

# Safeguarding Vulnerable Adult

A vulnerable adult could be described as someone in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care/protect themselves against significant harm or exploitation.

## What constitutes neglect/abuse:

Single/repeated acts e.g:

- physical, verbal or psychological
- act of neglect or an omission to act including an unintended lack of attention to someone who requires it
- when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented, or cannot consent
- it can occur in any relationships and may result in significant harm to, or exploitation of, the person subject to it.

## Key steps to consider:

1) Prevention [identify who is vulnerable]

- an older person who is particularly frail
- mental disorder e.g. learning disability, dementia or a personality disorder
- significant and impairing physical or sensory disability
- an unpaid carer who may be overburdened, under severe stress or isolated
- a homeless person
- any person living with someone who abuses drugs or alcohol
- women who may be particularly vulnerable as a result of isolating cultural factors.

2) Assessing needs [social service input]

3) Assessing competence

- Adults with capacity

If they have capacity their decision must be respected unless treatment is being provided under mental health legislation.

If someone with capacity refuses, document support offered and reason for adult's refusal.

Keep decision under review – their circumstances may change in the future

Exceptions to this may be where a criminal offence may have taken place or where there may be a significant risk of harm to a third party e.g. if abusive adult who has power of authority then you could breach confidentiality and inform appropriate authority

- Adults without capacity

Where there is doubt about an adult's capacity, a more formal assessment should be made

An assessment of mental capacity is decision-specific – it relates to the specific decision that needs to be made at the time it needs to be made

Regulated by Mental Capacity Act 2005 (MCA)

Principle are:

- *A presumption of capacity* - until proven otherwise
- *Maximising decision-making capacity before* it is decided that they lack capacity.
- *The freedom to make unwise decisions*.- is not in itself evidence of lack of capacity
- *Best interests*: person (often family member/friend) should be acting in the other person's interests. Consideration to likelihood that the person will regain capacity, and whether the decision can be

delayed until that time. Their past and present wishes and feelings, including any relevant written statement.

### **In 2009 Deprivation of Liberty safeguards (DOLS) introduced:**

Under the MCA, the Deprivation of Liberty of a person lacking capacity to consent to treatment can be authorised in the following 3 ways:

The Deprivation of Liberty Safeguards can only be used if the person will be deprived of their liberty in a care home or hospital. In other settings the Court of Protection can authorise a deprivation of liberty.

- Care homes or hospitals must ask a local authority if they can deprive a person of their liberty. This is called requesting a standard authorisation.
- There are six assessments which have to take place before a standard authorisation can be given.
- If a standard authorisation is given, one key safeguard is that the person has someone appointed with legal powers to represent them. This is called the relevant person's representative and will usually be a family member or friend.
- Other safeguards include rights to challenge authorisations in the Court of Protection, and access to Independent Mental Capacity Advocates (IMCAs).

### **Key question to ask:**

- Is the person subject to continuous supervision and control? and
- Is the person free to leave? – with the focus being not on whether a person seems to be wanting to leave, but on how those who support them would react if they did want to leave.

Other useful considerations:

- frequent use of sedation/medication to control behaviour
- regular use of physical restraint to control behaviour
- the person concerned objects verbally or physically to the restriction and/or restraint
- objections from family and/or friends to the restriction or restraint
- the person is confined to a particular part of the establishment in which they are being cared for
- the placement is potentially unstable
- possible challenge to the restriction and restraint being proposed to the Court of Protection or the Ombudsman, or a letter of complaint or a solicitor's letter
- the person is already subject to a deprivation of liberty authorisation which is about to expire.

Where a managing authority thinks it needs to deprive someone of their liberty they have to ask for this to be authorised by a supervisory body. They can do this up to 28 days in advance of when they plan to deprive the person of their liberty. For care homes and hospitals the supervisory body is the local authority where the person is ordinarily resident. Usually this will be the local authority where the care home is located unless the person is funded by a different local authority.

Safeguard exist:

If standard authorisation is granted the following safeguards are available:

- The person must be appointed a relevant person's representative as soon as possible. Usually this will be a family member or friend who agrees to take this role. If there is no one willing or able to take this role on an unpaid basis, the supervisory body must pay someone, such as an advocate, to do this.
- The person and their representative can require the authorisation to be reviewed at any time, to see whether the criteria to deprive the person of their liberty are still met, and if so whether any conditions need to change.
- The person and their relevant person's representative have a right to challenge the deprivation of liberty in the Court of Protection at any time.
- If the person has an unpaid relevant person's representative, both they and their representative are entitled to the support of an Independent Mental Capacity Advocates [IMCA]. It is good practice

for supervisory bodies to arrange for an IMCA to explain their role directly to both when a new authorisation has been granted.

- The home or hospital should do all it reasonably can to explain to a detained person and their family what their rights of appeal are and give support.

#### 4) Identify relevant services

Such as social care, citizen's advice/charities advice for specific disorder/particular social needs

#### 5) Take consensual approach:

##### If competent:

Where a competent patient refuses to permit disclosure, this should be respected. Exceptions include where confidentiality can be overridden either by a court order or other legal authority, or in the public interest (e.g. prevent significant harm to third parties or to prevent or to prosecute a serious crime)

##### Where an adult lacks capacity:

Information can be disclosed where it is in their best interests taking into consideration the principle of proportionality (making balanced decisions about whether to share information without consent)

#### 6) Safeguarding [develop protection plan]

##### When should GPs refer through multiagency safeguarding adults service?

Overall responsibility for coordinating multi-agency responses to the harm or abuse of vulnerable adults rests with the local authority:

- Concept of 'significant' harm. This is likely to include not only violent and unlawful acts including hitting, sexual abuse and harmful psychological coercion, but also any acts, or omissions, likely to lead to a serious impairment of physical or mental health. Factors that should be taken into account when considering the involvement of adult protection services will include:
  - vulnerability of the individual
  - nature and extent of the abuse
  - length of time it has been occurring
  - effect of the abuse on the individual
  - risk of repeated or increasingly serious abuse
  - likelihood that other vulnerable individuals may also be put at risk
  - risk of serious harm
  - whether criminal offences are involved.
- Where harm or abuse has occurred or there is significant risk, multi-agency procedures provide a means of investigating and protecting the person
- Where adult patients are at risk of harm due to a lack of appropriate health resources, or poor clinical performance, doctors have clear responsibilities to take appropriate action via established channels, including multi-agency safeguarding procedures, in order to protect patients

GMC have a confidential hotline if have concerns about a colleague: **0161 923 6399**

##### Disclosure and Barring Service:

When to refer:

They have permanently been removed from "regulated activity" through dismissal or permanent transfer AND you believe the person has either:

- Engaged in 'relevant' conduct'
- Satisfied the 'harm test' [could come to harm if you hadn't acted]
- Received a caution or conviction for a 'relevant offence'

Prevent strategy: Anti-terrorism strategy. Mechanism to support and mentor (often of same religious background). Statutory duty to report. Contact Prevent Lead: [england.londonprevent@nhs.net](mailto:england.londonprevent@nhs.net)

## Female Genital Mutilation:

FGM is prevalent in 30 countries. These are concentrated in countries around the Atlantic coast to the Horn of Africa, in areas of the Middle East, and in some countries in Asia.

Estimated that approximately 103,000 women aged 15-49 and approximately 24,000 women aged 50 and over who have migrated to England and Wales are living with the consequences of FGM. In addition, approximately 10,000 girls aged under 15 who have migrated to England and Wales are likely to have undergone FGM.

FGM is a deeply embedded social norm, practised by families for a variety of complex reasons. It is often thought to be essential for a girl to become a proper woman, and to be marriageable. The practice is not required by any religion.

It is mandatory reporting duty to make a report to the police where:

- informed by a girl under 18 that an act of FGM has been carried out on her; or
- observe physical signs which appear to show that an act of FGM has been carried out on a girl under 18 and they have no reason to believe that the act was necessary for the girl's physical or mental health or for purposes connected with labour or birth

For the purposes of the duty, the relevant age is the girl's age at the time of the disclosure/identification of FGM (i.e. it does not apply where a woman aged 18 or over discloses she had FGM when she was under 18).

**Remember can discuss with on-call paediatrician if OOH and child protection issue.**

## Assess the need of carers

Key question to ask is "Would this person cope without you"

Can refer to local carer support services such as "Carers UK": <http://www.carersuk.org/help-and-advice>

Carers assessment is organised by council according to appearance of need

What is a Carers Assessment?

All carers are entitled to an assessment of their needs, separate from the assessment of the person they care for. A Carers Assessment enables carers to think about their needs and find out about any help available to them. The emphasis is on the carer assessing his/her own needs

Advantages

- talk through their experiences as a carer and feel listened to and respected
- discuss services that can help and support them as a carer (support groups etc.)
- Help to apply for small grants and Carers Personal Budgets
- Needs as a carer are clearly identified, along with agreed actions and outcomes

Are they entitled to any benefits as a carer?:

- Carer's Allowance
  - you look after someone who gets a qualifying disability benefit
  - you look after that person for at least 35 hours a week
  - you are aged 16 or over
  - you are not in full-time education
  - you earn £110 a week (after deductions) or less
  - you satisfy UK presence and residence conditions
- Carer's Credit

What benefits may they be entitled to? <https://benefits-calculator.turn2us.org.uk/AboutYou>