



**NORTHAMPTON**  
BOROUGH COUNCIL

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### **SCRUTINY PANEL 4 – ADULT SOCIAL CARE FACILITIES**

**6 NOVEMBER 2018**

#### **BRIEFING NOTE: RELEVANT LEGISLATION AND GUIDANCE**

#### **1 INTRODUCTION**

- 1.1 At its inaugural scoping meeting, the Scrutiny Panel agreed that it would receive details of relevant legislation and guidance to inform its evidence base.

#### **2 RELEVANT LEGISLATION AND GUIDANCE**

- 2.1 The Scrutiny Panel agreed that it would receive details on the following:

- ADASS Guidance 2009
- The Health and Social Care Act 2012
- CARE Act 2014
- Human Rights Act 1998
- Mental Health Act 1983

#### **2.2 ADASS Guidance 2009**

- 2.2.1 ADASS reports that the national framework comprises 11 sets of good practice standards and it believes that the implementation of each standard will lead to the development of high quality adult protection work across the country that is consistent.

- 2.2.2 The Guidance gives further details on each of the 11 standards and highlights that it puts together both best practice and aspirations to form the 11 good practice standards. The intended purpose of the Guidance is for it to be used as an audit tool and guide by all those whose role is to implement adult protection work.

## 2.2.3 The 11 Standards:

HEADLINE STANDARD	
Standard 1	Each local authority has established a multi-agency partnership to lead 'Safeguarding Adults' work.
Standard 2	Accountability for and ownership of 'Safeguarding Adults' work is recognised by each partner organisation's executive body.
Standard 3	The 'Safeguarding Adults' policy includes a clear statement of every person's right to live a life free from abuse and neglect, and this message is actively promoted to the public by the Local Strategic Partnership, the 'Safeguarding Adults' partnership, and its member organisations.
Standard 4	Each partner agency has a clear, well-publicised policy of Zero-Tolerance of abuse within the organisation.
Standard 5	The 'Safeguarding Adults' partnership oversees a multi-agency workforce development/training sub-group. The partnership has a workforce development/training strategy and ensures that it is appropriately resourced.
Standard 6	All citizens can access information about how to gain safety from abuse and violence, including information about the local 'Safeguarding Adults' procedures.
Standard 7	There is a local multi-agency 'Safeguarding Adults' policy and procedure describing the framework for responding to all adults 'who is or may be eligible for community care services' and who may be at risk of abuse or neglect.
Standard 8	Each partner agency has a set of internal guidelines, consistent with the local multi-agency 'Safeguarding Adults' policy and procedures, which set out the responsibilities of all workers to operate within it.
Standard 9	The multi-agency 'Safeguarding Adults' procedures detail the following stages: Alert, Referral, Decision, Safeguarding assessment strategy, Safeguarding assessment, Safeguarding plan, Review, Recording and Monitoring.
Standard 10	The safeguarding procedures are accessible to all adults covered by the policy.
Standard 11	The partnership explicitly includes service users as key partners in all aspects of the work. This includes building service-user participation into its: membership; monitoring, development and implementation of its work; training strategy; and planning and implementation of their individual safeguarding assessment and plans.

## 2.2.4 The Guide gives examples of good practice around the country, detailed below are examples of those provided:

### Example 1:

GOOD PRACTICE 'Safeguarding' Adults' – Partnership Membership and links (as appropriate for the local area)		
Statutory organisations	Other potential members	Links to other partnerships
Local Authority ■ Adult Social Services ■ Housing ■ Welfare Rights/Benefits ■ Education/Community Education ■ Legal Services ■ Licensing Police Crown Prosecution Service Probation Primary Care Trusts Other NHS Care Trusts Hospital Trusts Commission for Social Care Inspection Health Care Commission Strategic Health Authority Housing Trusts Supporting People Board Department of Work and Pensions Definitive links to Coroner Public Guardianship Office Courts Witness Service Fire Service Ambulance Service	Service users/patients' organisations Carers' organisations Advocacy providers Direct Payments 'Umbrella' organisation Care Home and Domiciliary Care providers/associations Supporting People providers Victim support services e.g. Victim Support, Rape Crisis, Women's Aid Voluntary sector service providers e.g. Age Concern, Help the Aged, MIND, People First, MENCAP, SCOPE Voluntary sector groups working against abuse of adults e.g. ACT, Action on Elder Abuse, PAVA, POPAN.	Local Strategic Partnership ■ Regeneration ■ Health ■ Crime and Disorder Reduction Board ■ Domestic Violence ■ Drug and Alcohol ■ Neighbourhood forums/Communities of interest MAPPA (Multi-Agency Public Protection Arrangements) Strategic Safeguarding Boards (Children) Joint planning and commissioning for people with: Learning Disabilities Mental Health issues Long term and chronic illnesses and Disabled people Older people Carers

## Example 2

**GOOD PRACTICE**  
Role of 'Safeguarding Adults' Co-ordinator

Many Local Authorities have appointed an 'Adult Protection ('Safeguarding Adults') Co-ordinator' to support the work of the partnership. This role should be clearly defined, and including responsibility to:

- 1) Advise and support the partnership
- 2) Advise and support partnership members in the implementation of 'Safeguarding Adults' work within their organisation
- 3) Maintain an overview of the development of local 'Safeguarding Adults' work
- 4) Provide information about relevant national and regional developments
- 5) Collate monitoring and quality assurance information
- 6) Provide information and advice on the implementation of the 'Safeguarding Adults' procedures to all
- 7) Provide information and advice to the **Safeguarding Managers** (see *Standard 9*)

It may also include responsibility to:

- 8) Plan and commission work to be undertaken by the partnership
- 9) Manage work undertaken by the partnership. This often includes the partnerships joint training and information strategies. In some areas it includes the management of a 'Safeguarding Adults' Unit which includes dedicated **Safeguarding Managers**.

## Example 3



## Example 4

GOOD PRACTICE EXAMPLE (SHEFFIELD) Audit of partner organisations' capacity for 'Safeguarding Adults'		
Does your organisation have:	Yes	No
1 A lead person at Board level with responsibility for 'Safeguarding Adults'		
2 Does the Board receive an annual report on this work		
3 A lead officer/manager		
4 A reference group		
5 An appropriate representative on the local area 'Safeguarding Adults' Partnership who has a clear line of responsibility back into the organisation		
6 A financial commitment to multi-agency 'Safeguarding Adults' work		
7 A clear reporting structure by which staff can raise concerns of abuse or neglect		
8 Ability to supply 24-hour access to 'Safeguarding Adults' information		
9 Ability to supply 24-hour access to all previous case records		
10 24-hour access to other agencies' information		
11 24-hour access to a person with 'Safeguarding Adults' expertise		
12 A person with the lead for ensuring CRB, POVA and other relevant checks of staff are made		
13 A person with the lead for ensuring professional staff are registered with their professional body		
14 Clear service specifications and standards for 'Safeguarding Adults' work		
15 A training strategy for all staff and volunteers		
16 A monitoring system for this work		

2.2.5 The full document can be [accessed](#). Further examples of best practice are provided.

### 2.3 The Health and Social Care Act 2012

2.3.1 The legislation was enacted in April 2013.

2.3.2 The reported key areas of the Act:

- establishes an independent NHS Board to allocate resources and provide commissioning guidance
- increases GPs' powers to commission services on behalf of their patients
- strengthens the role of the Care Quality Commission
- develops Monitor, the body that currently regulates NHS foundation trusts, into an economic regulator to oversee aspects of access and competition in the NHS
- reduces the number of health bodies to help meet the Government's commitment to cut NHS administration costs by a third, including abolishing Primary Care Trusts and Strategic Health Authorities
- establishes Health and Wellbeing boards to each upper tier local authority.

2.3.3 The full Act can be [accessed](#).

## **2.4 CARE Act 2014**

2.4.1 The CARE Act 2014 received royal assent on 14 May 2014. The statutory guidance sets out how local authorities should meet the legal obligations laid on them by the Care Act and regulations. They must follow the Act and Guidance unless they can demonstrate legally sound reasons for not doing so.

2.4.2 The reported key provisions contained within the Act include:

### **The principle of wellbeing - section 1**

The definition of wellbeing includes suitability of living accommodation. The principle must reinforce the functions of the local authority in addressing a person's care and support needs.

### **Preventing, reducing and delaying care and support needs - section 2**

Local Authorities are required to understand and identify existing, unmet and future needs for care and support, and link this into Joint Strategic Needs Assessments and strategies to shape services. Local Authorities should have an understanding of the services in their local area, including services targeted at whole populations such as accessing good quality information or measures to promote healthy and active lifestyles. Local Authorities should consider how to align or integrate with other local services to develop approaches to prevention.

### **Information and advice – section 3**

Section 3 refers to the duty placed on Local Authorities to establish and maintain a service that provides information and advice relating to care and support. The Local Authority is not required to directly provide all elements of the service but to understand, coordinate and make effective use of other service provision of information and advice, for example, One Stop Shop care and housing advice and its local partners or other housing options information.

### **Safeguarding adults – section 14**

Section 14 ensures that safeguarding adult boards (SABs) are now placed on a statutory basis. Housing authorities and providers are not included as statutory partners, although locally they may and often are included.

### **Integration, co-operation and partnerships – section 15**

Local Authorities are required to carry out care and support responsibilities with the aim of promoting greater integration with health

and health-related services. Housing is clearly documented as a health related function. This is in relation to preventing needs; provision of information and advice; reducing/ delaying needs; improving the quality of services and outcomes achieved. It can be promoted through planning for services, commissioning, providing information and advice; and connecting up services in the assessment and support planning process.

2.4.3 The full Act can be [accessed](#).

## **2.5 Human Rights Act 1998**

2.5.1 The Human Rights Act can be used by every resident in the UK, regardless of whether they are a British citizen or a foreign national, a child or an adult, a prisoner or a member of the public. Public authorities must follow the Human Rights Act.

2.5.2 The rights that the Human Rights Act protect are as follows.

- The right to life
- The prohibition of torture and inhuman treatment
- Protection against slavery and forced labour
- The right to liberty and freedom
- The right to a fair trial and no punishment without law
- Respect for privacy and family life and the right to marry
- Freedom of thought, religion and belief
- Free speech and peaceful protest
- No discrimination: everyone's rights are equal.
- Protection of property: protects against state interference with your possessions.
- The right to an education
- The right to free elections

2.5.3 The full Act can be [accessed](#).

## **2.6 Mental Health Act 1983**

2.6.1 The Mental Health Act 1983 details the rights of people who have mental health disorder:

- assessment and treatment in hospital
- treatment in the community
- pathways into hospital - civil or criminal

2.6.2 The Key sections of the Act are around:

- Rights when a person is detained in hospital against their wishes
- The family's rights when a person is detained

- Rights when a person is detained in hospital and also part of the criminal justice system
- Rights around consent to treatment when a person is detained
- Rights when a person leaves hospital, including how to have their section lifted and care planning
- Rights when a person being treated in the community, for example receiving section 117 aftercare

2.6.3 The Mental Health Act 1983 was amended in 2007. The changes that were brought about by the amendment:

- how mental disorder is defined
- the professionals who have specific roles within the Act
- additional rights for patients to displace their Nearest Relative how treatment is defined, and when it can be given
- the introduction of Supervised Community Treatment (SCT) and Community Treatment Orders (CTOs)
- a new right for patients to have an advocate
- some changes about how Mental Health Review Tribunals operate

2.6.4 The full Act can be [accessed](#)

### **3 RECOMMENDATION**

3.1 That the information provided informs the evidence base of this Review.

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