

**PETERBOROUGH VULNERABLE  
ADULT PROTECTION COMMITTEE  
ADULT PROTECTION  
JOINT WORKING  
PROTOCOL  
FOR STATUTORY  
AGENCIES IN  
PETERBOROUGH**

**RESPONDING TO A CONCERN,  
SUSPICION OR ALLEGATION  
THAT A VULNERABLE ADULT  
IN PETERBOROUGH  
IS BEING ABUSED  
OR IS AT RISK OF ABUSE**

**ONE PAGE SUMMARY OF THIS DOCUMENT**

If there is a concern, suspicion or an allegation that a vulnerable adult is being abused or is at risk of abuse:

- ◆ In emergency situations seek appropriate medical attention and contact the Police.
- ◆ Take seriously any concern, suspicion or allegation about possible abuse and record the information.
- ◆ Always report the concern, suspicion or allegation to your Adult Protection Lead (often your Line Manager) who may consult with

your agency's Adult Protection Lead Manager. In order to clarify information, your agency may need to make some enquiries.

- ◆ From the point that your Adult Protection Lead or your agency's Adult Protection Lead Manager considers that there is reasonable evidence of abuse or of a risk of abuse, then the information should be reported to the Adult Protection Unit at the earliest opportunity within working hours and no later than one working day from the date that the Adult Protection Lead or Lead Manager forms that view.
- ◆ The Adult Protection Unit may be contacted by:  
  
Telephone:  
01733-758433 Lead Officer (Adult Protection) (Steve West) or  
01733-758428 Senior Practitioner (Adult Protection) (Joanna Palmer)  
or  
01733-758638 (secretary)  
  
Fax: 01733-758555  
  
Email: [steve.west@peterboroughpct.nhs.uk](mailto:steve.west@peterboroughpct.nhs.uk) or  
[joanna.palmer@peterboroughpct.nhs.uk](mailto:joanna.palmer@peterboroughpct.nhs.uk)
- ◆ If a crime *may* have been committed the concern, suspicion or allegation should be reported to the Police. The Adult Protection Unit can advise about this.
- ◆ Take part in a Strategy Discussion or Meeting, led by the Adult Protection Unit, to decide the best way of responding to the concern, suspicion or allegation. This will include the assessment of any immediate risk and the need for interim protective measures.
- ◆ Where an investigation is necessary, assist as required in the investigation and take part in the Case Conference to draw up an Adult Protection Plan to protect the vulnerable adult from abuse.

## INDEX

	<i>Page</i>
THE STATUTORY AGENCIES THAT HAVE AGREED TO THE ADULT PROTECTION JOINT WORKING PROTOCOL	4
INTRODUCTION	4
THE ADULT PROTECTION POLICY	6
ADULT PROTECTION PROCEDURES FOR THE STATUTORY AGENCIES	7

<b>Definitions and essential information</b>	<b>7</b>
Vulnerable Adult	7
Abuse	8
Harm	9
Which Vulnerable Adults does the Protocol cover?	9
Who abuses Vulnerable Adults?	10
Adult Protection Training	10
<b>Procedures to be followed when there is a concern, suspicion or an allegation that a vulnerable adult is being abused or is at risk of abuse</b>	<b>11</b>
The role of the Adult Protection Lead(s) and of the Adult Protection Lead Manager	11
The Adult Protection process	11
Stage 1: Receiving an Alert	11
Stage 2: Referral to the Adult Protection Unit	12
Stage 3: Decision by the Adult Protection Unit as to whether the referral crosses the threshold of requiring an adult protection investigation in accordance with the Adult Protection Procedures	13
Stage 4: Planning the Adult Protection Investigation	15
Stage 5: Carrying out the Adult Protection Investigation	17
Stage 6: Drawing up the Adult Protection Plan	17
Stage 7: Review of the Adult Protection Plan	18
Serious Case Review	18
<b>Confidentiality, sharing information, and seriousness</b>	<b>18</b>
<b>PRACTICE GUIDANCE</b>	<b>21</b>
<b>Practice Guidance 1: Examples and indicators of abusive behaviour</b>	<b>21</b>
Physical abuse	21
Sexual abuse	21
Psychological abuse	22
Financial or material abuse	23
Neglect and acts of omission	23
Discriminatory abuse	24
Institutional abuse	24
<b>Practice Guidance 2: Law that is relevant to Adult Protection</b>	<b>25</b>
The legal basis for Adult Protection work by the Local Authority	25
Law that is relevant to Physical abuse	27
Law that is relevant to Sexual abuse	29
Law that is relevant to Psychological abuse	29
Law that is relevant to Financial or material abuse	30
Law that is relevant to Neglect and acts of omission	32
Law that is relevant to Discriminatory abuse	33
Law that is relevant to Institutional abuse	33
<b>Practice Guidance 3: Contact details</b>	<b>33</b>

**THE STATUTORY AGENCIES THAT HAVE AGREED TO  
THE ADULT PROTECTION JOINT WORKING PROTOCOL**

The following agencies are signatories to the Adult Protection Joint Working Protocol:

- ◆ The Peterborough Primary Care Trust

- ◆ The Cambridgeshire and Peterborough Mental Health Partnership NHS Trust
- ◆ The Peterborough and Stamford Hospitals NHS Foundation Trust
- ◆ The East of England Ambulance Service NHS Trust
- ◆ Peterborough City Council
- ◆ Cambridgeshire Constabulary
- ◆ The National Probation Service
- ◆ The Commission for Social Care Inspection
- ◆ The Department for Work and Pensions
- ◆ Peterborough Regional College
- ◆ Peterborough College of Adult Education

All of the above statutory agencies are part of the local multi-agency framework to protect vulnerable adults from abuse. That framework also includes all local non-statutory agencies from the independent and voluntary sectors. The concept of a local multi-agency framework to protect vulnerable adults from abuse is fundamental to adult protection work.

## INTRODUCTION

All persons (children and adults) have the right to live their lives free from all forms of abuse. This right is underpinned by the duty upon public agencies under the Human Rights Act 1998 to intervene proportionately to protect the rights of citizens. These rights include 'the Right to life' (Article 2), 'Freedom from torture' (including humiliating and degrading treatment) (Article 3), and the 'Right to respect for private and family life' (one that sustains the individual) (Article 8).

**Adult protection** is the process of protecting vulnerable adults from abuse. The term 'vulnerable adult' means different things to different agencies (e.g. Housing, Police), but for the purpose of adult protection a vulnerable adult is a person who is aged 18 years or over, has or may have a care need (broadly defined) arising from mental or other disability, age or illness, and is or may be unable to protect him or herself against harm or exploitation. For more information about the definition of this term and others please see *Page 7*.

*No secrets – Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse*, the national guidance document about adult protection, was published in March 2000 by the Department of Health and the Home Office. The most important word in that title is: **MULTI-AGENCY**. The protection of vulnerable adults from abuse is a multi-agency activity. One agency should not attempt to do it alone. The abuse of a vulnerable adult may involve criminal behaviour, and in such cases the Police must always be involved.

In each area the Lead Agency with responsibility for co-ordinating the framework of inter-agency arrangements about adult protection is the local Social Services authority. In Peterborough the Peterborough Primary Care Trust provides this Local Authority Adult Social Care function through the Adult Protection Unit. The Peterborough Vulnerable Adult Protection Committee is the over-arching body that leads adult protection work in Peterborough. The Committee consists of senior managers from

the main agencies working with vulnerable adults in Peterborough, and is chaired by the Director of Adult Social Care.

Workers in a variety of agencies will come across things in the course of their day-to-day work that concern them about the way that a vulnerable adult is being treated. Some of those matters will cross the threshold to come within the category of 'possible abuse'. There may be a concern, suspicion or allegation about possible abuse. It may be about something that has already happened, or something that might happen unless action is taken.

The purpose of this document is to set out in straightforward terms the **Adult Protection Joint Working Protocol** that is agreed by the main Statutory Agencies that are working with vulnerable adults in the city of Peterborough. This will include the **Adult Protection Policy**, and the broad framework of **Adult Protection Procedures** that each of those agencies has agreed to comply with in the production of individual Adult Protection Procedures for their agency. The Peterborough Vulnerable Adult Protection Committee is responsible for the production of this document and for its periodic review. A partner document is the Adult Protection Procedures for non-statutory agencies in Peterborough, produced in 2004 and updated in 2005.

The main sources for this document are:

- ◆ *No secrets – Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse* – published by the Department of Health and the Home Office in March 2000
- ◆ *Safeguarding Adults – a National Framework of Standards for good practice and outcomes in adult protection work* – published by the Association of Directors of Social Services in October 2005
- ◆ *The Mental Capacity Act 2005 Code of Practice* – published by the Department for Constitutional Affairs in April 2007
- ◆ *Adult Protection Data Collection and Reporting Requirements – Conclusions and recommendations from a two year study into Adult Protection recording systems in England, funded by the Department of Health* – published by Action on Elder Abuse in March 2006
- ◆ *Joint investigation into the provision of services for people with learning disabilities at Cornwall Partnership NHS Trust* – published by the Commission for Social Care Inspection and the Healthcare Commission in July 2006. This emphasises the key role of the Social Services authority in making sure that other agencies carry out their adult protection responsibilities in a multi-agency way.

## THE ADULT PROTECTION POLICY

### **The Aim**

The aim of the Policy is that no vulnerable adult in Peterborough is abused. The abuse of a vulnerable adult is unacceptable in any circumstances.

### **The Policy**

It is the Policy of each of the above agencies:

- ◆ To recognise that the abuse of vulnerable adults is a widespread problem and that it is often unrecognised and unreported
- ◆ With regard to the vulnerable adults with whom it works (or about whom it receives information)
  - to recognise that it has a duty to do all that it can to prevent abuse taking place and to carry out that duty effectively
  - to ensure that all concerns, suspicions or allegations of abuse are recognised, taken seriously and reported
- ◆ To accept that effective adult protection always requires multi-agency working, including referral to the Social Services authority.

### **Guiding principles**

In carrying out that Policy and in accordance with the **No secrets** guidance, each of the above agencies agrees to adhere to the following guiding principles:

- ◆ To actively work together within this inter-agency framework
- ◆ To actively promote the empowerment and well-being of vulnerable adults through the services they provide
- ◆ To ensure the safety of vulnerable adults by integrating strategies, policies and services relevant to abuse
- ◆ To ensure that the law and statutory requirements are known and used appropriately, so that vulnerable adults receive the protection of the law and access to the judicial process
- ◆ To act in a way which supports the rights of the individual to lead an independent life based on self-determination and personal choice
- ◆ To recognise people who are unable to make their own decisions and/or to protect themselves, their assets and bodily integrity
- ◆ To recognise that the right to self-determination can involve risk and ensure that such risk is recognised and understood by all concerned, and minimised wherever possible (there should be an open discussion between the individual and the agencies about the risks involved to him or her)
- ◆ To ensure that, when the right to an independent lifestyle and choice is at risk, the individual concerned receives appropriate help, including advice, protection and support from relevant agencies.

## **ADULT PROTECTION PROCEDURES FOR THE ABOVE STATUTORY AGENCIES**

## Definitions and essential information

### **Vulnerable Adult**

The **No secrets** definition of a Vulnerable Adult is:

*A person who is or 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.*

It adds that 'community care services' will be taken to include all care services provided in any setting or context.

For the purpose of this Adult Protection Protocol it translates to the following:

**A Vulnerable Adult is a person who:**

- ◆ **Is aged 18 years or over**
- and*
- ◆ **Has or may have a care need (broadly defined) arising from mental or other disability, age or illness. Having 'a care need' means that they need someone to assist in caring for him or herself.**
- and*
- ◆ **Is or may be unable to protect him or herself against harm or exploitation.**

If there is uncertainty as to whether a particular person comes within the category of 'vulnerable adult' it is better to err on the side of including them.

This working definition, referring to 'a care need' rather than community care services, is consistent with *Fair Access to Care Services (FACS) – Guidance on Eligibility Criteria for Adult Social Care*, published by the Department of Health in 2003.

### **Abuse**

**Abuse is:**

- ◆ **A single or repeated act or lack of appropriate action**
- ◆ **Occurring within any relationship (professional or otherwise) where there is an expectation of trust**
- ◆ **Which causes harm or distress to a vulnerable adult.**

This Protocol focuses upon relationships where there is an expectation of trust, and by that is meant that there would be a general expectation within society that trust would exist in the relationship. It is not appropriate to use the Adult Protection Policy and Procedures to respond to abuse by strangers who abuse vulnerable adults (e.g. by robbing them in the street, or undertaking a distraction burglary). There may well be a need for the involvement of a Social Care Worker with the vulnerable adult in the aftermath of such an event, but that involvement would not be carried out through the Adult Protection framework. There would be a single-agency investigation by the Police. An example may throw some light upon this distinction. If an elderly woman with care needs is burgled in her home by a visiting officer of a Public Utilities company, then that should be referred through the Adult Protection procedures. If the same burglary is conducted by a criminal *pretending* to be a visiting officer of a Public Utilities company, then it should not be.

**No secrets** proposes six categories of abuse:

- ◆ Physical abuse
- ◆ Sexual abuse
- ◆ Psychological abuse
- ◆ Financial or material abuse
- ◆ Neglect and acts of omission
- ◆ Discriminatory abuse

Examples of behaviours that come within each category, and indicators of each category of abuse, are given at the end of this document in *Practice Guidance 1*. A wide range of actions is included, from behaviour of relatively minor concern to the most serious and criminal acts. Many of the behaviours may constitute a crime (particularly those relating to physical, sexual, financial and discriminatory abuse), but some of the behaviours do not (particularly those relating to psychological abuse and neglect). If a criminal offence *may* have been committed then the Strategy Discussion will involve the Police.

Where such behaviour takes place in residential settings or hospitals or day services, then that may indicate that there are more serious problems that are known as **Institutional abuse**. Behaviour that is institutional abuse commonly has many (though not necessarily all) of the following characteristics:

- ◆ It is widespread within the setting
- ◆ It is repeated
- ◆ It is generally accepted – it is not seen as being bad practice
- ◆ It is sanctioned – it is encouraged or condoned by line managers
- ◆ It takes place in a setting where there is poor monitoring by senior management
- ◆ There are environmental factors (e.g. unsuitable buildings, lack of equipment, many temporary staff) that adversely affect the quality of care

- ◆ It is systematic e.g. factors such as a lack of training, poor operational procedures, poor supervision and management all encourage the development of institutionally abusive practice.

Examples of Institutional abuse, and of its indicators, are given at the end of this document in *Practice Guidance 1*.

Any or all of these types of abuse may take place as the result of:

- ◆ Deliberate intent or
- ◆ Negligence or
- ◆ Ignorance.

In considering whether or not abuse has occurred it is *the outcome* of the behaviour that is the determining factor, not the intention of the perpetrator.

### Harm

To be regarded as abusive, the behaviour must result in **harm** (or a risk of harm). **No secrets** uses a wide meaning of the word 'harm' and states:

**Harm should be taken to include not only ill treatment (including sexual abuse and forms of ill treatment which are not physical), but also the impairment of, or avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social or behavioural development.**

### Which Vulnerable Adults does the Protocol cover?

In accordance with the *Association of Directors of Social Services Protocol for Inter-Authority Investigation of Vulnerable Adult Abuse (2004)* the Adult Protection Protocol applies to vulnerable adults **where the abuse or risk of abuse occurs within the boundaries of the area served by Peterborough City Council**. If it happens in Peterborough then it is the Peterborough authorities that need to be contacted.

This will normally mean that the vulnerable adult lives in that area. However, there may be situations where a vulnerable adult living outside Peterborough (e.g. in a Care Home) is allegedly abused in Peterborough whilst visiting. Such situations would normally be responded to through the Peterborough Protocol, unless there are exceptional circumstances, in which case the Adult Protection Unit would negotiate with colleagues in the area where the vulnerable adult lives.

Sometimes the vulnerable adult may now be in Peterborough (e.g. in hospital) but the alleged abuse has taken place in a neighbouring (or some other) local authority. In such cases the concerns must be reported to the local authority where the alleged abuse took place, and in doing so it would be helpful to emphasise that "an adult protection referral" is being made. Contact details for neighbouring local authorities (Lincolnshire, Cambridgeshire, Northamptonshire, Leicestershire, Rutland) are given at the end of this document in *Practice Guidance 3*. The Peterborough Adult Protection Unit will be happy to assist in the process of liaison with the other local authority.

### **Who abuses Vulnerable Adults?**

In line with the above definition of abuse, anyone who has a relationship with a vulnerable adult *where there is an expectation of trust* may behave in an abusive way towards that person. This includes:

- ◆ Relatives and family members
- ◆ Professional staff in all agencies
- ◆ Paid care workers (e.g. in Residential or Domiciliary Care)
- ◆ Volunteers
- ◆ Other clients (e.g. in a Care Home or Day Centre)
- ◆ Neighbours, friends and associates

It is important to recognise that **many different kinds of people** may behave in an abusive way towards a vulnerable adult. Regardless of who the alleged perpetrator of abuse is, it should be reported to Adult Social Care. When the alleged perpetrator is a staff member it is not appropriate only to use the Disciplinary Policy and Procedures and not the Adult Protection Policy and Procedures – both must be used. This subject is explored in an article entitled *Joining up Adult Protection and the Disciplinary Process* in Volume 8 Issue 1 (May 2006) of *The Journal of Adult Protection*.

### **Adult Protection Training**

Each agency has staff who in their day-to-day work will have contact with vulnerable adults and other staff who may receive information about vulnerable adults. It is the responsibility of each agency to ensure that all such staff receive training in the recognition of abuse and in the procedures that must then be followed.

For several years Peterborough Primary Care Trust has been part of a group of agencies (the Cambridgeshire and Peterborough Adult Protection Partnership) that have worked together to assist relevant agencies across Cambridgeshire (including Peterborough) to set up appropriate adult protection training, including training to raise awareness of what adult abuse is and how to recognise it. From October 2008 Peterborough Primary Care Trust will take its own responsibility for those functions in Peterborough and there will be a gradual transfer of responsibility during a six month period from April to September 2008. Peterborough Primary Care Trust has two Learning and Development Officers who specialise in providing Adult Protection training and they are very important training contacts for all the agencies to which this document applies. Their contact details are given at the end of this document in *Practice Guidance 3*.

It is recognised that some agencies (e.g. Cambridgeshire and Peterborough Mental Health Partnership NHS Trust, Cambridgeshire Constabulary, and the National Probation Service) cover all of Cambridgeshire including Peterborough, and there will be continuing co-operation between Peterborough Primary Care Trust and Cambridgeshire County Council in order to ensure consistency.



**PROCEDURES to be followed  
when there is a concern, suspicion or an allegation  
that a vulnerable adult is being abused or is at risk of abuse**

In accordance with the **No secrets** guidance, each agency has a statutory duty to protect vulnerable adults from abuse. In order to do that, each agency will produce its own Adult Protection Procedures, which will be consistent with the broad framework that is set out below.

**The role of the Adult Protection Lead(s) and of the Adult Protection Lead Manager**

The agencies that are signed up to this Protocol vary in the number of staff employed and in the number of vulnerable adults with whom they work. For some agencies adult protection will be a large part of the workload and for others a small part. This Protocol is based upon the premise that in each agency there will be a number of designated staff members who have the role of **Adult Protection Lead**. There may be one or many Adult Protection Leads, depending upon the needs of the agency. A staff member having the role of Adult Protection Lead will be the person to whom concerns/suspicions/allegations of adult abuse will initially be reported within the agency by a designated group of staff. The role will be devolved to the lowest appropriate level within the agency. They may, for example, be Team or Unit Managers. In addition each agency will have one Senior Manager who has the role of **Adult Protection Lead Manager** for that agency. The Adult Protection Lead Manager will have the final responsibility within the agency of ensuring that vulnerable adults are protected from abuse. The Adult Protection Lead Manager will be a member of the Peterborough Vulnerable Adult Protection Committee.

Each agency will provide the Adult Protection Unit with a list of Adult Protection Leads and with the name of the Adult Protection Lead Manager. The list will be kept updated.

On an annual basis each agency will submit a report to the Vulnerable Adult Protection Committee about the adult protection work that it has undertaken and its plans for the future. The Vulnerable Adult Protection Committee will incorporate these reports into an overall Annual Report from the Committee.

**The Adult Protection process**

Adult Protection Procedures can be broken down analytically into seven stages. *Safeguarding Adults* goes into detail about the characteristics of each stage, and the reader is referred to that document (Standard 9: pages 29 to 38). That framework will be used below, but with the more commonly understood adult protection terminology.

**Stage 1: Receiving an Alert**

Any staff member may receive information that is a concern, suspicion or an allegation that a vulnerable adult is being abused or is at risk of abuse. This can happen in a variety of ways, including:

- ◆ Accumulating information that raises concerns about the possibility of abuse
- ◆ Being told by a third party (e.g. relative, friend, Carer, member of the public, employee of another organisation) about suspicions of abuse

**FOR IMPLEMENTATION FROM  
01.01.08**

- ◆ Observing a situation in which the vulnerable adult is being abused or is at risk of abuse
- ◆ Receiving a disclosure about abuse directly from the vulnerable adult
- ◆ Receiving what is, in effect, information about abuse in a document that is written for another purpose (e.g. an Assessment of social care needs, a Complaint, a Near Miss or Incident Reporting Form, a statement alleging Disciplinary Misconduct/Gross Misconduct).

When this happens the staff member receiving the information is **Receiving an Alert**.

The staff member receiving the Alert must:

- ◆ Take seriously any concern, suspicion or allegation about possible abuse.
- ◆ Where required, ensure that one or more of the emergency services is called **immediately**. If a vulnerable adult is being or has been seriously hurt then appropriate medical attention should be sought and the Police contacted, as would be done with anyone in that situation. The protection of the vulnerable adult from harm is the first priority.
- ◆ Where a crime is taking place, or has just taken place, contact the Police.
- ◆ Ensure that forensic and other evidence is not contaminated.
- ◆ If receiving information from the vulnerable adult directly, listen to and record carefully what s/he says. In order to avoid creating unnecessary stress for the vulnerable adult through repeatedly describing events or creating a perception that s/he is not believed it is advisable not to question him or her. *Safeguarding Adults (page 31)* gives detailed guidance about Good Practice at this stage.
- ◆ Record the information as soon as possible and in as much detail as possible, in order that it may be shared more easily.
- ◆ **As soon as possible and always within one working day** report the information to the designated staff member who has the role of **Adult Protection Lead**. There is a 'duty to report' such matters within each agency.

If the staff member receiving the Alert has reason to believe that in this particular case the Adult Protection Lead may be a perpetrator of the abuse or may in some way be complicit in the abuse, then the staff member should contact directly the Senior Manager who has the role of **Adult Protection Lead Manager** for that agency or another Senior Manager in the agency. Where necessary the staff member may at this stage contact the Adult Protection Unit directly.

In most cases the staff member receiving an Alert will be able to identify the vulnerable adult(s). However, that is not always the case, and in some cases an Alert will focus primarily upon concerns about the behaviour of the alleged perpetrator without there being a named victim.

**Stage 2: Referral to the Adult Protection Unit**

The designated staff member who has the role of Adult Protection Lead may seek further advice from within the agency, for example from the senior manager who has the role of Adult Protection Lead Manager in the agency. It is recognised that *in order to clarify information* the originating agency may need to make some enquiries of its own at this stage. If the outcome of consultation/any enquiries within the originating agency is that the Adult Protection Lead or Lead Manager considers that there is reasonable evidence of abuse or of a risk of abuse, then the information should be reported to the Adult Protection Unit **at the earliest opportunity within working**

**FOR IMPLEMENTATION FROM  
01.01.08**

**hours and no later than one working day from the date that the Adult Protection Lead or Lead Manager forms that view.**

It is at this stage that the local multi-agency framework to protect vulnerable adults from abuse begins to come into play.

The originating agencies should operate a low threshold when making a decision to contact the Adult Protection Unit. In the midst of what is probably a complex situation, it can be difficult to know if the person about whom there are concerns comes within the category of 'vulnerable adult', or if the concerning behaviour comes within the category of 'possible abuse', or if it has resulted in 'harm'. The originating agency does not have to know the answers to these questions. When the decision to refer or not to refer is unclear the originating agency should err on the side of contacting the Adult Protection Unit.

The Adult Protection Unit will be very aware that allegations of abuse against members of staff need to be handled very sensitively.

**The Adult Protection Unit may be contacted by:**

- ◆ **Telephone: 01733-758433 Lead Officer (Adult Protection)** (*current postholder Steve West*) or **01733-758428 Senior Practitioner (Adult Protection)** (*current postholder Joanna Palmer*) or **01733-748638 (secretary)**
- ◆ **Fax: 01733-758555**
- ◆ **Email: [steve.west@peterboroughpct.nhs.uk](mailto:steve.west@peterboroughpct.nhs.uk) or [joanna.palmer@peterboroughpct.nhs.uk](mailto:joanna.palmer@peterboroughpct.nhs.uk)**

**Stage 3: Decision by the Adult Protection Unit as to whether the referral crosses the threshold of requiring an adult protection investigation in accordance with the Adult Protection Procedures**

Access to the Adult Protection Unit will be available between 9 a.m. and 5 p.m. Monday to Friday. In emergencies outside those hours the Emergency Duty Team Social Worker may be contacted. Contact details are given at the end of this document in *Practice Guidance 3*.

Once the agency has had direct contact by telephone or email with a worker from the Adult Protection Unit, the Unit will provide at least an initial response to the referral within one working day.

Letters to the Adult Protection Unit will receive at least an initial written response within five working days.

Varying levels of concern about possible abuse towards vulnerable adults will be referred to the Adult Protection Unit, ranging from less serious behaviour to the most serious and criminal acts. Accordingly, there will be varying levels of response. **The response from the Adult Protection Unit will be proportionate to the level of seriousness of the concern.**

Because the Adult Protection Unit encourages agencies to operate a low threshold in referring to it, it is possible that after consideration of the information the Adult

**FOR IMPLEMENTATION FROM  
01.01.08**

Protection Unit may decide that at that point in time the referral does not need to be processed through the investigation stage of the Adult Protection Procedures. In effect the Adult Protection Unit operates a screening process so that only the more serious concerns, suspicions or allegations receive an Adult Protection Investigation. The Adult Protection Unit may propose one of three lower levels of response:

- ◆ **A:** The Adult Protection Unit may give **basic advice** to the agency about how to respond to the concerns. This will only be where the concerns are less serious and where it is appropriate for the originating agency itself to take appropriate action to remedy the problem. For example the originating agency may need advice about how a Lasting Power of Attorney may be set up in order to protect the financial interests of a vulnerable adult.
- ◆ **B:** The Adult Protection Unit may recommend that the best way forward is for the vulnerable adult's need for protection to be an integral part of a comprehensive **Assessment/Review** of the social care needs of the vulnerable adult, and of the Carer if there is one, and for the risk of abuse to be re-assessed once the Care Plan has been implemented. This will be particularly appropriate for situations where a Carer is under considerable stress or where there has been a relatively minor incident between clients in a care setting. Such an Assessment/Review would normally be undertaken by a Social Care Worker.
- ◆ **C:** The Adult Protection Unit may recommend that the originating agency or another agency make **Adult Protection Enquiries**. This will be in situations where the reported concerns contain limited, but nonetheless worrying, information and there is a need to seek further information in order to enable a better judgement to be made. A Social Care Worker from the originating agency or from another agency may be the professional who makes these enquiries. The agreement between the Adult Protection Unit and the originating agency will be that the originating agency keeps the Adult Protection Unit updated as to the progress of the Adult Protection Enquiries. The Adult Protection Unit will agree with the originating agency the date by which the originating agency reports back to the Adult Protection Unit. Sometimes the Adult Protection Unit itself will make the Adult Protection Enquiries.

One outcome of the Adult Protection Enquiries may be that the Adult Protection Unit decides that the threshold for an Adult Protection Investigation is crossed.

Response levels B and C above will involve the Adult Protection Unit in co-ordinating a **Strategy Discussion** about the referral. This will involve contact with some or all of the professionals who are involved with the vulnerable adult, and with those professionals who may have a role in responding to or investigating the concerns. The Strategy Discussion may be conducted through a series of telephone calls or emails. **The Strategy Discussion will include the assessment of any immediate risk and the need for interim protective measures.**

If a criminal offence *may* have been committed then that Strategy Discussion will involve the Police (usually an officer of the Action for Justice Unit, Northern Division, Cambridgeshire Constabulary). The Police are an integral part of the multi-agency framework for the protection of vulnerable adults from abuse. From various databases that they keep they are often able to provide information that is relevant, to add to the sum of information that is available.

**FOR IMPLEMENTATION FROM  
01.01.08**

Following the Strategy Discussion the Adult Protection Unit may decide that the referral crosses the threshold of requiring an **Adult Protection Investigation** in accordance with the Adult Protection Procedures.

Where there is reasonable cause to suspect that a vulnerable adult is suffering, or is likely to suffer, **significant harm**, as the result of a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust, then that shall be regarded as requiring an Adult Protection Investigation. The decision as to whether there will be an Adult Protection Investigation will be made by the Adult Protection Unit. In making that decision the Adult Protection Unit will take account of the views of all of the agencies that have been consulted in the Strategy Discussion.

In making a decision as to whether the 'significant harm' threshold is crossed, the Adult Protection Unit will pay particular attention to the **level of seriousness** of the concern, suspicion or allegation of abuse.

**The following factors are associated with seriousness.** The greater the number that are present, the more serious the concern, suspicion or allegation:

**The Vulnerable Adult**

- ◆ Is significantly cognitively impaired
- ◆ Has a high level of physical dependency
- ◆ Is dependent upon the alleged perpetrator
- ◆ Has a minimal circle of other people in whom s/he can confide or who are available to assist
- ◆ Has significant communication difficulties.

**The Abusive Behaviour**

- ◆ Is deliberate and planned
- ◆ Is against the law
- ◆ Happens frequently
- ◆ Is likely to happen again to this Vulnerable Adult
- ◆ May be connected to mental health/drug/alcohol problems on the part of the alleged perpetrator
- ◆ Is carried out by an alleged perpetrator in the course of their employment.

**The Harm or Potential Harm**

- ◆ To the Vulnerable Adult is or may be severe
- ◆ Has a significant impact upon the well being of the Vulnerable Adult
- ◆ May extend to a child or other vulnerable adult (risk to others).

It is also important to remember that, although a single event may create a serious risk to the vulnerable adult, it is often the accumulation of events – each of which may appear small – that causes serious harm.

**Stage 4: Planning the Adult Protection Investigation**

If the Adult Protection Unit decides that there will be an Adult Protection Investigation then there will normally be a Strategy Meeting of professionals that is chaired by the

**FOR IMPLEMENTATION FROM  
01.01.08**

Adult Protection Unit. **From the point that the Adult Protection Unit decides that a Strategy Meeting is needed, the objective will be to convene such a meeting within ten working days, but where necessary for the following working day.**

Exceptionally it may be good practice for the Strategy Meeting to take place more than ten days after the decision is made to have one (e.g. if specific financial documentation needs to be obtained beforehand).

In exceptional cases it may be possible to plan the Adult Protection Investigation through extensive Strategy Discussion rather than a Strategy Meeting. Sometimes allegations of abuse are of such a serious nature, and the remaining threat to a vulnerable adult is so grave, that it is not possible or desirable to wait to arrange a physical meeting of the relevant agencies prior to investigations commencing. In such cases a detailed Strategy Discussion will take place.

The Adult Protection Strategy Meeting is a key part of the Adult Protection investigation. The Strategy Meeting is a meeting of some or all of the professionals who are involved with the vulnerable adult, and with those professionals who may have a role in responding to or investigating the concerns. All reasonable and practicable efforts should be made to incorporate the views of the vulnerable adult and any relevant others (e.g. carers) into the Strategy Meeting. On occasions the vulnerable adult may be represented in the Strategy Meeting by an advocate who understands its purpose.

The general framework for the agenda of an Adult Protection Strategy Meeting is as follows:

- ◆ General background information about the setting in which the abuse is alleged to have occurred (e.g. Care Home, Day Centre, Hospital Ward)
- ◆ General background information about the vulnerable adult(s)
- ◆ Information in chronological order about the concerns about abuse and any enquiries that have been made
- ◆ Relevant information about the alleged perpetrator(s)
- ◆ Multi-agency discussion about information presented to the meeting
- ◆ Conclusions and Agreed Actions.

**All agencies are required to bring a report containing relevant background information and details about the concerns to present to the meeting,** both to facilitate the process of the meeting and the recording of it. When an agency cannot attend a report should be submitted to the Adult Protection Unit prior to the meeting.

For the protection of vulnerable adults from abuse there is the expectation that agencies will both share information and respect the confidentiality of information that is provided. More guidance about this aspect is given in the section on 'Confidentiality, sharing information and seriousness' on *Page 18*.

The Strategy Meeting will:

- ◆ **Confirm that the immediate safety of the vulnerable adult(s) in question has been ensured.** This usually involves discussions about what access the alleged perpetrator may have to the vulnerable adult, what immediate action can be taken to ensure the safety of the vulnerable adult, and how to ensure appropriate levels of monitoring of the vulnerable adult.
- ◆ **Identify and assess the level of risk.**

- ◆ **Decide upon the investigative strategy.** Depending on the nature and circumstances of the alleged abuse the meeting will decide which agencies are most appropriate to conduct the investigation. Any investigation should be led by the agency with the appropriate legal powers and responsibilities, and in some cases a joint investigation will be appropriate. If the Police are involved then their investigation will take priority. The Adult Protection Investigation may also involve assessments/actions to be undertaken by various agencies.

Draft Notes of a Strategy Meeting will normally be circulated within five working days of the meeting. The Adult Protection Unit will aim to circulate final Notes within one calendar month of the meeting.

### **Stage 5: Carrying out the Adult Protection Investigation**

During this stage the plan for the Adult Protection investigation is put into practice. The primary purpose of the investigation is to establish whether abuse has taken place or may take place. Any investigation must be conducted with an open mind as to the outcome.

As part of this stage, a thorough assessment of the nature and level of risk to the vulnerable adult is made.

The agency or agencies undertaking the investigation have to keep the other involved agencies aware of its progress and outcome.

**The objective is that the Adult Protection Investigation is concluded within four weeks of the Strategy Meeting or conclusion of the Strategy Discussion.**

However, there will be some situations that require prolonged investigation, and where there will be a series of Review Strategy Meetings.

### **Stage 6: Drawing up the Adult Protection Plan**

At the conclusion of the Adult Protection Investigation there will normally be an Adult Protection Case Conference chaired by the Adult Protection Unit. The Case Conference will seek to come to a **multi-agency** view about the outcomes of the investigation, and in particular whether or not on the balance of probability the vulnerable adult has been abused or is at risk of abuse.

If the Case Conference considers that the vulnerable adult is at risk of (further) abuse, then the primary agency responsible for working with that person has the responsibility of ensuring that an Adult Protection Plan is drawn up to protect the vulnerable adult from abuse. The Case Conference will draw up a rough Adult Protection Plan for the vulnerable adult, setting out the actions that are expected by various agencies, and it will be for the primary agency to add more detail. It will often be helpful to name a specific Adult Protection Key Worker, to whom any agency must report further concerns. The Adult Protection Plan will be part of the overall Care Plan for the vulnerable adult.

It is the responsibility of each agency to carry out those actions to protect the vulnerable adult that have been agreed at the Case Conference. If any agency subsequently intends not to carry out an action agreed at the Case Conference to protect a vulnerable adult then that agency must discuss that intention with the Adult Protection Unit. If necessary a further Strategy Meeting will be convened.

At the Case Conference a timescale for the review of the effectiveness of the Adult Protection Plan is agreed. **This should be no more than six months from the date of the Case Conference.** The Review will be conducted by the agency that has the primary responsibility for working with the vulnerable adult.

### **Stage 7: Review of the Adult Protection Plan**

**The Adult Protection Plan is reviewed in a meeting within six months.** This may be incorporated into an Adult Social Care Statutory Review or a Care Programme Approach Review. Following the Review the reviewing agency will contact the Adult Protection Unit if the Adult Protection Plan is not working.

### **Serious Case Review**

In cases where the vulnerable adult has sustained a potentially life-threatening injury, or has died, and where abuse is suspected of being a causal factor, then the Peterborough Vulnerable Adult Protection Committee will consider commissioning a **Serious Case Review**. A Serious Case Review should be considered if any of the four criteria below applies:

- ◆ A vulnerable adult dies (including death by suicide) and abuse (which may include neglect) is known or suspected to be a causal factor in their death.
- ◆ A vulnerable adult has sustained a potentially life-threatening injury or serious and permanent impairment of health or development, and abuse (which may include neglect) is known or suspected to be a causal factor.
- ◆ There is serious institutional abuse (which may involve multiple abusers).
- ◆ If the case suggests that the Vulnerable Adult Protection Committee may need to change the Adult Protection Protocol, or that the Protocol is not being understood or acted upon.

These criteria are taken from the Peterborough Vulnerable Adult Protection Committee Serious Case Review Protocol, which should be read in conjunction with this document.

## **Confidentiality, sharing information, and seriousness**

The Adult Protection Unit frequently learns (after the event) of professionals who have not reported abuse because in their view they did not have the consent of the vulnerable adult to report it. There are very many reasons why a vulnerable adult may appear not to consent to the reporting of concerns:

- ◆ S/he may be afraid of the alleged perpetrator
- ◆ S/he may feel ashamed of the situation that s/he is in
- ◆ S/he may blame her/himself for the abuse that is happening
- ◆ S/he may feel dependent upon the alleged perpetrator
- ◆ S/he may not understand that what is happening is abuse

- ◆ S/he may think that there is nothing that can be done
- ◆ S/he may fear that the abuse will increase or intensify if the perpetrator were to learn that it had been reported
- ◆ S/he may fear that s/he will become (more) isolated
- ◆ S/he may have been threatened by the alleged perpetrator to keep quiet
- ◆ S/he may not have the mental capacity or sufficient communication skills to discuss the complexities of 'consent'.

The very experience of abuse will often mean that the vulnerable adult is no longer able to give informed consent to the reporting of the abuse, even when the vulnerable adult has full mental capacity. This is a lesson that has been learned over many years by agencies working with victims of domestic violence. It is misguided for a professional to attach disproportionate weight to the need to obtain consent before reporting the concerns. If absolutely necessary the name of the vulnerable adult can remain anonymous in the initial discussions with the Adult Protection Unit. The disadvantage of this is that the Adult Protection Unit itself may hold relevant information about that vulnerable adult.

The preferred approach is for any professional generally to explain to the vulnerable adult at the beginning of their involvement that their agency is part of the local multi-agency framework to protect vulnerable adults from abuse, and that they are under a duty to report any concerns, suspicions or allegations about abuse firstly to their line manager and then to the Adult Protection Unit (as the representative of the Social Services authority). The Adult Protection Unit is an integral part of the local health and social care provision.

This approach is consistent with **No secrets**.

In order for the protection of vulnerable adults to be a multi-agency activity there is an expectation that information will be shared between agencies on a 'need to know' basis.

This approach is also consistent with the law:

- ◆ Article 8 of the Human Rights Act 1998 sets out the human right to respect for private and family life. However, it is a qualified and not an absolute right. It recognises that there are circumstances in which this right can be restricted in a lawful and proportionate way.
- ◆ The Data Protection Act 1998 allows disclosure of sensitive personal data without consent for one of two reasons:

*In order to protect the vital interests of the person (in our terms, the vulnerable adult) or another person, where consent cannot be given by or on behalf of the person (vulnerable adult), or you cannot reasonably be expected to obtain the consent of the person (vulnerable adult)*

*or*

*In order to protect the vital interests of another person, where consent by or on behalf of the person (vulnerable adult) has been unreasonably withheld.*

- ◆ Section 115 of the Crime and Disorder Act 1998 states that anyone shall have the power to disclose information, that may assist in the process of detecting and preventing offences, to the Police, the Local Authority, the Probation Service and the Health Authority. This is the 'sharing information principle'.

**FOR IMPLEMENTATION FROM  
01.01.08**

We know that there is a minority of vulnerable adults who, in the particular circumstances, are fully able to make an informed decision to withhold their consent to the information being reported. However, if the concern, suspicion or allegation of possible abuse is *serious*; and there is a risk of it continuing or there is a risk of it happening to others, then the information should still be reported to the Adult Protection Unit. Guidance about 'seriousness' is given earlier on *Page 15*.

The adoption of the approach set out above is consistent with the first strand of this Adult Protection Policy – **the recognition that the abuse of vulnerable adults is a widespread problem and that it is often unrecognised and unreported.**

As has been set out earlier (on *Pages 14 and 15*) some of the Alerts that are made to the Adult Protection Unit will cross the 'significant harm' threshold and there will be a Strategy Meeting of professionals convened and chaired by the Adult Protection Unit. In order to protect vulnerable adults from abuse it is essential that at that meeting there is a sharing of all information that is relevant to the protection of vulnerable adults from abuse, and similarly that all agencies respect the confidentiality of the information that they thereby receive from other agencies. Adult Protection is seeking to avoid the tragedies that have taken place in Child Protection through agencies not sharing relevant information.

Strategy Meetings about vulnerable adults, including those where consent has not been obtained to share information with the Unit, are invariably productive through coming up with ideas and proposals that the originating agency (and vulnerable adult) has not thought of. For example, in the field of domestic violence there are now a number of options that did not exist a few years ago. Similarly, the Sexual Offences Act 2003 has extended the range of behaviours that might constitute a sexual offence. The vulnerable adult can still then reject what is suggested if s/he so wishes, but at least s/he has been given some options that s/he may revisit at a later date. The Adult Protection Unit may be able to provide information that will cause the vulnerable adult to think differently about putting up with abuse.

## PRACTICE GUIDANCE

### PRACTICE GUIDANCE 1: EXAMPLES AND INDICATORS OF ABUSIVE BEHAVIOUR

**Please note: The existence of one factor from any of the following lists should not be taken on its own as being an indicator that abuse is occurring. However, it should alert you to the need to make further assessment.**

#### **1: Physical abuse**

The following are **examples of physically abusive behaviour:**

- ◆ Hitting
- ◆ Slapping
- ◆ Pinching
- ◆ Hair pulling
- ◆ Pushing
- ◆ Kicking
- ◆ Inappropriate application of techniques for control and restraint
- ◆ Involuntary isolation or confinement
- ◆ Misuse of medication
- ◆ Forcible feeding

The following may be **indicators of physical abuse:**

- ◆ Injuries inconsistent with the account of how they happened
- ◆ Lack of explanation as to how injuries happened
- ◆ Injuries inconsistent with the lifestyle of the vulnerable adult
- ◆ Multiple bruising and/or welts on face, lips, mouth, torso, arms, back, buttocks and thighs
- ◆ Clusters of injuries
- ◆ Marks on the body appearing to be slap marks or finger marks
- ◆ History of unexplained falls or minor injuries
- ◆ Injuries at different stages of healing
- ◆ Burns
- ◆ Immersion burns or rope burns on arms, legs or torso
- ◆ Injuries or physical symptoms induced, falsely claimed or exaggerated on behalf of the vulnerable adult by a 'carer', spuriously attracting treatments or services
- ◆ Medication misuse – excessive repeat prescriptions
- ◆ Unexplained loss of hair in clumps

- ◆ Cuts that are not likely to be as a result of self injury
- ◆ Subdued behaviour in the presence of a carer
- ◆ Being left in wet clothing
- ◆ Late presentation for medical treatment

## **2: Sexual abuse**

The following are examples of **sexually abusive behaviour**:

Non-contact sexual abuse:

- ◆ Inappropriate looking
- ◆ Indecent photography to which the vulnerable adult has not consented, or could not consent, or was pressurised into consenting
- ◆ Indecent exposure
- ◆ Serious teasing or innuendo
- ◆ Involvement in pornography, to which the vulnerable adult has not consented, or could not consent, or was pressurised into consenting
- ◆ Harassment
- ◆ Enforced witnessing of sexual acts or sexual media

Contact sexual abuse:

- ◆ Inappropriate touch anywhere
- ◆ Masturbation of either or both persons
- ◆ Penetration or attempted penetration of the vagina, anus, mouth, with or by penis, fingers, other objects

The following may be **indicators of sexual abuse**:

Physical indicators:

- ◆ Bruising and/or bleeding, pain or itching in genital area
- ◆ Foreign bodies in genital or rectal openings
- ◆ Infections or discharges in the above areas, or sexually transmitted diseases
- ◆ Pregnancy in a woman who is unable to consent to sexual intercourse
- ◆ Unusual difficulty in walking or sitting
- ◆ Torn, stained or bloody underclothing
- ◆ Bruising to thighs and upper arms
- ◆ Wetting or soiling
- ◆ 'Love' bites
- ◆ Self inflicted injury

Behavioural indicators:

- ◆ Significant change in sexual behaviour or attitude
- ◆ Overt sexual behaviour/language
- ◆ Poor concentration
- ◆ Withdrawal
- ◆ Sleep disturbance
- ◆ Excessive fear/apprehension of, or withdrawal from, relationships
- ◆ Fear of staff or other carers offering help with dressing, bathing etc
- ◆ Reluctance of person to be alone with an individual known to them
- ◆ Self-harming

## **3: Psychological abuse**

The following are **examples of psychologically abusive behaviour**:

- ◆ Prevention of a vulnerable adult from using services
- ◆ Denial of access to friends

- ◆ Denial of religious and cultural needs
- ◆ Ignoring
- ◆ Lack of stimulation and meaningful occupation (common with people with dementia)
- ◆ The use of threats, humiliation, bullying, swearing, and other verbal abuse
- ◆ Intimidation
- ◆ Deprivation of contact with others
- ◆ Lack of positive reinforcement
- ◆ Harassment

The following may be **indicators of psychological abuse:**

- ◆ Air of silence in the home when the alleged perpetrator is present
- ◆ General lack of consideration for the needs of the vulnerable adult
- ◆ Vulnerable adult not allowed to express an opinion
- ◆ Privacy denied in relation to care, feelings or other aspects of life
- ◆ Denial of access to vulnerable adult, especially when the person is in need of assistance
- ◆ Denial of freedom of movement e.g. locking a person in a room, tying them to a chair
- ◆ Alteration in psychological state e.g. withdrawal or fear

The following can occur in older people for a variety of social, psychological or medical reasons, but could also be an indicator of psychological abuse:

- ◆ Insomnia
- ◆ Low self-esteem
- ◆ Excessive ambivalence, confusion, resignation, agitation
- ◆ Change of appetite
- ◆ Weight loss/gain
- ◆ Tearfulness
- ◆ Unexplained paranoia

#### **4: Financial or material abuse**

The following are examples of **financially abusive behaviour:**

- ◆ Taking possessions
- ◆ Misappropriating money, valuables or property
- ◆ Forcing changes to a Will or Testament
- ◆ Preventing access to money, property or inheritance
- ◆ Stealing
- ◆ Loans from the vulnerable adult to a member of staff or paid carer
- ◆ Loan made to anyone if made under duress or threat, or if dishonestly extracted

The following may be **indicators of financial or material abuse:**

- ◆ Unexplained lack of money or inability to maintain lifestyle
- ◆ Unexplained withdrawal from accounts or bank account activity
- ◆ Power of Attorney obtained when the vulnerable adult is unable to comprehend and to give consent
- ◆ Failure to register an Enduring Power of Attorney after the vulnerable adult has ceased to have mental capacity
- ◆ Signs of financial hardship in cases where the financial affairs are being handled by an Appointee, Attorney or Receiver; or by anyone managing the vulnerable adult's finances.
- ◆ Money being withheld
- ◆ Recent changes of deeds or title to property

- ◆ Unusual interest shown by family or others in the vulnerable adult's assets
- ◆ Person managing the financial affairs is evasive or uncooperative
- ◆ Lack of clear accounts held
- ◆ Misuse of personal allowance by person managing finances for vulnerable adult in a Care Home
- ◆ Informal carers moving into a person's home, living rent free and there being no clearly set out financial arrangements

#### **5: Neglect and acts of omission**

The following are **examples of neglecting behaviour:**

- ◆ Failure to provide food, clothing, shelter, heating
- ◆ Failure to provide medical care
- ◆ Failure to provide hygiene or personal care
- ◆ Failure to administer medication
- ◆ Denial of religious or cultural needs
- ◆ Denial of educational, social and recreational needs
- ◆ Ignoring
- ◆ Lack of stimulation
- ◆ Lack of emotional warmth

The following may be **indicators of neglect:**

- ◆ Withholding or failure to provide care, food, clothing or heating, which has a detrimental effect on the person's welfare
- ◆ Physical condition of the vulnerable adult is poor e.g. pressure areas, unwashed, ulcers
- ◆ Inadequate physical environment
- ◆ Untreated injuries or medical problems
- ◆ Failure to engage in social interaction
- ◆ Poor personal hygiene
- ◆ Malnutrition when not living alone

#### **6: Discriminatory abuse**

Discriminatory abuse is *motivated by oppressive or discriminatory attitudes* towards a person's disability, race, gender, age, religion, cultural background or sexual orientation, and it may manifest itself as any of the previous forms of abuse.

The following are **examples of discriminatory abusive behaviour:**

- ◆ Unequal treatment
- ◆ Verbal abuse
- ◆ Inappropriate use of language
- ◆ Derogatory remarks
- ◆ Harassment
- ◆ Deliberate exclusion

The following may be **indicators of discriminatory abuse:**

- ◆ Lack of respect shown to the vulnerable adult
- ◆ Signs of sub-standard service offered to the vulnerable adult
- ◆ Repeated exclusion from rights afforded to ordinary citizens, such as health, education, employment, criminal justice and civic status
- ◆ Tendency to be withdrawn and isolated
- ◆ Expressions of anger or frustration or fear and anxiety
- ◆ Denial of a person's communication needs e.g. not allowing access to a signer or lip reader

## **7: Institutional abuse**

The following are examples of **institutionally abusive behaviour**:

- ◆ Discouragement of the involvement of relatives or friends in the care of the vulnerable adult
- ◆ Abusive and disrespectful attitudes among staff
- ◆ Inappropriate use of Restrictive Physical Interventions
- ◆ Poor practice in the provision of intimate care
- ◆ Staff not taking account of individuals' needs, culture, religion or ethnicity
- ◆ Failure to take action where there have been incidents of racial harassment

The following may be **indicators of institutional abuse**:

- ◆ Poor staff morale, high turnover or high sickness rate amongst staff and excessive hours are worked
- ◆ A general lack of consideration of privacy e.g. staff walk casually into bedrooms; lack of appropriate privacy for washing and personal care tasks; there is no telephone that can be used privately
- ◆ Residents or clients appear unusually subdued, especially when compared to their previous behaviour; they retreat into their own room or other areas out of the way of staff
- ◆ Lack of care when dealing with personal clothing, e.g. loss of clothes, being dressed in other people's clothes, dirty or unkempt, spectacles not clean, wearing other people's spectacles, hearing aid or teeth
- ◆ Poor hygiene e.g. strong smell of urine; dirty clothing or bed linen
- ◆ Inappropriate use of tip back chairs, excessive use of bed rails, chairs with fixed tables
- ◆ Inappropriate use of medical or nursing procedures e.g. enemas, catheterisation, over reliance on medication
- ◆ Lack of communication between staff about clients
- ◆ Lack of communication between relatives and staff

### **PRACTICE GUIDANCE 2: LAW THAT IS RELEVANT TO ADULT PROTECTION**

This section is not a comprehensive exposition about law that is relevant to Adult Protection, but gives brief information that has been found to be helpful in practice. It is largely based upon 'Community Care Practice and the Law' (Third Edition) by Michael Mandelstam, published in 2005. Each agency will have access to expert legal advice. As the representative of the Local Authority, the Principal Lawyer for Peterborough City Council can be approached about particularly complex matters.

### **The legal basis for Adult Protection work by the local authority**

Overall, Local Authority Social Services Departments assess people aged 18 years or over under **Section 47 of the NHS and Community Care Act 1990**. If it appears to a local authority that a person, for whom it may provide (or arrange for the provision of) community care services, may be in need of any such services, then:

- ◆ It must carry out an assessment of his or her needs for those services
- ◆ Having regard to the results of that assessment, the authority must decide whether his or her needs call for the provision by the local authority of any such services.

Community care services include a wide range of services, both non-residential and residential. They are defined in **Section 46 of the NHS and Community Care Act 1990** by reference to five different Acts:

- ◆ **Part 3 of the National Assistance Act 1948**
- ◆ **Section 45 of the Health Services and Public Health Act 1968**
- ◆ **Section 2 of the Chronically Sick and Disabled Persons Act 1970**
- ◆ **Schedule 8 of the NHS Act 1977**
- ◆ **Section 117 of the Mental Health Act 1983.**

Services referred to in the legislation include social work services, advice, support, holidays, practical assistance in the home, assistance to take advantage of educational facilities, recreational activities, additional facilities (equipment), home adaptations, night sitting services, home help, laundry service, visiting services, and assistance in finding accommodation; and residential accommodation.

If during the assessment it appears that the person is disabled, then the local authority must:

- ◆ Take a decision as to whether s/he requires the services mentioned in Section 4 of the Disabled Persons (Services, Consultation and Representations) Act 1986
- ◆ Inform the person about what it is doing and of their rights under the 1986 Act.

The Courts have taken the view that local authorities should set a low threshold for access to assessment. It is irrelevant that a person is unlikely to qualify for services, or that a particular service is not locally available, as assessment is beneficial in its own right. The specific legislation about disabled people means that a local authority cannot refuse to assess a disabled person, if so requested by the disabled person or carer.

When a local authority receives information about a concern, suspicion or allegation of abuse of a vulnerable adult, it is in effect being alerted to the need for the local authority to assess the need for protection that the vulnerable adult may have and to the possibility that the provision of community care services may serve to protect the vulnerable adult. As referred to above, community care legislation contains a wide variety of services that local authorities can potentially arrange for people, and which may be relevant in the context of abuse. This is the legal basis for the local authority's intervention in response to an adult abuse referral. Please note that the assessment does not have to be requested by the vulnerable adult. However, when assessing someone under Section 47 of the NHS and Community Care Act 1990 the local authority must consult the person being assessed and, if it considers it appropriate, any carer(s) that the person has.

Nothing prevents a local authority from temporarily providing (or arranging for the provision of) community care services for any person, without carrying out a prior assessment, if the authority is of the opinion that the person requires those services as a matter of urgency; in which case the local authority must then carry out an assessment as soon as practicable.

The legal duty upon the local authority to assess the needs of someone who may be in need of community care services is reflected in **No secrets**, the national guidance document about adult protection, which is statutory guidance for the local authority (being issued under Section 7 of the Local Authority Social Services Act 1970).

Local authority social care functions in Peterborough were formerly carried out by Peterborough City Council. However, **the Health Act 1999** has allowed for the delegation of functions between the local authorities and the NHS. In Peterborough the local authority functions regarding adult social care have been delegated by Peterborough City Council to the Peterborough Primary Care Trust, and the Peterborough Primary Care Trust has in turn delegated the local authority social care functions regarding adults with severe and enduring mental health problems to the Cambridgeshire and Peterborough Mental Health Partnership NHS Trust. Both the Peterborough Primary Care Trust and the Cambridgeshire and Peterborough Mental Health Partnership NHS Trust employ Social Workers who will carry out the local authority's legal functions regarding adult protection.



### **Specific legislation**

The following sections contain information about specific laws that are relevant to the various forms of abuse. Each section will be divided into **criminal law** (whereby the Crown Prosecution Service may prosecute someone for an offence), **civil law** (whereby the vulnerable adult or someone acting on his/her behalf may begin civil court proceedings in order to obtain a judgement in relation to the alleged perpetrator of abuse), and **other relevant legislation**.

### **Law that is relevant to Physical abuse**

#### **Criminal law**

Under Section 17 of the Police and Criminal Evidence Act 1984 a Police Officer may enter premises in order (amongst other things) to save life or limb.

Any physical contact without consent may constitute a criminal assault, as may any actual (or threatened) use of physical violence. There are numerous offences that may, in adult protection terms, be physical abuse:

- ◆ **Battery** – any intentional touching of another person without the consent of that person and without lawful excuse
- ◆ **Assault occasioning Actual Bodily Harm** – the harm may include psychiatric injury, but does not include fear, distress or panic
- ◆ **Unlawfully or maliciously wounding or inflicting Grievous Bodily Harm**
- ◆ **False imprisonment** – infliction of physical restraint that has no legal authorisation
- ◆ **Choking, drugging, poisoning**
- ◆ **Administering drugs to someone that have been prescribed for someone else**
- ◆ **Causing or allowing the death of a vulnerable adult** (Domestic Violence, Crime and Victims Act 2004)
- ◆ **Manslaughter** – gross negligence resulting in a person's death
- ◆ **Murder**
- ◆ It is an offence for a member of staff of a hospital, independent hospital or Care Home to **ill-treat or wilfully neglect a patient/resident** who is suffering from a mental disorder (Section 127 of the Mental Health Act 1983)
- ◆ It is an offence for *any* individual to **ill-treat or wilfully neglect a mentally disordered patient who is in their custody or care** (Section 127 of the Mental Health Act 1983)

## **FOR IMPLEMENTATION FROM 01.01.08**

- ◆ It is an offence for a person who has the care of a **person who lacks mental capacity** or who is reasonably believed to lack mental capacity, **to ill-treat or wilfully neglect** the person they have care of (Section 44 of the Mental Capacity Act 2005). This includes a person who is appointed as an Attorney under an Enduring or Lasting Power of Attorney and a person who is appointed as a Deputy by the Court of Protection.

It is therefore essential to obtain the view of the Police in cases where a vulnerable adult has been physically abused, so that they can advise as to whether a criminal offence may have been committed.

### **Civil law**

#### **The Family Law Act 1996 as amended by the Domestic Violence, Crime and Victims Act 2004:**

The physical abuse of a vulnerable adult may also constitute in civil law a trespass upon the person, and the vulnerable adult may therefore use civil law to take action against the perpetrator. The vulnerable adult may apply to the County Court for injunctions, restraining orders, non-molestation or ouster orders, to which the power of arrest may be attached. These orders are designed to stop the perpetrator making contact with the vulnerable adult or visiting named geographical areas/buildings.

If the vulnerable adult does not have the mental capacity to take civil legal action on their own behalf then it is possible for the Court to appoint a 'next friend' to conduct legal proceedings on their behalf.

### **Other relevant legislation**

Where appropriate the provisions of **the Mental Health Act 1983 (as amended by the Mental Health Act 2007)** may also be used to protect a vulnerable adult from physical abuse:

- ◆ Under **Section 115** of the Act an Approved Social Worker of a local Social Services authority may enter and inspect premises (not a hospital) in the area of that authority if s/he has reasonable cause to believe that a mentally disordered person is living there and is not 'under proper care'.
- ◆ Under **Section 135** of the Act a warrant may be obtained from the Court authorising the Police to enter, if need be by force, any specified premises where there is reasonable cause to suspect that a person believed to be suffering from a mental disorder has been or is being ill-treated, neglected or not kept under proper control. If necessary the person can be removed to a place of safety.
- ◆ If either the vulnerable adult or the perpetrator is suffering from a mental disorder of a nature or degree that warrants **compulsory admission to hospital** for assessment or for treatment in the interests of that person's own health or safety or with a view to the protection of other persons, then such action can be considered and would have the effect of separating the perpetrator from the vulnerable adult.
- ◆ Similarly if either the vulnerable adult or the perpetrator is suffering from a mental disorder of a nature or degree that warrants their **reception into Guardianship**, and it is necessary for that person's own health or safety or for the protection of other persons, then Guardianship can be considered. If a person is subject to Guardianship then they can be required to reside at a specified place. That again would have the effect of separating the perpetrator from the vulnerable adult. Please note that if the mental disorder takes the form of mental impairment or severe mental impairment then, for Guardianship to be considered, it must also be associated with abnormally aggressive or seriously irresponsible conduct.

## **FOR IMPLEMENTATION FROM 01.01.08**

From October 2007 the **Mental Capacity Act 2005** has introduced a number of ways in which adults who do not have mental capacity can be protected from all forms of abuse, including physical abuse. For example, a person with mental capacity may make a **Lasting Power of Attorney** appointing their chosen representative (the Attorney) to take important decisions on their behalf if/when they no longer have mental capacity to make those decisions. In addition to decisions about property and financial affairs, the decisions may now also be about personal welfare including healthcare and medical treatment decisions. An example of this is that a person may make a decision to protect him or herself from the future risk of physical abuse by including in the Lasting Power of Attorney a wish not to live with/be cared for by a certain family member.

Similarly, if a person who lacks mental capacity has been physically abused, then (with permission from the Court) it is possible for someone to apply to the Court of Protection for the Court to make a declaration (i.e. ruling) about that person, or an order about a single decision, or to appoint a Deputy where there is a need for ongoing decision-making powers. Thus the Court may order that the person lacking mental capacity goes to live at a place away from the abuser, or does not have contact with the abuser; or may appoint a trusted family member or the local authority to act as Deputy in making specified decisions on behalf of the person. Such issues were previously dealt with by the High Court under its inherent jurisdiction.

### **Law that is relevant to Sexual abuse**

#### **Criminal law**

Where the abuse of a vulnerable adult takes the form of sexual abuse then the Police will consider the standard crimes including sexual assault and rape.

Also **The Sexual Offences Act 2003** contains a number of specific offences that apply only to adults who have a mental disorder. There are three separate groups of offences:

- ◆ Offences by anyone against persons who have a mental disorder that impedes choice i.e. with someone who is unable to consent
- ◆ Offences by anyone of inducement, threat or deception to procure sexual activity with a person with a mental disorder
- ◆ Offences by Care Workers against persons who have a mental disorder. Care Workers are people who provide care, assistance or services to another person in connection with that person's mental disorder and who have had or are likely to have regular face to face contact with that person. They may be employed by a Care Home, an NHS body, an independent medical agency, clinic or hospital, or may be anyone (whether or not in the course of their employment) who meets the above criteria. Please note that the offences involving Care Workers do not rely upon the absence of consent. In simple terms, a Care Worker cannot legally have a consensual sexual relationship with a mentally disordered person for whom s/he is caring.

The behaviours can be summarised as:

- ◆ Sexual activity with another person (this means intentionally touching someone, where the touching is sexual)
- ◆ Causing or inciting another person to engage in sexual activity
- ◆ Engaging in sexual activity in the presence of another person

- ◆ Causing another person to watch a sexual act.

#### **Civil law**

As with Physical Abuse, the vulnerable adult may also in certain circumstances seek to commence civil legal proceedings against the person who is sexually abusing them.

#### **Other relevant legislation**

Where appropriate the provisions of the **Mental Health Act 1983 (as amended by the Mental Health Act 2007)** may also be used to protect a vulnerable adult from sexual abuse, as discussed in the section on 'Physical Abuse'.

The Lasting Power of Attorney/application to the Court of Protection provisions of the **Mental Capacity Act 2005** that can be used to protect a vulnerable adult who does not have mental capacity from physical abuse, as set out in that section above, can also be used to protect such a vulnerable adult from sexual abuse.

#### **Law that is relevant to Psychological abuse**

##### **Criminal law**

Some forms of psychological abuse may constitute a criminal offence.

##### **The Criminal Justice Act 1988:**

The offence of Common Assault requires only that a person threatens another, causing apprehension or anticipation of immediate and unlawful violence or touching, and does not require that contact is made or injury sustained. Intimidating telephone calls can constitute a Common Assault.

##### **The Protection from Harassment Act 1997:**

Creates the offence of Harassment. A person must not pursue a course of conduct which amounts to harassment of another and which s/he knows or ought to know amounts to harassment of the other. This can be used if it can be shown that the perpetrator has put the vulnerable adult in fear of violence on at least two occasions.

##### **Section 16 of the Offences against the Person Act 1861:**

It is an offence to Threaten to Kill someone.

##### **Section 2 of the Suicide Act 1961:**

Aiding, abetting, counselling or procuring the suicide of another person, or their attempted suicide, is an offence.

##### **Civil law**

As with Physical and Sexual Abuse, the vulnerable adult may also in certain circumstances seek to commence civil legal proceedings against the person who is psychologically abusing them. For example, with regard to civil proceedings regarding harassment the County Court may issue a restraining injunction, breach of which is in itself an offence.

#### **Other relevant legislation**

Where appropriate the provisions of the **Mental Health Act 1983 (as amended by the Mental Health Act 2007)** may also be used to protect a vulnerable adult from psychological abuse, as discussed in the section on 'Physical Abuse'.

The Lasting Power of Attorney/application to the Court of Protection provisions of the **Mental Capacity Act 2005** that can be used to protect a vulnerable adult who does not have mental capacity from physical abuse, as set out in that section above, can also be used to protect such a vulnerable adult from psychological abuse.

### **Law that is relevant to Financial or material abuse**

#### **Criminal law**

The financial abuse of a vulnerable adult may be a criminal offence. Here are some of the more common offences, primarily (but not exclusively) under **the Theft Act 1968** and **the Fraud Act 2006**:

- ◆ A person is guilty of Theft if s/he dishonestly appropriates property belonging to another, with the intention of permanently depriving the other of it (Section 1 of the Theft Act 1968). It is not necessary to prove that the property was taken without the other person's consent.
- ◆ A person is guilty of Robbery if s/he uses force against a victim, or puts (or seeks to put) the victim in fear of the imminent use of force.
- ◆ False accounting is an offence (Section 17 of the Theft Act 1968). This includes destroying, defacing, stealing or falsifying accounts or records associated with accounts, or a person furnishing information which s/he knows is or may be misleading, false or defective, in connection with accounts.
- ◆ It is an offence for a person dishonestly, with a view to gain for him/herself or another, or with intent to cause loss to another person, to destroy, deface or conceal a 'valuable security' or a Will.
- ◆ Fraud by false representation. A person commits this offence if he
  - dishonestly makes a false representation, and
  - intends by doing so to make a gain for himself or another, or to cause loss to another, or to expose another to risk of loss (the Fraud Act 2006).
- ◆ Fraud by failing to disclose information. A person commits this offence if he
  - dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
  - intends by doing so to make a gain for himself or another, or to cause loss to another, or to expose another to risk of loss (the Fraud Act 2006).
- ◆ Fraud by abuse of position. A person commits this offence if he
  - occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person
  - dishonestly abuses that position, and
  - intends by doing so to make a gain for himself or another, or to cause loss to another, or to expose another to risk of loss (the Fraud Act 2006).

#### **Civil law**

There is also civil law that is relevant to financial abuse. If it can be demonstrated that a financial transaction has taken place at a time when a person lacked the mental capacity to take the relevant decision, then the transaction can be declared to be void by a Court and can be set aside. Similarly, a civil Court may set aside a transaction because it judges that undue influence has been used upon someone who has mental capacity. This applies in situations where the vulnerable adult is influenced to enter into a transaction not of his or her own free, informed will. The undue influence can be 'express' or 'presumed'.

#### **Other relevant legislation**

## **FOR IMPLEMENTATION FROM 01.01.08**

Where appropriate the provisions of the **Mental Health Act 1983 (as amended by the Mental Health Act 2007)** may also be used to protect a vulnerable adult from financial or material abuse, as discussed in the section on 'Physical Abuse'.

From October 2007, in accordance with the Mental Capacity Act 2005, a person who has the mental capacity to manage their own financial affairs can decide to make (donate) a Lasting Power of Attorney appointing someone (an Attorney) to manage their financial affairs on their behalf either immediately or once they lose the capacity to manage their financial affairs. However, before the Lasting Power of Attorney can be used it must first be registered with the Office of the Public Guardian. This is a way that a person can plan to manage their finances/protect themselves from financial abuse whilst they are still able to make that decision.

If such protection is needed but the person no longer has the capacity to manage their own financial affairs then an application for Deputyship can be made to the Court of Protection. The Peterborough Primary Care Trust currently acts as Deputy for many vulnerable adults who do not have the mental capacity to manage their own finances, and has a specific Deputyship Officer. Prior to the Mental Capacity Act 2005 the equivalent arrangement was 'Receivership'.

Where a person is receiving social security benefits, but is 'for the time being unable to act', then the Department for Work and Pensions may appoint an Appointee to manage that person's benefits. The Peterborough Primary Care Trust currently acts as Appointee for many vulnerable adults who need assistance to manage their benefits, and has a specific Appointeeship Officer.

### **Law that is relevant to Neglect and acts of omission**

#### **Criminal law**

There is no criminal offence of neglecting a vulnerable adult who has mental capacity. There are some specific offences relating to neglect of someone who has a mental disorder or who does not have mental capacity:

- ◆ It is an offence for a member of staff of a hospital, independent hospital or Care Home to **ill-treat or wilfully neglect a patient/resident** who is suffering from a mental disorder (Section 127 of the Mental Health Act 1983)
- ◆ It is an offence for *any* individual to **ill-treat or wilfully neglect a mentally disordered patient who is in their custody or care** (Section 127 of the Mental Health Act 1983)
- ◆ It is an offence for a person who has the care of **a person who lacks mental capacity** or who is reasonably believed to lack mental capacity, **to ill-treat or wilfully neglect** the person they have care of (Section 44 of the Mental Capacity Act 2005). This includes a person who is appointed as an Attorney under an Enduring or Lasting Power of Attorney and a person who is appointed as a Deputy by the Court of Protection.

#### **Civil law**

Under civil law **the Law of Tort** covers contracts and enables one person to sue another (or an organisation) if a contract is broken. Under civil law it is an implied term of any contract for care services that the person should be looked after to a reasonable standard either at home or in a residential care or day care setting. If care is consistently below that reasonable standard the person receiving the care may have

a claim for breach of the implied term of the contract. Vicarious liability may also arise e.g. the liability of the proprietor of a Care Home for the negligent acts their staff.

Care that is not provided through a contract e.g. by a family member, is still subject to a duty of care. A duty of care is owed to 'Persons who are so closely affected by my act that I ought to reasonably have them in contemplation as being so affected when I am directing my mind to the act or omission in question.' The family member may still be sued by the vulnerable adult for negligence.

### **Other relevant legislation**

There is legislation that may be used in certain (very exceptional) cases of neglect. Under **Section 47 of the National Assistance Act 1948** the local authority, on the basis of information from the Community Physician, can apply to a Magistrates' Court for an order to remove someone who is:

- ◆ Suffering from grave chronic disease
- ◆ Or, is aged, infirm or physically incapacitated and living in insanitary conditions
- ◆ And is unable to care for themselves and is not receiving proper care and attention from other persons.

The Community Physician must certify that removal is necessary:

- ◆ In the person's own interests
- ◆ Or for preventing injury to the health of others
- ◆ Or for preventing serious nuisance to others.

This does not depend upon the person not having mental capacity. The person has no right of representation in Court and concerns have been expressed that Section 47 does not comply with the Human Rights Act 1998.

Where appropriate the provisions of **the Mental Health Act 1983 (as amended by the Mental Health Act 2007)** may also be used to protect a vulnerable adult from neglect, as discussed in the section on 'Physical Abuse'.

The Lasting Power of Attorney/application to the Court of Protection provisions of **the Mental Capacity Act 2005** that can be used to protect a vulnerable adult who does not have mental capacity from physical abuse, as set out in that section above, can also be used to protect such a vulnerable adult from neglect.

### **Law that is relevant to Discriminatory abuse**

#### **Criminal law**

Discriminatory abuse may manifest itself as any of the previous forms of abuse but is distinguished by the fact that it is *motivated by oppressive or discriminatory attitudes* towards a person's disability, race, gender, age, religion, cultural background or sexual orientation. All of the legal framework described above may therefore be used in cases of discriminatory abuse. In addition, racial violence, abuse or harassment are crimes under **the Race Relations Act 1976**.

#### **Civil law**

**The Disability Discrimination Act 1975, the Race Discrimination Act 1976, the Race Relations Amendment Act 2000 and the Sex Discrimination Act 1975** all allow for claims to be made for compensation for harm caused by discrimination.

**Law that is relevant to Institutional abuse**

**All of the legal framework described above may be used in cases of institutional abuse.**

In addition, where abuse takes place in Care Homes then **the Care Standards Act 2000** enables the Commission for Social Care Inspection to enforce minimum standards of care, including ultimately the power to cancel the registration (and therefore the operation) of the Care Home. Where abuse is alleged in a setting that is regulated by the Commission for Social Care Inspection (i.e. Care Homes, Domiciliary Care agencies, Adult Placement Schemes) then there is very close liaison between the Adult Protection Unit and the Commission.

**PRACTICE GUIDANCE 3: CONTACT DETAILS**

This section contains the Contact Details for Adult Protection personnel, both strategic and operational, in the Peterborough Statutory Agencies. It is recognised that personnel change over time, and therefore *Practice Guidance 3* will be issued as a separate document to facilitate regular updating. **It is essential that the latest version of Practice Guidance 3 is appended here as part of this Protocol.** The date of the *Practice Guidance 3* document appears in the top right hand corner of the document.