The Queen Elizabeth Hospital
King's Lynn
NHS Foundation Trust

NHS

# Safeguarding Adults

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# Your Responsibilities

## Safeguarding adults

**All** staff within health services have a responsibility for the safety and wellbeing of patients and colleagues.

Living a life that is free from harm and abuse is a fundamental human right of every person and an essential requirement for health and well-being.

Safeguarding adults is about the safety and well-being of all patients but providing additional measures for those least able to protect themselves from harm or abuse.

Safeguarding adults is a fundamental part of patient safety and wellbeing and the outcomes expected of the NHS. Safeguarding adults is also integral to complying with legislation, regulations and delivering cost effective care.

These cards should be used by you as a guide should you have a safeguarding concern and should always be used alongside your organisations safeguarding policy and procedures.

**Definition of a vulnerable adult:**

Aged 18 years or over;
Who may be 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 of him or herself, or unable to protect him or herself against significant harm or exploitation

NB: Throughout this publication we have used the term 'patient' to refer to patients and clients.

## Your responsibilities when you have safeguarding concerns:

- Assess the situation i.e. are emergency services required?
- Ensure the safety and wellbeing of the individual
- Establish what the individual's views and wishes are about the safeguarding issue and procedure
- Maintain any evidence
- Follow internal procedures for reporting incidents/risks
- Remain calm and try not to show any shock or disbelief
- Listen carefully and demonstrate understanding by acknowledging regret and concern that this has happened
- Inform the person that you are required to share the information, explaining what information will be shared and why

# Your Responsibilities

- Make a written record of what the person has told you, using their words or what you have seen as well as your actions

## Duty of care:

You have a duty of care to your patients/service users, your colleagues, your employer, yourself and the public interest. Everyone has a duty of care – it is not something that you can opt out of.

The Health Professions Council standards state[9]
'….a person who is capable of giving their consent has the right to refuse treatment. You must respect this right. You must also make sure they are fully aware of the risk of refusing treatment, particularly if you think there is a significant or immediate risk to life.'

Duty of care can be said to have reasonably been met where an objective group of professional considers. [10]

- All reasonable steps have been taken
- Reliable assessment methods have been used
- Information has been collated and thoroughly evaluated
- Decisions are recorded, communicated and thoroughly evaluated
- Policies and procedures have been followed
- Practitioners and managers should seek to ascertain the facts and are proactive

You should always treat every individual with dignity and respect to ensure that they feel safe in services and empowered to make choices and decisions.

Ensure that significant others, i.e family member, friend or advocate, are involved to support the individual where appropriate.

However it is important to recognise that though an individual with capacity has the right to refuse care for themselves, the duty of care extends to considering where others may be at risk and action is needed to protect them.

## You have a responsibility to follow the 6 safeguarding principles:

**Principle 1 – Empowerment - Presumption of person led decisions and consent**

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# Your Responsibilities

Adults should be in control of their care and their consent is needed for decisions and actions designed to protect them. There must be clear justification where action is taken without consent such as lack of capacity or other legal or public interest justification. Where a person is not able to control the decision, they will still be included in decisions to the extent that they are able. Decisions made must respect the person's age, culture, beliefs and lifestyle.

**Principle 2 – Protection – Support and representation for those in greatest need**
There is a duty to support all patients to protect themselves. There is a positive obligation to take additional measures for patients who may be less able to protect themselves.

**Principle 3 – Prevention**
Prevention of harm or abuse is a primary goal. Prevention involves helping the person to reduce risks of harm and abuse that are unacceptable to them. Prevention also involves reducing risks of neglect and abuse occurring within health services.

**Principle 4 – Proportionality – Proportionality and least intrusive response appropriate to the risk presented**
Responses to harm and abuse should reflect the nature and seriousness of the concern. Responses must be the least restrictive of the person's rights and take account of the person's age, culture, wishes, lifestyle and beliefs. Proportionality also relates to managing concerns in the most effective and efficient way.

**Principle 5 – Partnerships – Local solutions through services working with their communities**
Safeguarding adults will be most effective where citizens, services and communities work collaboratively to prevent, identify and respond to harm and abuse.

**Principle 6 – Accountability – Accountability and transparency in delivering safeguarding**
Services are accountable to patients, public and to their governing bodies. Working in partnerships also entails being open and transparent with partner agencies about how safeguarding responsibilities are being met.

(Ref: The role of Health Service Practitioners DH 2011)

# Categories of Abuse

## 1. Categories of abuse

Physical, Psychological / Emotional, Sexual and Sexual Exploitation, Financial, Neglect, Discriminatory, Institutional

**Physical:** assault, rough handling, unreasonable physical restraint

**Sexual and Sexual Exploitation:** any non-consenting sexual act or behaviour

**Psychological/Emotional:** bullying, intimidation, verbal attacks, or other behaviour that affects the well-being of an individual

**Neglect:** a person's well-being is impaired and care needs not met

**Discrimination:** psychological abuse that is racist, sexist or linked to a person's sexuality, disability or age

**Financial:** theft, fraud, misappropriating funds i.e. when using a person's money for self gain or gratification

**Institutional:** Observed lack of dignity and respect in the care setting, rigid routine, processes/ tasks organised to meet staff needs, disrespectful language and attitudes

Domestic violence and self harm need to be considered as possible indicators of abuse and/or contributory factors

## 2. Significant Harm

"Harm should be taken to include not only ill treatment but also the impairment of, or avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social, or behavioural development" Law Commission 1995.

## 3. Whistle blowing

Always act whenever abuse is suspected including when your legitimate concern is not acted upon. Whistle blowers are given protection under the Public Interest Disclosure Act 1998.

**If in doubt contact your nominated lead for adult safeguarding**

# Your Role as Alerter

## Your role as 'Alerter' in the Safeguarding Process

- The 'alerter' raises a safeguarding concern within their own agency following own policy and procedures
- This concern may result from something that you have seen, been told or heard
- Make a referral to Safeguarding Children where this is necessary

## Assessment

Your assessment should be holistic and thorough considering the patient's emotional, social, psychological and physical presentation as well as the identified clinical need. You need to be alert to:

- Inconsistencies in the history or explanation
- Skin integrity
- Hydration
- Personal presentation e.g. is the person unkempt
- Delays or evidence of obstacles in seeking or receiving treatment
- Evidence of frequent attendances to health services or repeated failure to attend (DNA)
- Environmental factors eg. signs of neglect, the reactions and responses of other people with the patient
- Does the patient have capacity for the decision required?
- Are they able to give informed consent or is action needed in their best interests?
- Are there others at risk e.g. children or other vulnerable adults?
- Is immediate protection required?
- Has a crime been committed and should the Police be informed?
- Preserving any evidence
- Is any action that is being considered proportionate to the risk identified?
- What are the patient's views/wishes?
- Cultural differences or religious beliefs
- Are there valid reasons to act even without the patient's consent? E.g. where others are at risk; need to address a service failure that may affect others

# Your Role as Alerter

Golden rules: Holistic assessment

## On admission:

- Is the patient vulnerable as defined under 'No Secrets'?
- Are there any existing alerts relating to the patient?
- Is there any current agency involvement. Consider both statutory and private providers
- What are the home circumstances?
- Is the patient likely to require more input on discharge?
- Who else lives in the household?
- Skin integrity
- Nutritional state including hydration
- Personal presentation
- Person's communication and behaviour
- Are any reasonable adjustments required
- Treat the person with dignity and respect

## Before discharge:

- Where is the patient being discharged to?
- Don't transfer problems
- Is there any previous involvement/ support (consider statutory and private providers and informal carers) that needs re-engaging?
- Think about information sharing when transferring patient
- Will they be safe on discharge?
- Is this the patient's choice?
- Does there need to be a referral to Adult Social Care?
- Have community nurse referrals been made?
- Has the care package been restarted?
- Check for outcomes of any Safeguarding referrals
- Does an alert need adding to patient notes?

## Communication

- Consider use of communication aids/language line if required to involve the patient
- Take account of individual differences
- Listen carefully, remain calm and try not to show shock or disbelief
- Acknowledge what is being said

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# Your Role as Alerter

- Do not ask probing or leading questions which may affect credibility of evidence
- Be open and honest and do not promise to keep a secret
- Seek consent to share information if patient has capacity and if this does not place you or them at increased risk
- You may share information without consent if it is in the public interest in order to prevent a crime or protect others from harm (follow own organisation's policy and procedures)

## Reporting

- Report concern following your safeguarding adult policy and procedures
- Make clear and concise referral so that person reading the form understands the key issues
- Do not delay unnecessarily
- Concern about a colleague should be raised through your organisations Managing Allegations against staff or Whistle blowing policy

**Remember that you are accountable for what you do or choose not to do.**

## Recording

- You are accountable for your actions or omissions
- Make a legible, factual, timely and accurate record of what you did and why, to demonstrate transparent, defensible decision making e.g. capacity assessment made, best interest decision, any restraint which was required which must be proportionate to the situation

# Information Sharing

## Information sharing

**Where there are safeguarding concerns staff have a duty to share information. It is important to remember that in most serious case reviews, lack of information sharing can be a significant contributor when things go wrong.**

**Information should be shared with consent wherever possible**. A person's right to confidentiality is not absolute and may be overridden where there is evidence that sharing information is necessary to support an investigation or in best interests e.g. in the interests of public safety, police investigation, implications for regulated service.

1. **Remember that the Data Protection Act is not a barrier to sharing information** but provides a framework to ensure that personal information about living persons is shared appropriately
2. **Be open and honest** with the person (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so
3. **Seek advice** if you are in any doubt, without disclosing the identity of the person where possible
4. **Share with consent where appropriate** and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgment, that lack of consent can be overridden in the public interest. You will need to base your judgment on the facts of the case
5. **Consider safety and well-being**: Base your information sharing decisions on considerations of the safety and well-being of the person and others who may be affected by their actions
6. **Necessary, proportionate, relevant, accurate, timely and secure**: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely

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# Information Sharing

7. **Keep a record** of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose

**Any information disclosed should be:**

- clear regarding the nature of the problem and purpose of sharing information
- based on fact, not assumption
- restricted to those with a legitimate need to know
- relevant to specific incident
- strictly limited to the needs of the situation at that time
- recorded in writing with reasons stated

## Sharing data when someone lacks mental capacity

- Can the patient give consent to disclosure of information?
- You have a responsibility to explore approaches to help them understand
- In some instances the individual will not have the capacity to consent to disclosure of personal information relating to them. Where this is the case any disclosure of information needs to be considered against the conditions set out in the Data Protection Act and Best interests

# The Mental Capacity Act

## The Mental Capacity Act (MCA) 2005

## 5 Principles Which Underpin The Mental Capacity Act:

In order to protect those who lack capacity and to enable them to take part, as much as possible in decisions that affect them, the following statutory principles apply:

- You must always assume a person has capacity unless it is proved otherwise
- You must take all practicable steps to enable people to make their own decisions
- You must not assume incapacity simply because someone makes an unwise decision
- Always act, or decide, for a person without capacity in their best interests
- Carefully consider actions to ensure the least restrictive option is taken

## Assessment Of Capacity:

Follow the 2 stage test for capacity:

- **Stage 1**: Does the person have an impairment of the mind or brain (temporary or permanent)?

If Yes:

- **Stage 2**: Is the person able to:
- Understand the decision they need to make and why they need to make it?
- Understand, retain, use and weigh information relevant to the decision?
- Understand the consequences of making, or not making, this decision?
- Communicate their decision by any means (i.e. speech, sign language)?
- Failure on one point will determine lack of capacity

## How To Act In Someone's Best Interests:

- Do not make assumptions about capacity based on age, appearance or medical condition
- Encourage the person to participate as fully as possible
- Consider whether the person will in the future have capacity in relation to the matter in question
- Consider the person's past and present beliefs, values, wishes and feelings

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# The Mental Capacity Act

- Take into account the views of others – i.e. carers, relatives, friends, advocates
- Consider the least restrictive options
- Best Interests checklist will be available as part of local policy and procedure

## What Else Do You Need To Consider?

**MCA Code of Practice**: Professionals and carers must have regard to the Code and record reasons for assessing capacity or best interests. If anyone decides to depart from the Code they must record their reasons for doing so.

**LPAs & ADs**: Is there a valid/current Lasting Power of Attorney **or** an Advance Decision in place?

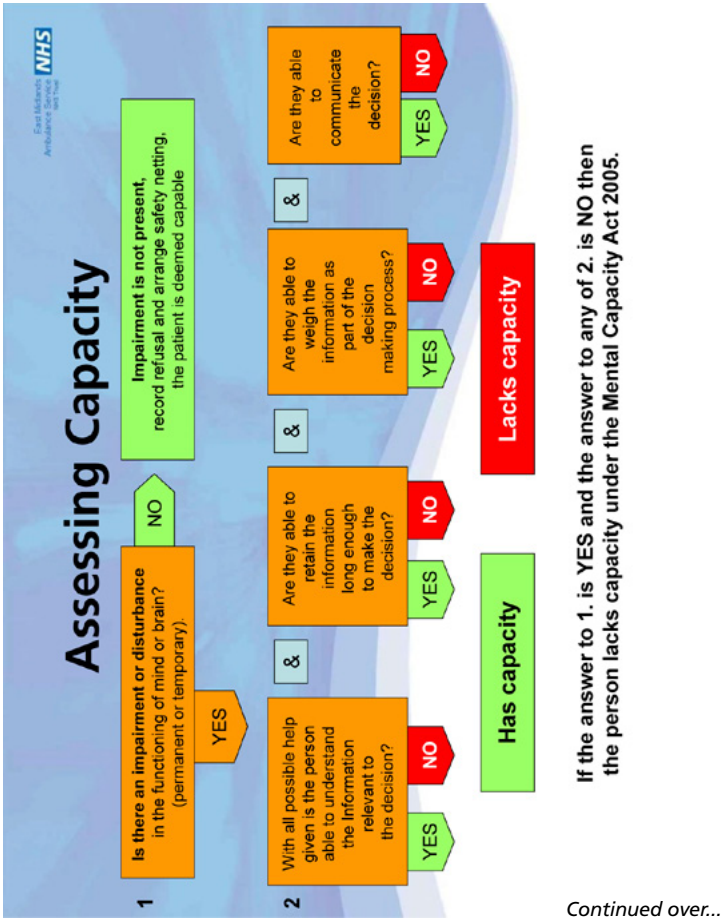
**IMCAs**: The Mental Capacity Act sets up a new service, the Independent Mental Capacity Advocate (IMCA), to help vulnerable people who lack capacity and are facing important decisions including serious healthcare treatment decisions and who have no one else to speak for them.

## Where To Find Guidance

The full text of the Act and the Code of Practice is available on website address: www.dca.gov.uk/legal-policy/mental-capacity.

**NB** there may not always be time in emergency situations for all investigation and consultation, and there should be no liability for acting in the reasonable belief that someone lacks capacity, and what you do is reasonably believed to be in their best interests (MCA s5). This can include restraint if need be, if it is proportionate and necessary to prevent harm (MCA s6), and even "a deprivation of liberty", if this is necessary for "life sustaining treatment or a vital act", while a Court Order is sought if need be (MCA s4B).

# Assessing Capacity Chart




**If the answer to 1. is YES and the answer to any of 2. is NO then the person lacks capacity under the Mental Capacity Act 2005.**

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## Best Interests

If the patient is not able to consent or refuse treatment, there is a duty to make a best interest decision about whether to treat the patient.

**You must:**

- involve the person who lacks capacity
- have regard for past and present wishes and feelings, especially written statements
- consult with others who are involved in the person's care
- there can be no discrimination

# Deprivation of Liberty Safeguards

## Deprivation of Liberty Safeguards

## What is it?

The Deprivation of Liberty Safeguards 2009 (DoLS) are an amendment to the Mental Capacity Act 2005. They provide a legal framework to protect those (over 18 years) who lack the capacity to consent to the arrangements for their treatment or care, for example by reason of Dementia, Learning disability or Brain Injury and where levels of restriction or restraint used in delivering that care for the purpose of protection from risk/harm are so extensive as to potentially be depriving the person of their liberty. Deprivation of Liberty Safeguards goes beyond the actions permitted under section 5 of the Mental Capacity Act (MCA) 2005.

## Who does it apply to?

The safeguards ONLY apply to people who lack capacity to consent to care/treatment they receive: AND are over 18 years of age AND receive care in a hospital or a care home setting AND the care they receive deprives them of their liberty AND they are not detained under the Mental Health Act.

If a person is being deprived of their liberty and they are not in a care home or hospital, their care can only be authorised through the Court of Protection.

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# Deprivation of Liberty Safeguards

## What you need to know

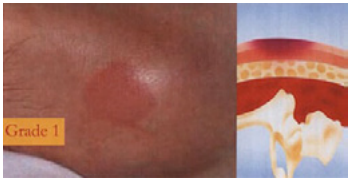
- Sometimes deprivation of liberty (DoL) is required to provide care/ treatment and protect people from harm, BUT every effort should be made to prevent DoL by making provision to avoid placing restrictions, if DoL cannot be avoided it should be for no longer than is necessary
- There is a legal duty on the hospital or care home, if the Safeguards apply, to request the local authority to authorise to deprive someone of their liberty for a limited period of time
- A major part of preventing DoL is minimising any restraint. Restraint must be appropriate, proportionate and in the patient's best interests

## What to do

- If you are worried about a patient in your care who you think might be being deprived of their liberty, consider ways in which you can minimise restrictions. Please refer to your local DoLs procedures
- Discuss the case with your Adult Safeguarding Lead
- In a community setting you can contact your Local Authority DoLS team who will be able to assist

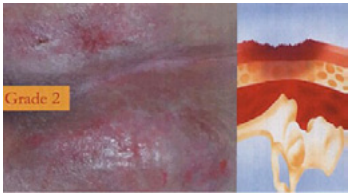
It is important to act quickly to comply with legislation.

# Pressure Ulcer Staging



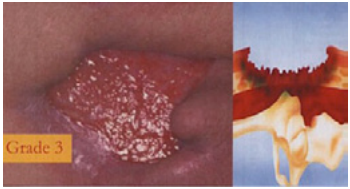

**Stage 1:**

Non-blanching erythema of intact skin.



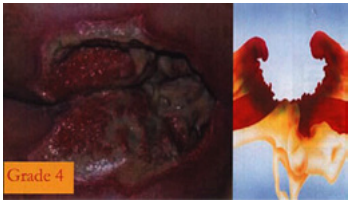

**Stage 2:**

Partial thickness skin loss involving epidermis, dermis or both. Superficial and presents as blister or abrasion.




**Stage 3:**

Full thickness skin loss involving damage / necrosis of subcutaneous tissue may extend to underlying fascia.




**Stage 4:**

Extensive destruction, tissue necrosis, damage to muscle, bone, supporting structures +/- full thickness skin loss.

**If patient has pressure ulcers ask yourself – could this be neglect?**

NB: Some areas of health use a slightly different categorisation based on European Guidelines

# PREVENT

The Governments counter-terrorism strategy is called CONTEST and it is divided up into four priority objectives:

**Pursue** – stop terrorist attacks

**Prepare** – where we cannot stop an attack, mitigate its impact

**Protect** – strengthen overall protection against terrorist attacks

**PREVENT – stop people becoming terrorists and supporting violent extremism**

PREVENT is a strategy that seeks to stop people becoming terrorists and supporting violent extremism. There are numerous government departments and local partners involved in the strategy, and one of the main organisations involved are health care services.

The specific PREVENT objectives that relate to healthcare services are to:

- Support individuals who are vulnerable to recruitment, or have already been recruited by violent extremists
- Disrupt those who promote violent terrorism and support the places where they operate
- Address the grievances which radicalisers are exploiting

The health service has been identified as a key partner in preventing vulnerable people being radicalised.

The key message is that all staff must escalate a concern and have confidence that each issue will be taken seriously, handled appropriately and that, where necessary, specialist advice will be available.

Contracts of employment, professional codes of conduct and safeguarding frameworks such as No Secrets and Every Child Matters require all healthcare staff to exercise a duty of care to patients and, where necessary, take action for safeguarding and crime prevention.

If you have a concern discuss it with your safeguarding lead and they will advise and identify local referral pathways.

# Capacity and Consent

## Capacity and Consent

It is OK to ask questions or ask for further guidance/reassurance if:

- It is not clear who has made/ is making the assessment of capacity or best interests
- There is a relevant assessment of capacity and this is documented
- The assessment is specific to the relevant decision and time - Eg - "John lacks capacity" [for what, when?] might raise concern
- All reasonable and appropriate steps have been taken to empower/ maximise capacity
- Regular review has been provided for
- An appropriate range of disciplines have been involved
- Family and carers have been involved appropriately
- Family/carers or others may be seeking to override the views of others
- If **You** disagree with the decision or have concern that the MCA and/ or Policy is not being followed

**It is NOT ok to DO NOTHING.**

**It is your responsibility to make sure you know how to contact your local Safeguarding Adults Lead**

## My Notes & Contacts:

**Lead Nurse for Safeguarding Adults**
Telephone: 01553 613255 or
Bleep: 3255

# Resources

For the resources listed below, visit:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_124882

- Clinical Governance and Adult Safeguarding: An integrated process. February 2010
- Safeguarding Adults: The Role of Health Service Managers and their Boards DH March 2011
- Safeguarding Adults: The Role of Health Service Practitioners DH March 2011
- Safeguarding adults: The Role of NHS Commissioners DH March 2011
- Safeguarding Adults Self Assessment and Assurance Framework DH March 2011
- Safeguarding Adults and the Role of Health Services: Analysis of the Impact on Equality
- Statement of Government Policy on Adult Safeguarding DH May 2011

More resources:

Association of Directors of Adult Social Services – Safeguarding Adults Key Documents
www.adass.org.uk

Adult Safeguarding Resources and Reports from Social Care Institute for Excellence:
http://www.scie.org.uk/adults/safeguarding/index.asp

Adult Safeguarding Community of Practice:
http://www.communities.idea.gov.uk/comm/landing-home.do?id=2962596

East Midlands Adult Safeguarding Community of Practice:
http://www.communities.idea.gov.uk/comm/landing-home.do?id=5053750

Mental capacity Act 2005 in primary care E-learning toolkit
www.mcahealth.net

NHS
Midlands and East