immediately so that advice can be sought from Local Authority Designated Officer (LADO).
- You may also need to agree with the local social services team about on-going support the vulnerable adult, once any concern have been passed on.
- Make records of the disclosure as soon as practical, in as much detail as possible and in the vulnerable adults own words rather than interpreting them. Ensure these records are kept securely and confidentially. They should be password protected and stored in the locked HR file within SCT Head Office.
- If a vulnerable adult has disclosed that they are being abused in their homes and it is not possible to contact Adult Social Services, the police must be contacted so that steps can be taken to ensure that they are safeguarded.

7. ADVOCACY

7.1 SCT understands Advocacy and the duty to involve people in decisions made about them and their care and support as a requirement under s68 of the Care Act. No matter how complex their needs, we understand we are required to help people express their wishes and feelings, support them in weighing up their options, and assist them in making their own decisions.

7.2 SCT will arrange independent advocacy to support an adult who is the subject of safeguarding enquiry or a Safeguarding Adult's Review (SAR), where the adult is experiencing 'substantial difficulty' being involved in the process and will cooperate with each of its relevant partners in order to protect adults experiencing or at risk of abuse or neglect as well as nominated advocates as advised by the local authority.

8. CONSENT

8.1 **Service User Consent**

Staff should seek the consent of the person before taking action; however there may be circumstances when consent cannot be obtained because the adult lacks the capacity to give it. In such circumstances the adult's best interests should be considered when determining whether to undertake an enquiry.

Whether or not the adult has capacity to give consent, action may need to be taken if others are or will be put at risk if nothing is done or where it is in the public interest to take action because a criminal offence has occurred.

If obtaining consent would increase the risk to the adult then action should be taken and a plan to obtain consent and safely support involvement must be considered at an early stage.

If mental capacity is unclear, then a mental capacity assessment must be completed. The mental capacity of the adult at risk and their ability to give their informed consent to a referral being made and action being taken under these procedures is a significant but not the only factor in deciding what action to take.

The test of capacity in this case is to find out if the adult at risk has the mental capacity to make informed decisions:

- About a referral;
- About actions which may be taken under multi-agency policy and procedures;
- About their own safety, including an understanding of longer-term harm as well as immediate effects and;
- An ability to take action to protect themselves from future harm.

8.2 The Mental Capacity Act 2005 provides the following guidance when assessing a person's ability to make their own decisions:

- Does the person have all the relevant information they need to make the decision?
- If they are making a decision that involves choosing between alternatives, do they have information on all the different options?
- Would the person have a better understanding if information was explained or presented in another way?
- Are there times of day when the person's understanding is better?
- Are there locations where they may feel more at ease?
- Can the decision be put off until the circumstances are different and the person concerned may be able to make the decision?
- Can anyone else help the person to make choices or express a view (for example, a family member or carer, an advocate or someone to help with communication)?

If a patient has a significant injury that may warrant a police investigation, advice should be sought via Police 101 number in relation to whether or not police involvement is required to gather forensic or photographic evidence.

8.3 **Refusal of consent**

If the adult at risk has capacity and does not consent to a referral and there are no public interest considerations, the individual should be given information about where to get help if they change their mind or if the abuse or neglect continues and they subsequently want to receive support. The referrer must assure themselves that the decision to withhold consent is not made under undue influence, coercion or intimidation. The concern should still be recorded together with the adult at risk's decision

not to refer and their reasons. A record should also be made of what information the individual was given.

If an individual refuses to give their consent for an adult safeguarding referral and has capacity to make this decision, the staff still have a duty to seek advice from a senior member of staff and / or the Safeguarding Adults Team.

Adult Social Care can be contacted at any time to informally discuss concerns and seek advice. It is important that the purpose of contact is made clear and whether it is based on consultation or referral.

You can contact the Safeguarding Adults Team directly to report concerns of abuse or neglect of an 'adults at risk' in Hackney, or the Adult Social Care Team if the concerns are about someone in the City of London.

Adults Social Care Team (City of London), Guildhall, North Wing, PO Box 270, London EC2P 2EJ. Tel: 0207 332 1224. Fax: 0207 332 3434. Textphone: 0207 3321574. Email: adultsduty@cityoflondon.gov.uk.

8.4 **Referring a safeguarding concern without consent**

If there is an overriding public interest or if gaining consent would put the adult at further risk, a referral must be made. This would include situations where:

- Other people or children could be at risk from the person causing harm ;
- It is necessary to prevent crime;
- Where there is a high risk to the health and safety of the adult at risk ;
- The person lacks capacity to consent.

8.5. **Photographic and/or case studies consent**

SCT will only use images and/or names of vulnerable adults on our posters, leaflets, social media or website with written permission from them. If the press are involved in photographing events, then only the names of those comfortable with giving their names will be given, as long as appropriate consents are given.

8.6. **Medical examination consent**

SCT ensures that medical examinations are only undertaken by qualified clinical professionals.

9. MENTAL HEALTH AND SAFEGUARDING

9.1 **Mental Health Act and Safeguarding**

Where a patient is subject to the Mental Health Act 1983 (as amended in 2007) then all aspects of the care and treatment required for their mental disorder will be coordinated by their responsible clinician. The responsible clinician will, therefore, have a significant role to play in any safeguarding process. The

safeguarding team and care coordinators will work closely with responsible clinicians to ensure that responsible clinicians are aware of any safeguarding concerns, and can take them into account when exercising their powers under The Mental Health Act (i.e. when making decisions about granting leave and imposing conditions on the leave) .

9.2 **Mental Capacity and Safeguarding.**

Care and Support Statutory Guidance 2014 Section14.47 states that mental capacity is frequently raised in relation to adult safeguarding. The requirement to apply the MCA in adult safeguarding enquiries challenges many professionals and requires utmost care, particularly where it appears an adult has capacity for making specific decisions that nevertheless places them at risk of being abused or neglected.

All staff need to consider a patient's mental capacity in terms of the Mental Capacity Act and undertake capacity and best interest assessments where appropriate. Safeguarding procedures are not required unless the needs identified in a mental capacity or best interest assessment suggests that the adult is at risk.

Staff should also be alert to the potential abuse of an adult at risk by an attorney or deputy. If staff have concerns about the actions of an attorney acting under a registered Enduring Power of Attorney (EPA) or Lasting Power of Attorney (LPA), or a Deputy appointed by the Court of Protection, they should contact the **Adult Safeguarding Operational Lead**.

9.3 **Deprivation of Liberty Safeguards (DoLS) and Safeguarding**

All staff need to consider whether DoLS applies to patients with whom they are working. DoLS applies when a patient has a mental disorder, is 18 years or over and does not have the capacity to make decisions. A deprivation of liberty is currently defined as the state of being under continuous supervision and control and not being free to leave the environment in which they are being cared for If those conditions apply to someone in a hospital or a care home then it may be possible to authorise the deprivation of liberty via: the DoLS process, The Mental Health Act (in hospitals only) or an order from the Court of Protection..

It is possible for a deprivation of liberty to occur in a domestic setting, where neither the DoLs nor The Mental Health Act may apply. It may be necessary to bring these situations before the Court.

10. INFORMATION GOVERNANCE AND DATA CONFIDENTIALITY

10.1 It should be noted personal information relating to and held by SCT staff is subject to a duty of confidentiality and would not normally be disclosed without consent. However, the Data Protection Act allows for disclosure of confidential information when it is deemed necessary to safeguard the welfare of children, adults at risk and the general public.

10.2 Patients have a right to expect that all staff will keep confidential any personal information that they acquire during the course of professional duties, unless permission to disclose is given. They also have a right to know that in exceptional defined circumstances this duty of confidentiality may be overridden.

There may be situations where disclosure is deemed necessary without consent. There are exceptions to the duty of confidence that may make the use or disclosure of confidential information appropriate. Where there is a statutory duty defined by Act of parliament, NHS England national policy (e.g. the reporting of Knife wounds) or where a Court orders the disclosure of information the healthcare professional has a responsibility to disclose the information. It may sometimes be justifiable for a healthcare professional to pass on patient information without consent where:

- Serious harm may occur to third party;
- A healthcare professional believes a patient to be the victim of abuse, when, without disclosure the task of preventing or detecting a serious crime by the police would be prejudiced or delayed.

In all cases where judgement is involved, staff are urged to discuss the case with colleagues and if necessary, to seek legal or other specialist advice. It is stressed that any staff that decide to disclose confidential information should be prepared to explain and justify their decision to disclose information to an outside authority. Therefore, staff should record in the clinical notes details of all conversations, meetings and appointments involved in the decision to disclose or not to disclose such information.

Safeguarding investigations more often require the sharing of information with other agencies. For advice, the member of staff should refer to a senior manager, Adult Safeguarding Operational Lead, the Executive Lead for Safeguarding Adults or the CEO.

Reviewed: February 2021

Next review date: February 2024