

Safeguarding Policy and Procedure

NOTE: the procedure to be followed in the event of a safeguarding concern is to be found in Appendix A.

Wycombe Homeless Connection (WHC) believes that as Christians we are charged to love and care for each other. This is particularly true where the most vulnerable members of our community are concerned. WHC is committed to the safeguarding and protection of all of its clients, volunteers, staff, trustees and visitors to the organisation from abuse and neglect.

1 PURPOSE

This document includes a policy statement together with procedures to keep safe everyone who comes into contact with this organisation and to ensure that people are trained to be clear and confident about their roles and their responsibilities towards this.

This policy is to be read in conjunction with the Managing Incidents Policy and other policies and procedures that may be developed from time to time.

Collectively these measures and the procedures associated with them are designed to ensure a culture of taking safeguarding seriously within this organisation.

The key legislation is the Care Act 2014, which gives local authorities responsibilities in connection with specific categories of individuals experiencing specific forms of abuse. The WHC policy has broader coverage, for example extending to individuals who do not have care and support needs.

Note: Wycombe Homeless Connection does not work with children and does not have any children amongst our volunteers, staff or trustees. Any children who are visiting WHC premises should always be accompanied by a responsible adult. However, where WHC receives a disclosure that there may be a risk to a child away from WHC premises, WHC will take appropriate action to safeguard the child, for example by contacting appropriate other agencies.

2 INDIVIDUALS WITH SPECIFIC RESPONSIBILITIES

Safeguarding is everyone's responsibility, but the following duties fall on the Safeguarding Lead and Deputy. The Safeguarding Trustee will provide governance and act as a point of reference to advise on safeguarding issues.

- 2.1 Implementing the safeguarding policy and procedures throughout the organisation.
- 2.2 Providing pastoral support for those involved in issues of abuse and in management of sex offenders.
- 2.3 Ensuring annual training occurs for all trustees, staff and volunteers.
- 2.4 Ensuring the policy and procedures are reviewed annually and kept up to date.
- 2.5 Ensuring agreed procedures are in place for all activities.

2.6 Following up or referring incidents or allegations as necessary.

2.7 Ensuring that events are planned taking account of risk assessments and the suitability of the premises to the activity.

2.8 Promoting a safeguarding culture for staff and volunteers and anyone accessing the service.

3 DEFINITIONS

3.1 Adult is anyone aged 18 or over.

3.2 Adult at Risk is defined in the Care Act 2014 as a person who:

- is aged 18 or over
- has needs for care and support (whether or not these needs are being met), 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

3.3 Abuse is a violation of an individual's human and civil rights by another person or persons. See Appendix B for further explanations.

3.4 Adult safeguarding is protecting a person's right to live in safety, free from abuse and neglect. The Care Act 2014 gives local authorities duties towards individuals as defined in 3.2 who are suffering abuse as listed in the relevant section of Appendix B.

3.5 Capacity refers to the ability to make a decision at a particular time, for example when under considerable stress. The starting assumptions must always be that a person has the capacity to make a decision and has the right to make their own decision unless it can be established that they lack capacity (Mental Capacity Act 2005). See Appendix C.

4 POLICY STATEMENT

Wycombe Homeless Connection believes that every individual has worth and should be treated with dignity and respect. As Christians we are charged to love and care for each other. This is particularly true where the most vulnerable members of our community are concerned and we believe this places responsibility on us as an organisation to ensure that the environment is safe for all.

We believe that:

1. Safeguarding people from abuse and neglect is both an individual and corporate responsibility
2. WHC has a duty of care to all its clients, volunteers, staff, trustees and visitors
3. There is a particular duty of care for those whose vulnerability is increased by situations, by disabilities or by reduction in capacities
4. Everyone must take precautions and responsibility to help create a safe place for the care and protection of all. This begins with everyone being well informed and aware of safeguarding issues
5. Openness must be encouraged about concerns relating to safeguarding because abuse and exploitation thrives in secrecy

Wycombe Homeless Connection is committed to:

- Responding without delay to any allegation, or cause for concern, that someone may have been harmed, whether within our activities or in another context

- Speaking up for those at risk of abuse or neglect
- Providing a safe and positive environment, ensuring that all people are safe in our care and that their dignity and right to be heard is maintained and their welfare is promoted
- Safer recruitment and providing support, advice and training for all its staff and volunteers that ensures people are clear and confident about their roles and responsibilities
- Challenging the abuse of power by anyone in a position of trust
- Ensuring the implementation of government legislation and guidance and safe practice in all its activities
- Training our staff, volunteers and board members on this policy and reviewing it annually

Everyone will be expected to see safeguarding as their responsibility and have regard to the underlying principles in Appendix D. Individuals with special responsibility for safeguarding within the organisation are:

- Safeguarding Lead
- Deputy Safeguarding Lead
- Safeguarding Trustee

Putting our policy into practice

- The safeguarding policy statement will be available on our website.
- A suitable poster describing safeguarding issues in straightforward terms will be displayed permanently in the support centre, office and night shelter venues.
- Client conversations will include open questions to make it easy for clients to make disclosures if they so wish.
- Each trustee, staff member and volunteer will need to be familiar with these procedures.
- Each trustee, staff member and support centre volunteer will be given a full copy of the Safeguarding and Managing Incidents policies and procedures and a register will be kept of copies issued.
- The policy and procedures will be monitored and reviewed annually, and any necessary revisions adopted into the policy and implemented through our procedures.

5 REDUCING THE RISK OF A SAFEGUARDING CONCERN

5.1 Recruitment

WHC is committed to safe employment and employs safe recruitment practices. *See Safer Recruitment and DBS Policy, Recruitment of Offenders Policy and Volunteering Policy*

5.2 Role descriptions and professional boundaries

All trustees, staff and volunteers within the organisation will have written role descriptions which they are inducted into as appropriate and will include the professional boundaries associated with the particular role

5.3 Supervision

All staff members will have regular supervision where managers can raise any concerns about their behaviour and boundary-keeping within their role. However managers should not wait until a supervision

meeting to raise anything more urgent. Volunteer will be supervised according to their role - see *Volunteer Handbook, Managing Challenging Behaviours Policy and Boundaries Policy*

5.4 Training

Safeguarding training will be part of the induction process for new trustees, staff members and volunteers.

All trustees, staff members and volunteers will have training on the Safeguarding Policy annually.

The Safeguarding Trustee, Safeguarding Lead and Deputy Safeguarding Lead will attend advanced safeguarding training to ensure they can handle their responsibilities.

5.5 Safe and Positive environment

WHC is committed to the health and safety of all its people. See *Health and Safety Policy, Lone working Policy, Data Protection Policy, Risk Policy and Risk Register*

5.6 Conduct

All staff members, trustees and volunteers at WHC are expected to treat each other and everyone else connected with the organisation with respect. See *Equality, Diversity and Inclusion policy, Staff Code of Conduct, Trustee Code of Conduct, Anti-bullying and Harassment Policy*

6 PRINCIPLES FOR HANDLING A SAFEGUARDING CONCERN

The following principles are designed to ensure that if any concern involving people connected with WHC does arise, it is handled quickly, transparently and effectively. The actual procedure to be followed is in the next section.

Related documents (see also below in specific sections)

WHC Managing Incidents, Whistleblowing, Complaints and Disciplinary policies

- 6.1 Safeguarding concerns include disclosures and allegations as well as actual incidents; also situations where there is risk of an incident.
- 6.2 WHC will ensure that there is a clear procedure for all clients, volunteers, staff, trustees and visitors to follow in order to report concerns. This will include who to tell, how to make a record and what to expect next.
- 6.3 Where possible the victim or the person who is at risk should be contacted in order to find out their wishes as to how the situation should be handled. Where reasonable and legal, these wishes should be acted upon. However, where the concern involves (for example) crime, coercion, children or risk to others, these wishes can be overridden. The victim or person at risk will also be kept informed of the outcome of any actions taken.
- 6.4 A clear record will be made as soon as practically possible by the person initially made aware of a concern and will be stored safely. The forms to be used will be made available at all WHC activities. They may be derived from the Incident Reporting Form in the Managing Incidents Policy.
- 6.5 Any concerns which involve actual or alleged criminal behaviour will be reported to the police. Any concerns which meet the thresholds for reporting to the Bucks Safeguarding Adults Team or the Charity Commission (see the Managing Incidents Policy section on Additional Management and Reporting) will be so reported.
- 6.6 An investigation team will be appointed if the concern:
 - involves sexual abuse or serious physical abuse
 - is one of a series of allegations about an individual

- brings WHC's name into disrepute or has an impact on donors
- involves senior managers or trustees.

6.7 All investigations and discussions must be handled with utmost discretion and the process should be undertaken speedily. The safety of the victim or the person who is at risk is paramount, but care must also be taken to ensure that no information is released about alleged perpetrators to avoid reputational damage.

6.8 If the investigation finds a concern is unwarranted but the person who reported the concern is not satisfied with that outcome, he or she may pursue the matter with relevant external bodies such as the Buckinghamshire Safeguarding Adults Team or the Charity Commission.

7 PROCEDURE FOR HANDLING SAFEGUARDING CONCERNS

Procedures are given in Appendix A, detailing:

- Actions to be taken by a person reporting a concern
- How a concern is handled internally
- Situations requiring external reporting

8 CONFIDENTIALITY AND INFORMATION SHARING

WHC expects all staff, volunteers and trustees to maintain confidentiality at all times, discussing safeguarding concerns only with individuals who need to know. In line with Data Protection law, WHC does not share information if not required.

It should however be noted that information should be shared with authorities if an adult is deemed to be at risk of immediate harm. Sharing the right information, at the right time, with the right people can make all the difference to preventing harm.

The law does not prevent the sharing of information between organisations where the public interest served outweighs the public interest served by protecting confidentiality.

There should be a local agreement or protocol in place setting out the processes and principles for sharing information between organisations.

The Social Care Institute for Excellence provides further guidance on information sharing and safeguarding see: <https://www.scie.org.uk/care-act-2014/safeguarding-adults/sharing-information/keymessages.asp>

9 RELEVANT 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 Board's 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 2018
- The Modern Slavery Act 2015

10 USEFUL LINKS

Search on the web for Buckinghamshire Safeguarding Adults Board and navigate to Multi-Agency Policy and Procedures, possibly under Information for Professionals.

Prevent - <https://www.gov.uk/government/publications/prevent-duty-guidance>

Information sharing (from the Social Care Institute for Excellence) -

<https://www.scie.org.uk/care-act-2014/safeguarding-adults/sharing-information/keymessages.asp>

11 LIST OF APPENDICES

- A. Procedure for handling safeguarding concerns
- B. Definitions of abuse
- C. Capacity – guidance on making decisions
- D. Six key principles in the Care Act 2014 underpinning all adult safeguarding work

Appendix A: PROCEDURE FOR HANDLING A SAFEGUARDING CONCERN

A safeguarding concern could be a disclosure or allegation as well as an actual incident; also a situation where there is risk of an incident. It could be connected with a variety of categories, including but not limited to these which are defined in detail in appendix B:

Domestic violence	Modern slavery	Cyber-bullying
Financial or material abuse	Self-neglect	Mate crime
Physical abuse	Discriminatory abuse	Forced marriage
Sexual abuse	Organisational abuse	Radicalisation
Psychological or emotional abuse	Neglect or acts of omission	

You might have someone ask that what they tell you remains confidential. You need to tell them that you cannot promise this as you will need to report this to the WHC Safeguarding Lead who will talk to them further.

This procedure should be followed by all trustees, staff members, volunteers and visitors at WHC when handling any safeguarding concern. These steps should be followed in order.

Actions to be taken by a person reporting a concern

Step 1: Take emergency action first if necessary:

- Only **if someone is at immediate risk of harm or needs urgent medical attention** get the shift leader or staff member (if present) to dial 999 for emergency services. Note: any reporting of a crime is to be handled later by the Safeguarding Lead or Safeguarding Trustee.

Step 2: Using the table below, gather some details and ask for consent to take further action:

- If necessary (if you have not witnessed the incident), ask for some brief details from either the victim or the person making the allegation or the person at risk.
- Seek consent to take action and to report the concern. However, consider whether the adult may lack capacity to make decisions about their own and other people's safety and wellbeing (see Appendix C). If as a result you decide to act against their wishes or without their consent, you must record your decision and your reasons.
- In certain circumstances you should report the concern even if the adult has capacity and does not consent: for example where there has been a crime; where the adult has been coerced to not report it; where the concern involves children or risk to others.
- As long as it does not increase risk, you should inform the adult if you need to share information without consent.
- Make a note of what the victim or the person making the allegation or the person at risk has said using his or her own words.
- Information required to complete a report includes:
 - Date and time
 - Description of concern
 - The names of all parties involved
 - Any immediate action taken
 - The involvement of any external agencies e.g. emergency services.
- As far as possible, records should be written as soon as possible, dated and signed.
- You should only record facts and not opinions.
- Do not rewrite these notes. Your original may be needed, however untidy it may appear.

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Registered Charity No. 1156211 Incorporating Wycombe Winter Night Shelter

- The following table provides a checklist for the interaction with the victim or the person making the allegation.

WHAT TO DO	WHAT NOT TO DO
<ul style="list-style-type: none"> • Listen to and acknowledge what is being said • Try to be reassuring & remain calm. • Explain clearly what you will do and what will happen next • Try to give them a timescale for when and how they will be contacted again • Be supportive • Tell them that: <ul style="list-style-type: none"> ○ They were right to tell you. ○ You take what they have said seriously. • Be open and honest. • Give contact details for them to report any further details or ask any questions that may arise. 	<ul style="list-style-type: none"> • Do not promise confidentiality • Do not show shock, alarm, disbelief or disapproval • Do not minimise what is being said • Do not ask probing or leading questions or push for more information • Do not offer false reassurance • Do not contact the alleged abuser • Do not investigate the incident any further • Never leave an adult at risk waiting to hear from someone without any idea of when or where that may be • Do not pass on information to those who don't need to know

Step 3: Get help (see table below) to fill in a Reporting Form to log any safeguarding concern as soon as practicable:

- Reporting Forms will be held in the office, in the Support Centre, in the night shelter bag and in the Plug-In registration book; and will be made available at any other activity run by WHC off site by the person organising the activity. Each form will be in an envelope so that it can be transmitted confidentially.
- The person who witnessed the incident, or who received the disclosure or allegation or who observed the risky situation should be the one to fill in the form.
- A more senior person should be asked to help with the form in accordance with the table below. Where the table and text below indicates Safeguarding Lead, the Deputy may be contacted if the Safeguarding Lead is not available.
- As of September 2019, the individuals with safeguarding responsibilities were:
Safeguarding Lead: James Boulton
Deputy Safeguarding Lead: Helen Sheppard
Safeguarding Trustee: David Sparks
- The current names can be found by entering safeguarding in the search box on the WHC website.

WHC situation	Person reporting concern	Get help with the form initially from:	If the person in the previous column is implicated in the concern, get help with the form from:
Night shelter, staff member present	Volunteer or shift leader	Staff member present	Safeguarding Lead
	Staff member	Safeguarding Lead	Safeguarding Trustee
Night shelter, no staff member present	Volunteer or shift leader	Staff member on call	Safeguarding Lead
Plug-In	Volunteer or shift leader	Safeguarding Lead	Safeguarding Trustee
Activity on WHC premises (e.g. Support Centre)	Volunteer or shift leader	Staff member	Safeguarding Lead
	Staff member	Safeguarding Lead	Safeguarding Trustee
	Safeguarding Lead	Safeguarding Trustee	Chair of trustees
Other activity not on WHC premises (e.g. Sleepout)	Anyone	Safeguarding Lead	Safeguarding Trustee

[Note: the rationale for this table is at the end of this Appendix.]

- It is important to note that Reporting Forms could be used in a court as evidence.
- Include a written record of all telephone calls.
- Do not discuss this information with anyone else.
- If possible, take a copy, and if not, ask for a copy to be given to you. Give the form to the person who helped complete it.
- As soon as possible (e.g. the following morning for a concern that arose overnight) the person making the report should create an email with the wording:
I completed a form about a safeguarding concern at <name of WHC activity and venue> with the help of <name of person helping> at <time> on <date>.
...and send it to all of:
safeguarding.lead@wyhoc.org.uk
deputy.safeguarding.lead@wyhoc.org.uk
safeguarding.trustee@wyhoc.org.uk
...but omitting any of them that are implicated in the concern. If this is not possible, then the person making the report should convey this message by telephone personally to at least two of the above, omitting any of them that are implicated in the concern.
- **At the night shelter:** when there is no staff member present, the shift leader should consult the staff member on call. The completed form will be kept with the shelter log book. Information about a concern should be passed on through handover to subsequent shift

leaders, initially confidentially; these subsequent shift leaders will decide which if any of their volunteers should be made aware of the concern; and finally the morning shift leader will brief the morning staff member who will take charge of the form.

- **At Plug-In:** the shift leader should in all cases consult the Safeguarding Lead, unless the Safeguarding Lead is implicated in the concern, when the shift leader should instead consult the Safeguarding Trustee. The shift leader should arrange for the completed form to be delivered the following day.
- The form should be delivered to the Safeguarding Lead unless the Safeguarding Lead is implicated in the concern, when the form should instead be conveyed to the Safeguarding Trustee.
- At this point the Safeguarding Lead or Deputy or Safeguarding Trustee will be in possession of the form, and at least two of them will be aware there has been a concern. They will take any further action needed.

How a concern is handled internally

Step 4: Internal reporting and investigation:

- The Safeguarding Lead should inform the chair of trustees and the risk management trustee and arrange with the CEO for the concern to be reported to the next meeting of the Board of Trustees.
- The Safeguarding Lead should normally investigate the concern. However, if the concern involves:
 - sexual abuse or serious physical abuse
 - is one of a series of allegations about an individual
 - brings WHC's name into disrepute or has an impact on donorsan investigation team will be appointed consisting of the Safeguarding Trustee, either the support team manager or volunteering manager (depending whether a staff member or volunteer is involved), and the CEO.
- In the event of a concern involving senior managers (including the Safeguarding Lead or Deputy Safeguarding Lead) or trustees, then a panel made up of a trustee appointed by the board, together with the CEO and Safeguarding Trustee will be formed (unless one of them is involved).
- The investigation could result in disciplinary action or external reporting (see next section).
- If a client is involved, the Reporting Form and supporting evidence should be uploaded onto High Rise with restricted access as soon as possible and certainly within five working days of the incident by the Safeguarding Lead or Safeguarding Trustee.
- Following investigation, the investigator will ensure the concern is followed up as described in the Managing Incidents Policy section on Monitoring and Review.

Situations requiring external reporting

Step 5: External reporting:

- The Safeguarding Lead (or Safeguarding Trustee if the Safeguarding Lead is implicated) will decide in consultation with any relevant staff whether the concern should be reported, and by whom, to the Buckinghamshire Safeguarding Adults Team and/or Police, in accordance with information here: search on the web for Buckinghamshire Safeguarding Adults Board and navigate to Threshold Document, possibly under Information for Professionals.
- To locate their contact details and their referral form, search on the web for Buckinghamshire Safeguarding Adults Board and navigate to How to Report Abuse; or call 0800 137915, or out of hours 0800 999 7677.
- It is important to describe the abuse in terms of the categories in the threshold table (or in Appendix B). Where the Safeguarding Adults Team has a duty it must carry out an enquiry in line with section 42 of the Care Act.
- The Safeguarding Lead (or Safeguarding Trustee if the Safeguarding Lead is implicated) will decide in consultation with any relevant staff whether information about the concern should be shared with other support agencies, and by whom. See the section above on Confidentiality and Information Sharing.
- The Board of Trustees will decide whether further reporting is needed, for example to funders or the Charity Commission, in accordance with the Managing Incidents Policy section on Additional Management and Reporting; and they will assign the task of preparing and submitting any report.

The rationale for the table in Step 3.

1. Unless practicality suggests otherwise, a concern should be reported to the most senior person available in person or on-call who is not themselves implicated.
2. The person reported to should be more senior than the person making the report.
3. The person reported to should be more senior than the person implicated in the concern.
4. The additional email or phone report is to ensure the existence of the concern is made visible even if the person being reported to tries to protect the person implicated.

Appendix B: Definitions of Abuse

Care Act 2014 abuse categories

The official guidance states 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. Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered.

Physical abuse including:

assault; hitting; slapping; pushing; misuse of medication; restraint; inappropriate physical sanctions

Domestic violence including:

psychological; physical; sexual; financial; emotional abuse; so-called 'honour' based violence

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; sexual assault; sexual acts to which the adult has not consented or was pressured into consenting

Psychological abuse including:

emotional abuse; threats of harm or abandonment; deprivation of contact; humiliation; blaming; controlling; intimidation; coercion; harassment; verbal abuse; cyber bullying; isolation; unreasonable and unjustified withdrawal of services or supportive networks

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; the misuse or misappropriation of property, possessions or benefits

Modern slavery encompasses:

slavery; human trafficking; forced labour and domestic servitude; traffickers and slave masters using whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment

Discriminatory abuse including forms of:

harassment; slurs or similar treatment because of: race, gender and gender identity, age, disability, sexual orientation, religion

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.

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

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. It should be noted that self-neglect may not prompt a local authority section 42 enquiry. An assessment should be made on a case by case basis. A decision on whether a response is required under safeguarding will depend on the adult's ability to protect themselves by controlling their own behaviour. There may come a point when they are no longer able to do this, without external support.

Abuse categories not included in the Care Act 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. It can also involve using online forums with the intention of harming, damaging, humiliating, or isolating another person. It includes various different types of bullying, including racist bullying, homophobic bullying, or bullying related to special education needs and disabilities. The main difference is that, instead of the perpetrator carrying out the bullying face-to-face, they use technology as a means to do it.

Forced Marriage

This 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 makes it a criminal offence to force someone to marry.

Mate Crime

A "mate crime" is when "vulnerable people are befriended by members of the community who go on to exploit and take advantage of them" (Safety Network Project, ARC). It may not be an illegal act, but it still has a negative effect on the individual. A mate crime is carried out by someone the adult knows, and it often happens in private. In recent years there have been a number of Serious Care Reviews relating to people with a learning disability who were seriously harmed, or even murdered, by people who purported to be their friend.

Radicalisation

The aim of radicalisation is to inspire new recruits, embed extreme views and persuade vulnerable individuals of the legitimacy of a cause. This may be direct through a relationship, or through social media.

Appendix C: Capacity - Guidance on Making Decisions

Having mental capacity means that a person is able to make their own decisions.

Individuals make many decisions every day, often without realising. Individuals 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".

A person's ability to do this may be affected by things like:

- a stroke or brain injury
- a mental health problem
- dementia
- a learning disability
- confusion, drowsiness or unconsciousness because of an illness or the treatment for it
- substance misuse

The test to assess capacity

In order to decide whether an individual has the capacity to make a particular decision two questions must be answered:

Stage 1. Is there an impairment of or disturbance in the functioning of a person's mind or brain? If so,

Stage 2. Is the impairment or disturbance sufficient that the person lacks the capacity to make a particular decision?

The Mental Capacity Act (MCA) 2005 says that a person is unable to make their own decision if they cannot do one or more of the following four things:

- understand information given to them
- retain that information long enough to be able to make the decision
- weigh up the information available to make the decision
- communicate their decision – this could be by talking, using sign language or even simple muscle movements such as blinking an eye or squeezing a hand.

Every effort should be made to find ways of communicating with someone before deciding that they lack capacity to make a decision based solely on their inability to communicate. Also, family, friends, carers or other professionals should be involved.

The assessment must be made on the balance of probabilities – is it more likely than not that the person lacks capacity? Records should show why the conclusion was reached that capacity is lacking for the particular decision.

The judgment on whether a person has capacity for a particular decision should be made by someone who best understands the decision: for example, in the case of a medical decision, a doctor is best placed to judge whether the person understands the consequences of their decision.

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

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

The Act is underpinned by five key principles (Section 1, MCA). It is useful to consider the principles chronologically: principles 1 to 3 will support the process before or at the point of determining whether someone lacks capacity. Once it has been decided that capacity is lacking, principles 4 and 5 support the decision-making process.

Principle 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.

Principle 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.

Principle 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.

Principle 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.

Principle 5 Find the least restrictive way of doing what needs to be done.

From the Social Care Institute for Excellence: <https://www.scie.org.uk/mca/introduction/mental-capacity-act-2005-at-a-glance>

Appendix D: Six key principles in the Care Act 2014 underpinning all adult safeguarding work

Principle 1 Empowerment – Personalisation and the presumption of person-led decisions and informed consent. “I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”

Principle 2 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.”

Principle 3 Proportionality – Proportionate and least intrusive response appropriate to the risk presented. “I am sure that the professionals will work for my best interests, as I see them and they will only get involved as much as I require.”

Principle 4 Protection – Support and representation for those in greatest need. “I get help and support to report abuse. I get help to take part in the safeguarding process to the extent which I want and am able.”

Principle 5 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 to get the best result for me.”

Principle 6 Accountability – Accountability and transparency in delivering safeguarding. “I understand the role of everyone involved in my life and so do they.”

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Last review date: October 2019

Next review due: October 2020