



HOME OFFICE



No secrets:

Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse

Foreword

There can be no secrets and no hiding place when it comes to exposing the abuse of vulnerable adults. The Government's White Paper, 'Modernising Social Services', published at the end of 1998, signalled our intention to provide better protection for individuals needing care and support. This is being taken up through the Care Standards Bill.

We are also committed to providing greater protection to victims and witnesses, and the Government is actively implementing the measures proposed in 'Speaking Up for Justice', the report on the treatment of vulnerable or intimidated witnesses in the criminal justice system. That report recognised that there were concerns about both the identification and reporting of crime against vulnerable adults in care settings, and endorsed the proposals made by the Association of Directors of Social Services, and others, that a national policy should be developed for the protection of vulnerable adults. It was agreed that local multi-agency codes of practice would be the best way forward.

The development of these codes of practice should be co-ordinated locally by each local authority social services department. To support this process this guidance is being issued under Section 7 of the Local Authority Social Services Act 1970. Government departments have worked closely together on the preparation of this guidance and we commend it to local authority social services departments, the police service, and the health service. It will also be of interest to the independent sector, as well as users and carers.



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Acknowledgements

This guidance has been produced by a Steering Group, led by **Peter Dunn of the Department of Health** (DH) Social Care Group, which included representatives from a wide range of organisations. Membership of the steering group is given in Appendix I and the DH thanks all those listed for their invaluable contribution.

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INTRODUCTION

- 1.1** In recent years several serious incidents have demonstrated the need for immediate action to ensure that vulnerable adults, who are at risk of abuse, receive protection and support. The Government gives a high priority to such action and sees local statutory agencies and other relevant agencies as important partners in ensuring such action is taken wherever needed. This guidance builds on the Government's respect for human rights and results from its firm intention to close a significant gap in the delivery of those rights alongside the coming into force of the Human Rights Act 1998.
 - 1.2** The aim should be to create a framework for action within which all responsible agencies work together to ensure a coherent policy for the protection of vulnerable adults at risk of abuse and a consistent and effective response to any circumstances giving ground for concern or formal complaints or expressions of anxiety. The agencies' primary aim should be to prevent abuse where possible but, if the preventive strategy fails, agencies should ensure that robust procedures are in place for dealing with incidents of abuse. The circumstances in which harm and exploitation occur are known to be extremely diverse, as is the membership of the at-risk group. The challenge has been to identify the next step forward in responding to this diversity.
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- 1.3** This guidance is issued in furtherance of the Government's commitment to develop such policies at national and local level. It is commended to all commissioners and providers of health and social care services including primary care groups, regulators of such care services and appropriate criminal justice agencies. These statutory agencies should work together in **partnership** (as advocated in the Health Act 1999) to ensure that appropriate policies, procedures and practices are in place and implemented locally. They should do so in collaboration with all agencies involved in the public, voluntary and private sectors and they should also consult service users, their carers and representative groups.
- 1.4** Local authority social services departments should play a co-ordinating role in developing the local policies and procedures for the protection of vulnerable adults from abuse. Social services departments should note that this guidance is issued under Section 7 of the Local Authority Social Services Act 1970, which requires local authorities in their social services functions to act under the general guidance of the Secretary of State. As such, this document does not have the full force of statute, but should be complied with unless local circumstances indicate exceptional reasons which justify a variation.
- 1.5** This document gives guidance to local agencies who have a responsibility to investigate and take action when a vulnerable adult is believed to be suffering abuse. It offers a structure and content for the development of local **inter-agency policies, procedures and joint protocols** which will draw on good practice nationally and locally. **Coherent strategies** should be developed, in all areas of the country, by all the statutory, voluntary and private agencies that work with vulnerable adults.
- 1.6** **Structure of this document.** Section 2 covers issues of definition. Sections 3, 4, 5 and 6 provide guidance about the protection from abuse of vulnerable adults by the creation of a multi-agency administrative framework (Section 3), the development of inter-agency policies and strategies (Sections 4 and 5), and the formulation of inter-agency operational procedures designed to implement those policies when instances of abuse or suspected abuse come to light (Section 6). Section 7 discusses the provision of broader guidance for staff, users, carers and members of the public.
- 1.7** **When developing operational guidance, local agencies should refer to the publications dealing with the abuse of vulnerable adults which appear in Appendix II.**
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2. DEFINING WHO IS AT RISK AND IN WHAT WAY

2.1 In defining abuse for the purpose of both national and local guidance it is important to clarify the following factors:

Definitions

- which adults are ‘vulnerable’?
- what actions or omissions constitute abuse?
- who may be the abuser(s)?
- in what circumstances may abuse occur?
- patterns of abuse; and
- what degree of abuse justifies intervention?

2.2 **Which adults are vulnerable?** In this guidance ‘adult’ means a person aged 18 years or over.

2.3 The broad definition of a ‘**vulnerable adult**’ referred to in the 1997 Consultation Paper *Who decides?*,* issued by the Lord Chancellor’s Department, 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

* See also *Making decisions* – a report issued in the light of responses to the consultation on the Law Commission’s document (1999).

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”.

2.4 For the purposes of this guidance ‘community care services’ will be taken to include all care services provided in any setting or context.

2.5 **What constitutes abuse?** In drawing up guidance locally, it needs to be recognised that the term ‘**abuse**’ can be subject to wide interpretation. The starting point for a definition is the following statement:

Abuse is a violation of an individual’s human and civil rights by any other person or persons.

In giving substance to that statement, however, consideration needs to be given to a number of factors.

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2.6 Abuse may consist of a single act or repeated acts. It may be physical, verbal or psychological, it may be an act of neglect or an omission to act, or it may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented, or cannot consent. Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.

2.7 A consensus has emerged identifying the following main different forms of abuse:

- **physical abuse**, including hitting, slapping, pushing, kicking, misuse of medication, restraint, or inappropriate sanctions;
 - **sexual abuse**, including rape and sexual assault or sexual acts to which the vulnerable adult has not consented, or could not consent or was pressured into consenting;
 - **psychological abuse**, including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks;
 - **financial or material abuse**, including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits;
 - **neglect and acts of omission**, including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating; and
 - **discriminatory abuse**, including racist, sexist, that based on a person’s disability, and other forms of harassment, slurs or similar treatment.
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Any or all of these types of abuse may be perpetrated as the result of deliberate intent, negligence or ignorance.

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- 2.8** Incidents of abuse may be multiple, either to one person in a continuing relationship or service context, or to more than one person at a time. This makes it important to look beyond the single incident or breach in standards to underlying dynamics and patterns of harm. Some instances of abuse will constitute a **criminal offence**. In this respect vulnerable adults are entitled to the protection of the law in the same way as any other member of the public. In addition, statutory offences have been created which specifically protect those who may be incapacitated in various ways. Examples of actions which may constitute criminal offences are assault, whether physical or psychological, sexual assault and rape, theft, fraud or other forms of financial exploitation, and certain forms of discrimination, whether on racial or gender grounds. Alleged criminal offences differ from all other non-criminal forms of abuse in that the responsibility for initiating action invariably rests with the state in the form of the police and the Crown Prosecution Service (private prosecutions are theoretically possible but wholly exceptional in practice). Accordingly, when complaints about alleged abuse suggest that a criminal offence may have been committed it is imperative that reference should be made to the police as a matter of urgency. Criminal investigation by the police takes priority over all other lines of enquiry.
- 2.9** Neglect and poor professional practice also need to be taken into account. This may take the form of isolated incidents of poor or unsatisfactory professional practice, at one end of the spectrum, through to pervasive ill treatment or gross misconduct at the other. Repeated instances of poor care may be an indication of more serious problems and this is sometimes referred to as **institutional abuse**.
- 2.10 Who may be the abuser?** Vulnerable adult(s) may be abused by a wide range of people including relatives and family members, professional staff, paid care workers, volunteers, other service users, neighbours, friends and associates, people who deliberately exploit vulnerable people and strangers.
- 2.11** There is often particular concern when abuse is perpetrated by someone in a position of power or authority who uses his or her position to the detriment of the health, safety, welfare and general well-being of a vulnerable person.
- 2.12** Agencies not only have a responsibility to all vulnerable adults who have been abused but may also have responsibilities in relation to some perpetrators of abuse. The roles, powers and duties of the various agencies in relation to **the perpetrator** will vary depending on whether the latter is:
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- a member of staff, proprietor or service manager;
- a member of a recognised professional group;
- a volunteer or member of a community group such as place of worship or social club
- another service user;
- a spouse, relative or member of the person's social network;
- a carer; ie: someone who is eligible for an assessment under the Carers (Recognition and Services) Act 1996;
- a neighbour, member of the public or stranger; or
- a person who deliberately targets vulnerable people in order to exploit them.

2.13 Stranger abuse will warrant a different kind of response from that appropriate to abuse in an ongoing relationship or in a care location. Nevertheless, in some instances it may be appropriate to use the locally agreed inter-agency adult protection procedures to ensure that the vulnerable person receives the services and support that they need. Such procedures may also be used when there is the potential for harm to other vulnerable people.

2.14 In what circumstances may abuse occur? Abuse can take place in any context. It may occur when a vulnerable adult lives alone or with a relative; it may also occur within nursing, residential or day care settings, in hospitals, custodial situations, support services into people's own homes, and other places previously assumed safe, or in public places.

2.15 Intervention will partly be determined by the environment or the context in which the abuse has occurred. Nursing, residential care homes and placement schemes are subject to regulatory controls set out in legislation and relevant guidance. Day care settings are not currently regulated in this way and require different kinds of monitoring and intervention to address similar risks. Paid care staff in domiciliary services may work with little or no supervision or scrutiny, and unregulated locations such as sheltered housing may require particular vigilance. Personal and family relationships within domiciliary locations may be equally complex and difficult to assess and intervene in.

2.16 Assessment of the environment, or context, is relevant, because exploitation, deception, misuse of authority, intimidation or coercion may render a vulnerable adult incapable of making his or her own decisions. Thus, it may be important for the vulnerable adult to be away from the sphere of influence of the abusive person or the setting in order to be able to make a free choice about how to proceed. An initial rejection of help should not always be taken at face value.

2.17 Patterns of abuse/abusing. Patterns of abuse and abusing vary and reflect very different dynamics. These include:

- serial abusing in which the perpetrator seeks out and ‘grooms’ vulnerable individuals. Sexual abuse usually falls into this pattern as do some forms of financial abuse;
- long term abuse in the context of an ongoing family relationship such as domestic violence between spouses or generations;
- opportunistic abuse such as theft occurring because money has been left around;
- situational abuse which arises because pressures have built up and/or because of difficult or challenging behaviour;
- neglect of a person’s needs because those around him or her are not able to be responsible for their care, for example if the carer has difficulties attributable to such issues as debt, alcohol or mental health problems;
- institutional abuse which features poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and an insufficient knowledge base within the service;
- unacceptable ‘treatments’ or programmes which include sanctions or punishment such as withholding of food and drink, seclusion, unnecessary and unauthorised use of control and restraint (see Harris et al 1996) or over-medication;
- failure of agencies to ensure staff receive appropriate guidance on anti-racist and anti-discriminatory practice;
- failure to access key services such as health care, dentistry, prostheses;
- misappropriation of benefits and/or use of the person’s money by other members of the household;
- fraud or intimidation in connection with wills, property or other assets.

2.18 What degree of abuse justifies intervention? In determining how serious or extensive abuse must be to justify intervention a useful starting point can be found in *Who decides?*. Building on the concept of ‘significant harm’ introduced in the Children Act, the Law Commission **suggested** that:

“‘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 an avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social or behavioural development’.”

2.19 The seriousness or extent of abuse is often not clear when anxiety is first expressed. It is important, therefore, when considering the appropriateness of intervention, to approach reports of incidents or allegations with an open mind. In making any assessment of seriousness the following factors need to be considered:

- the **vulnerability** of the individual;
 - the **nature and extent** of the abuse;
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- the **length of time** it has been occurring;
- the **impact** on the individual; and
- the risk of **repeated or increasingly serious** acts involving this or other vulnerable adults.

2.20 What this means in practice is working through a process of assessment to evaluate:

- Is the person suffering harm or exploitation?
- Does the person suffering or causing harm/exploitation meet the NHS and Community Care Act (1990) eligibility criteria?
- Is the intervention in the best interests of the vulnerable adult fitting the criteria and/or in the public interest?
- Does the assessment account for the depth and conviction of the feelings of the person alleging the abuse?

3. SETTING UP AN INTER-AGENCY FRAMEWORK

- 3.1 This is an area of practice which requires partnership working between statutory agencies to create a framework of inter-agency arrangements.
- 3.2 Local agencies should collaborate and work together within the overall framework of DH guidance on joint working. The lead agency with responsibility for co-ordinating such activity should be the local Social Services Authority but all agencies should designate a lead officer.
- 3.3 **Elements of an inter-agency administrative framework.** The first step in creating the necessary framework will be to **identify all the responsible and relevant agencies, including:**
- commissioners of health and social care services;
 - providers of health and social care services;
 - providers of sheltered and supported housing;
 - regulators of services;
 - the police and other relevant law enforcement agencies (including the Crown Prosecution Service);
 - voluntary and private sector agencies;
 - other local authority departments, eg housing and education;
 - probation departments;
 - DSS Benefit Agencies;
 - carer support groups;
 - user groups and user-led services;
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- advocacy and advisory services;
- community safety partnerships;
- services meeting the needs of specific groups experiencing violence; and
- agencies offering legal advice and representation.

3.4 A multi-agency management committee. To achieve effective inter-agency working, agencies may consider that there are merits in establishing a multi-agency management committee (adult protection), which is a standing committee of lead officers. Such a body should have a clearly defined remit and lines of accountability, and it should identify agreed objectives and priorities for its work. Such committees should determine policy, co-ordinate activity between agencies, facilitate joint training, and monitor and review progress.

3.5 Experience in other areas of practice has shown that such committees are often most effective where agency boundaries are coterminous.

3.6 Further actions in such a framework will be to:

- **identify role, responsibility, authority and accountability** with regard to the action each agency and professional group should take to ensure the protection of vulnerable adults;
- **establish mechanisms** for developing policies and strategies for protecting vulnerable adults which should be formulated, not only in collaboration and consultation with all relevant agencies but also take account of the views of service users, families and carer representatives;
- **develop procedures** for identifying circumstances giving grounds for concern and directing referrals to a central point;
- **formulate guidance** about the arrangements for managing adult protection, and dealing with complaints, grievances and professional and administrative malpractice;
- **implement equal opportunity policies and anti-discriminatory training** with regard to issues of race, ethnicity, religion, gender, sexuality, age, disadvantage and disability;
- **balance the requirements of confidentiality** with the consideration that, to protect vulnerable adults, it may be necessary to share information on a 'need-to-know basis' (bearing in mind the provisions of the Public Interest Disclosure Act 1998); and
- **identify mechanisms for monitoring and reviewing** the implementation and impact of policy.

3.7 Roles and responsibilities within and between agencies. When an allegation of abuse is made, the receiving agency must always notify the appropriate regulatory body, within any stipulated time limits, and also any other authority who may be using the service provider. Residential care homes are required under the Registered Homes Act 1984 (as amended in 1991) 'to notify the Registration Authority not later than 24

hours from the time of its occurrence...of any event in the home which affects the well-being of any resident', and specifically of:

- any serious injury to any person residing in the home (Regulation 14(1)(b)); and
- any event in the home which affects the well-being of any resident (Regulation 14 (1) (d)).

3.8 Local procedures should address the issues to be considered with respect to people who live in one area but for whom some responsibility, for example in relation to the NHS and Community Care Act 1990, remains with the area from which they originated (see LAC(93)7 *Ordinary residence*). Such procedures should clearly identify the responsibilities of, and action to be taken by:

- the authority where the abuse occurred in respect of the monitoring and review of services and overall responsibility for adult protection;
- the registering body in fulfilling its regulatory function with regard to regulated establishments; and
- the placing authority's continuing duty of care to the abused person

3.9 An effective response to the abuse of vulnerable adults requires not only effective inter-agency and inter-professional collaboration but also similar collaboration at all levels within agencies. Roles and responsibilities should be clear, and collaboration should take place at all the following levels:

- **operational;**
- **supervisory line management;**
- **senior management staff;**
- **corporate/cross authority;**
- **chief officers/chief executives; and**
- **local authority members.**

3.10 Operational level. Operational staff are responsible for identifying, investigating and responding to allegations of abuse. There needs to be a common understanding across agencies at operational level about what constitutes abuse and what the initial response to an allegation or suspicion of abuse should be. Arrangements must be established for the contribution of each relevant agency to be co-ordinated at this level. There must be a shared understanding about assessment and investigation processes and joint arrangements for decision making.

3.11 Supervisory line management level. Managers with responsibility for overseeing and supervising the investigation of, and response to, adult abuse are responsible for ensuring that all appropriate agencies are involved in the investigation and the provision of support, and that good standards of practice are maintained. They will also provide the first line of negotiation if differences arise between agencies.

Arrangements must be established to enable managers in different agencies to contact each other quickly to resolve any inter-agency problems.

- 3.12 Senior management level.** A senior manager should be identified in each agency to take the lead role with regard to the development of the policy and strategy, issuing operational guidance, promoting good practice, making policy recommendations to corporate management groups and negotiating with other agencies within an inter-agency framework. It is important that lead managers in different agencies should have comparable discretion and authority to make strategic and resource decisions. To achieve effective working relationships, based on trust and open communication, such managers will need to understand the organisational frameworks within which colleagues in different agencies work.
- 3.13 Corporate/cross authority level.** For adult protection work to be undertaken by any agency, its role and relevance to the agency's overall function must be understood and acknowledged. To achieve this, it is recommended that lead officers from each agency should submit annual progress reports to their agency's executive management body or group to ensure that adult protection policy requirements are part of the organisation's overall approach to service provision and service development.
- 3.14 Chief Officer and Chief Executive level.** It is hoped that Chief Officers and Chief Executives would contribute to national developments. Locally their role is to raise the profile, support the policy, and promote the development of initiatives to ensure the protection of vulnerable adults. Nationally, their role should include responding to, and supporting, national policy proposals. To achieve this, Chief Officers and Chief Executives should be regularly briefed on adult protection work within their agency.
- 3.15** As Chief Officer for the lead agency the Director of Social Services will have a particularly important role to play.
- 3.16 Local authority member level.** Local authority members will need to be aware of issues relating to the protection of vulnerable adults at a strategic level as well as those relating to cases of institutional and individual abuse. At the strategic and policy level an item about the protection of vulnerable adults should be included in the annual report which chief officers are required to submit to their authority or agency. With regard to institutional and individual cases of abuse, chief officers and chief executives will need to keep authority members aware of incidents of abuse and have a mechanism for doing so.
- 3.17** Each agency should be clear about the relationships between agencies and the structures for accountability flowing from that. Providers of

services should be clear that their operational procedures come within the framework set by statutory agencies and should clarify how and when to report outside their own hierarchy. Voluntary organisations – whether they provide residential, day, sheltered or supported housing services or specific services relating to abuse such as advice and help lines, or information and counselling – need to clarify how their role fits alongside that of statutory agencies in relation to abuse. Staff governed by professional regulation should be told how their professional responsibilities fit into this structure and at what point they can be deemed to have fulfilled these.

3.18 Policy and service audit*. The multi-agency management committee should undertake (preferably annually) an audit to monitor and evaluate the way in which their policies, procedures and practices for the protection of vulnerable adults are working. For this purpose, agencies should work together. Feedback on performance to all agencies should be a key feature of the audit process.

In determining the content of the audit process agencies must incorporate the following core elements:

- an evaluation of community understanding – the extent to which there is an awareness of the policy and procedures for protecting vulnerable adults;
- links with other systems for protecting those at risk – for example, child protection, domestic violence, victim support and community safety;
- an evaluation of how agencies are working together and how far the policy continues to be appropriate;
- the extent to which operational guidance continues to be appropriate in general and, in the light of reported cases of abuse, in particular;
- the training available to staff of all agencies;
- the performance and quality of services for the protection of vulnerable adults;
- the conduct of investigations in individual cases; and
- the development of services to respond to the needs of adults who have been abused.

The above elements should form the basis for developing outcome measures which can be used by both commissioners and providers of services to monitor and evaluate service provision.

3.19 Learning from experience. Agencies should routinely gather information about:

- number and source of referrals;
- information about the abused person, such as age, client group;
- information about the perpetrator;
- number of investigations and case conferences;

- monitoring of disability, gender and ethnicity;
- whether the person is already known to any agency, particularly social services, or whether it is a new referral;
- type(s) of abuse referred using commonly agreed categories as suggested in 2.7;
- location in which abuse took place;
- outcomes of investigation;
- user/carer views on how policy has worked for them.

4. DEVELOPING INTER-AGENCY POLICY

4.1 Policies. The policy for the protection of vulnerable adults from abuse should flow from respect for their rights.

The policy should include:

- the scope of the problems being addressed;
- structures for planning and decision making;
- the principles to be upheld;
- a warning about the scale of the risk of abuse of vulnerable adults and the importance of constant vigilance;
- a definition of abuse, setting out the current state of knowledge, based on the most recent research on signs/patterns of abuse and features of abusive environments; and
- a definition of those vulnerable adults to whom the policy, procedures and practice guidance refer.

It should also be:

- available in an appropriate form to families and carers (and, where appropriate, users), not only following an instance of abuse but as a matter of routine; and
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- compatible with the statutory responsibilities of other agencies and to policies already in force within agencies including that relating to steps for seeking redress, such as grievance and disciplinary procedures.

4.2 Once the policy has been developed it should be ratified by chief executives/authority members of all relevant agencies.

4.3 **Principles.** In practice, this means that agencies should adhere to the following guiding principles:

- (i) **actively work together** within an inter-agency framework based on the guidance in Section 3;
- (ii) **actively promote** the empowerment and well-being of vulnerable adults through the services they provide;
- (iii) **act in a way which supports the rights of the individual** to lead an independent life based on self determination and personal choice;
- (iv) **recognise people who are unable to take their own decisions** and/or to protect themselves, their assets and bodily integrity;
- (v) **recognise that the right to self determination can involve risk** and ensure that such risk is recognised and understood by all concerned, and minimised whenever possible (there should be an open discussion between the individual and the agencies about the risks involved to him or her);
- (vi) **ensure the safety of vulnerable adults** by integrating strategies, policies and services relevant to abuse within the framework of the NHS and Community Care Act 1990, the Mental Health Act 1983, the Public Interest Disclosure Act 1998 and the Registered Homes Act 1984 (the provisions of which will be extended by the Care Standards Bill).
- (vii) **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; and
- (viii) **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.

5. MAIN ELEMENTS OF THE STRATEGY

5.1 A strategy is a long term plan for implementing policy and for sustaining a high level of commitment to the protection of vulnerable adults in practice. It requires the following components:

- clarification of the roles and responsibilities, authority and accountability of each agency and how these will be dovetailed in any specific investigations;
 - procedures for responding to concerns and referrals;
 - joint protocols to govern specific areas of practice such as sharing of information or the conduct of joint interviews;
 - an annual statement *see paragraph 3.18 for links with annual reports by Directors of Social Services* about prevention which highlights safeguards in place and indicates priorities for additional safeguards;
 - a dissemination plan to ensure that information is passed on to users, carers, all relevant staff groups and the management of relevant agencies, to ensure that they are aware of the policy, understand what constitutes abuse and know how to make a referral;
 - identification of matters which should be specified in contracts with independent providers and contract monitoring to enhance the safety of vulnerable people;
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- a service development plan which sets out the need for specialist services generated by this work and action to be taken to ensure that a range of services is available, including refuges, counselling for vulnerable adults who have been abused, intervention for service users who may be abusing; the plan will identify resources for these services;
- the setting up and learning from a system for monitoring the volume and outcomes, impact and resource implications of adult protection work which puts in place a mechanism for auditing individual cases; and
- a training strategy for all levels of staff.

5.2 Training for staff and volunteers. Agencies should provide training for staff and volunteers on the policy, procedures and professional practices that are in place locally, commensurate with their responsibilities in the adult protection process. This should include:

- basic induction training with respect to awareness that abuse can take place and duty to report;
- more detailed awareness training, including training on recognition of abuse and responsibilities with respect to the procedures in their particular agency;
- specialist training for investigators; and
- specialist training for managers.

5.3 Training should take place at all levels in an organisation and within specified time scales. To ensure that procedures are carried out consistently no staff group should be excluded. Training should include issues relating to staff safety within a Health and Safety framework. Training is a continuing responsibility and should be provided as a rolling programme. (Unit Z1 of the NVQ Training Programme is specifically aimed at care workers in the community.)

5.4 Commissioning of services and contract monitoring. Service commissioners, at both national and local level, should ensure that all documents, such as service specifications, invitations to tender and service contracts, fully reflect their policy for the protection of vulnerable adults and specify how they expect providers to meet the requirements of the policy. They should require that any allegation or complaint about abuse that may have occurred within a service subject to contract specifications must be brought to the attention of the contracts officer of any purchasing authority. Monitoring arrangements should include adult protection issues.

- 5.5 Confidentiality.** Agencies should draw up a common agreement relating to confidentiality and setting out the principles governing the sharing of information based on the best interests of the vulnerable adult. In doing so they will need to distinguish between the principles of confidentiality designed to safeguard the best interests of the service user and those protecting other aspects of management.
- 5.6** The most recent discussion of all aspects of patient identifiable information and how this is to be protected is to be found in the report of the Caldicott Committee *Report on the review of patient-identifiable information*. That report recognises that confidential patient information may need to be disclosed in the best interests of the patient and discusses in what circumstances this may be appropriate and what safeguards need to be observed. The principles can be summarised as:
- information will only be shared on a ‘need to know’ basis when it is in the best interests of the service user;
 - confidentiality must not be confused with secrecy;
 - informed consent should be obtained but, if this is not possible and other vulnerable adults are at risk, it may be necessary to override the requirement; and
 - it is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other vulnerable people may be at risk.
- 5.7** Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within agency policies and the constraints of the legal framework.
- 5.8** Principles of confidentiality designed to safeguard and promote the interests of service users and patients should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but must never be allowed to conflict with the interests of service users and patients. If it appears to an employee or person in a similar role that such confidentiality rules may be operating against the interests of vulnerable adults then a duty arises to make full disclosure in the public interest.
- 5.9** In certain circumstances it will be necessary to exchange or disclose personal information which will need to be in accordance with the Data Protection Act 1998 where this applies.
- 5.10** The Home Office and the Office of the Data Protection Commissioner (formerly Registrar) have issued general guidance on the preparation and use of information sharing protocols.
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DEVELOPING AN INTER-AGENCY POLICY ON ABUSE OF VULNERABLE ADULTS

Strategies And Plans

| | | | | | |
|-------------------------|----------------------------|----------------------|--------------------|--------------------------|--------------------------------|
| Management arrangements | Roles And Responsibilities | Monitoring and Audit | Dissemination Plan | Service Development Plan | Annual statement of priorities |
|-------------------------|----------------------------|----------------------|--------------------|--------------------------|--------------------------------|

Procedures And Protocols

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|---|---|
| Procedures for responding in individual cases | Joint protocols of shared practice eg: confidentiality and interviewing |
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Guidelines And Information

| | |
|--|---|
| Internal guidelines for staff in provider agencies | Accessible information for users/carers/members of the public |
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6. PROCEDURES FOR RESPONDING IN INDIVIDUAL CASES

- 6.1 The starting point for dealing successfully with circumstances giving ground for anxiety and allegations of the abuse of vulnerable adults must be that agencies have an organisational framework within which all concerned at the operational level understand the inter-agency policies and procedures, know their own role and have access to comprehensive guidance.
- 6.2 The first priority should always be to ensure the safety and protection of vulnerable adults. To this end it is the responsibility of all staff to act on any suspicion or evidence of abuse or neglect (see the Public Interest Disclosure Act 1998) and to pass on their concerns to a responsible person/agency.
- 6.3 **Objectives of an investigation.** The objectives of an adult abuse investigation will be to:
- establish facts;
 - assess the needs of the vulnerable adult for protection, support and redress; and
 - make decisions with regard to what follow-up action should be taken with regard to the perpetrator and the service or its management if they have been culpable, ineffective or negligent.
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6.4 Action might be primarily supportive or therapeutic or it might involve the application of sanctions, suspension, regulatory activity or criminal prosecution, disciplinary action or de-registration from a professional body. Remember, vulnerable adults who are victims, like any other victims, have a right to see justice.

6.5 Content of procedures. Procedures should include:

- a statement of roles and responsibility, authority and accountability sufficiently specific to ensue that all staff understand their role and limitations;
- a statement of the procedures for dealing with allegations of abuse, including those for dealing with emergencies by providing immediate protection, the machinery for initially assessing abuse and deciding when intervention is appropriate and the arrangements for reporting to the police urgently when necessary;
- a statement indicating what to do in the event of a failure to take necessary action;
- a full list of points of referral indicating how to access support, advice and protection at all times, whether in normal working hours or outside them, with a comprehensive list of contact addresses and telephone numbers, including relevant national and local voluntary bodies;
- an indication of how to record allegations of abuse, their investigation and all subsequent action;
- a list of sources of expert advice;
- a full description of channels of inter-agency communication and procedures for decision making; and
- a list of all services which might offer victims access to support or redress.

(Procedures should be evaluated annually and routinely updated to incorporate lessons from recent cases.)

6.6 Guidance should also summarise the provisions of the law – criminal, civil and statutory – relevant to the protection of vulnerable adults. This should include guidance about obtaining legal advice and access to appropriate remedies.

6.7 Management and co-ordination of the response to the allegation of adult abuse. Procedures for receiving a referral: Information suggesting that abuse may have occurred can come from a variety of sources. The matter may, for example, be raised by the person who is abused, a concerned relative, or a member of staff. It may come in the form of a complaint, it may be an expression of concern, or it may come to light during a needs assessment. Exceptionally, the first

notification may be made to the police, especially if the matter is very serious. The issue of handling information from an anonymous informant must also be addressed. The early involvement of the police may have benefits.

In particular:

- early referral or consultation with the police will enable them to establish whether a criminal act has been committed and this will give them the opportunity of determining if, and at what stage, they need to become involved;
- a higher standard of proof is required in criminal proceedings than in disciplinary or regulatory proceedings (where the test is the balance of probabilities);
- early involvement of the police will help ensure that forensic evidence is not lost or contaminated;
- police officers have considerable skill in investigating and interviewing and early involvement may prevent the abused adult being interviewed unnecessarily on subsequent occasions;
- police investigations should proceed alongside those dealing with the health and social care issues;
- guidance should include reference to support relating to criminal justice issues which is available locally from such organisations as Victim Support and court preparation schemes; and
- some witnesses will need protection. (Please see *Speaking up for Justice* (1988), including the provisions in Part II of the Youth Justice and Criminal Evidence Act 1999 – the majority of which will be implemented in the Crown Court by the end of 2000.)

This process may not always result in criminal proceedings.

6.8 All those making a complaint or allegation or expressing concern, whether they be staff, service users, carers or members of the general public, should be reassured that:

- they will be taken seriously;
- their comments will usually be treated confidentially but their concerns may be shared if they or others are at significant risk (see 5.5 to 5.10);
- if service users, they will be given immediate protection from the risk of reprisals or intimidation;
- if staff, they will be given support and afforded protection if necessary, eg: under the Public Interest Disclosure Act 1998;
- they will be dealt with in a fair and equitable manner; and
- they will be kept informed of action that has been taken and its outcome.

6.9 Information relating to alleged abuse will trigger these procedures to govern investigation and further work. In pursuance of the objectives

listed in 6.3 the following processes will need to be co-ordinated and managed, in parallel where necessary:

- investigation of the complaint;
- assessment and care planning for the vulnerable person who has been abused;
- action with regard to criminal proceedings;
- action by employers, such as, suspension, disciplinary proceedings, use of complaints and grievance procedures, and action to remove the perpetrator from the professional register;
- arrangements for treatment or care of the abuser, if appropriate; and
- consideration of the implications relating to regulation, inspection and contract monitoring.

6.10 Investigation. A properly co-ordinated joint investigation will achieve more than a series of separate investigations. It will ensure that evidence is shared, repeated interviewing is avoided and will cause less distress for the person who may have suffered abuse. Good co-ordination will also take into account the different methods of gathering and presenting evidence and the different requirements with regard to standard of proof. The communication needs of victims including people with sensory impairments, learning disabilities, dementia or whose first language is not English must be taken into account. Interviewers and interpreters may need specific training. The goal, as noted by the *Independent Longcare inquiry*, should be that: “There have to be agreements on lead responsibilities, specific tasks, co-operation, communication and the best use of skill. Those interagency arrangements must be in place so that they can be activated quickly when needed. However, no individual agency’s statutory responsibility can be delegated to another. Each agency must act in accordance with its duty when it is satisfied that the action is appropriate. Joint investigation there may be but the shared information flowing from that must be constantly evaluated and reviewed by each agency”.

6.11 The procedure should be clear about the role of the regulatory authority in investigations.

6.12 Agencies receiving a complaint or allegation of abuse should inform other agencies involved of the nature of the complaint or allegation and the action being taken. The lead agency should co-ordinate and monitor action, and should ensure that other agencies involved receive updates on progress made in the investigation unless it is unsafe and inappropriate for them to do so.

6.13 The following stages of investigation of any allegation of abuse will need to be undertaken:

- **reporting** to a single referral point;
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- **recording, with sensitivity to the abused person**, the precise factual details of the alleged abuse;
- **initial co-ordination** involving representatives of all agencies which might have a role in a subsequent investigation and could constitute a strategy meeting;
- **investigation** within a jointly agreed framework to determine the facts of the case; and
- **decision making** which may take place at a shared forum such as a case conference.

6.14 Record keeping. Whenever a complaint or allegation of abuse is made all agencies should keep clear and accurate records **and each agency should identify procedures for incorporating**, on receipt of a complaint or allegation, all relevant agency and service user records into a file to record all action taken. In the case of providers of services these should be available to service commissioners and local inspection units.

6.15 Staff need to be given clear direction as to what information should be recorded back on the user's file and in what format. The following questions will give a guide:

- what information do staff need to know in order to provide a high quality service to the person concerned?
- what information do staff need to know in order to keep people safe under the service's duty to protect vulnerable people from harm?
- what information is not necessary?
- what may be a breach of a person's legal rights?

6.16 Records should be kept in such a way that they create statistical information as a by-product.

6.17 All agencies should identify arrangements, consistent with principles of fairness, for making records available to those affected by, and subject to, investigation.

6.18 If the alleged abuser is a service user then information about his or her involvement in an adult protection investigation, including the outcome of the investigation, should be included on his or her case records. If it is assessed that the individual continues to pose a threat to other service users then this should be included in any information that is passed on to service providers.

6.19 Assessment Planning for the person's future protection. Once the facts have been established, an assessment of the needs of the adult abused will need to be made. This will entail joint discussion, decision and planning for the person's future protection.

- 6.20** In deciding what action to take, the rights of all people to make choices and take risks and their capacity to make decisions about arrangements for investigating or managing the abusive situation should be taken into account. (Note the contents of the Power of Attorney Act 1971 and the Enduring Power of Attorney Act 1995.)
- 6.21** The vulnerable adult's capacity is the key to action since if someone has 'capacity' and declines assistance this limits the help that he or she may be given. It will not however limit the action that may be required to protect others who are at risk of harm. In order to make sound decisions, the vulnerable adult's emotional, physical, intellectual and mental capacity in relation to self determination and consent and any intimidation, misuse of authority or undue influence will have to be assessed (the Government's policy statement *Making decisions* sets out proposals for making decisions on behalf of mentally incapacitated adults).
- 6.22 Person alleged to be responsible for abuse or poor practice.** When a complaint or allegation has been made against a member of staff, he or she should be made aware of his or her rights under employment legislation and internal disciplinary procedures.
- 6.23** In criminal law the Crown or other prosecuting authority has to prove guilt, and the defendant is presumed innocent until proved guilty.
- 6.24** Alleged perpetrators who are also vulnerable adults themselves, in that they may have learning disabilities or mental health problems and are unable to understand the significance of questions put to them or their replies, should be assured of their right to the support of an 'appropriate' adult whilst they are being questioned by the police under the Police and Criminal Evidence Act 1984 (PACE). Victims of crime and witnesses may also require the support of an 'appropriate' adult.
- 6.25 Staff discipline and criminal proceedings.** As a matter of course allegations of criminal behaviour should be reported to the police, and agencies should agree procedures to cover the following situations:
- 6.26** Procedures.
- action pending the outcome of the police and the employer's investigations;
 - action following a decision to prosecute an individual;
 - action following a decision **not** to prosecute;
 - action pending trial; and
 - responses to both acquittal and conviction.
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- 6.27 Disciplinary procedures.** Employers who are also service providers or service commissioners have not only a duty to the victim of abuse but also a responsibility to take action in relation to the employee when allegations of abuse are made against him or her. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect vulnerable adults.
- 6.28** With regard to abuse, neglect and misconduct within a professional relationship, some perpetrators will be governed by codes of professional conduct and/or employment contracts which will determine the action that can be taken against them. Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation.
- 6.29** The standard of proof for prosecution is 'beyond reasonable doubt'.
- 6.30** The standard of proof for internal discipline is usually the civil standard of 'on the balance of probabilities'.
- 6.31 Suspension from duty.** The employee may be suspended pending the outcome of the employer's investigation. Decisions not to suspend an employee and/or not to inform the police, must be fully documented and endorsed separately by an independent senior officer from within the investigating agency.
- 6.32 Role of advocates.** In some cases, it will be necessary to appoint an independent advocate to represent the interests of those subject to abuse. In such cases, all agencies should set out how the services of advocates can be accessed, and the role they should take.
- 6.33 Decision making.** Once investigations are completed, the outcome should be notified to the lead agency which should then determine what, if any, further action is necessary.
- 6.34** One outcome of the investigation and assessment will be the formulation of agreed action for the vulnerable adult to be recorded on his or her care plan. This will be the responsibility of the relevant agencies to implement.

This should set out:

- what steps are to be taken to assure his or her safety in future;
 - what treatment or therapy he or she can access;
 - modifications in the way services are provided (eg same gender care or placement);
 - how best to support the individual through any action he or she takes to seek justice or redress; and
 - any on-going risk management strategy required where this is deemed appropriate.
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- 6.35** In any case of a proved complaint or allegation, particularly where this involves professional malpractice, the lead agency should ensure that relevant agencies/professional bodies are appropriately informed (the 1999 Home Office document *Caring for young people and the vulnerable* offers guidance for preventing abuse of trust).
- 6.36** The Government intends to introduce a statutory workforce ban mechanism for people found to be unsuitable to work with vulnerable adults. The Care Standards Bill (see **4.3**) sets out the basis of the mechanism which closely mirrors that in the Protection of Children Act 1999. In this system 'vulnerability' of adults is defined in relation to those services where adults are inherently at risk of harm. The new mechanism, once in operation, will complement the General Social Care Council (GSCC) and, together, they will add significant new safeguards for vulnerable people.
- 6.37** If the abuse has occurred within a residential unit, once the safety of the residents has been established and any immediate investigation is completed, the appropriate regulatory body (currently the LA/HA inspection unit) should establish the need for any enforcement action under the Registered Homes Act 1984 (the provisions of which are extended by the Care Standards Bill (see **4.3 vi**)).

7. GETTING THE MESSAGE ACROSS

- 7.1 All *commissioners* or providers of services in the public, voluntary or private sectors, should disseminate information about the multi-agency policy and procedures. Staff should be made aware through internal guidelines of what to do when they suspect or encounter abuse of vulnerable adults. This should be incorporated in staff manuals or handbooks detailing terms and conditions of appointment and other employment procedures so that individual staff members will be aware of their responsibilities in relation to the protection of vulnerable adults. This information should emphasise that all those who express concern will be treated seriously and will receive a positive response from management.
- 7.2 **Rigorous recruitment practices.** In relation to certain employments, persons convicted of certain offences do not have the protection of the Rehabilitation of Offenders Act 1974.
- 7.3 **References.** All references, including a reference from the last employer, should be taken up before formal offers of appointment and should be provided in writing. Prospective employers including agencies should make all reasonable efforts to check that referees are bona fide and, if in doubt, should ask job applicants to provide an alternative. Please note the process of the Care Standards Bill through Parliament.
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- 7.4 Volunteers.** Where agencies make use of volunteers who have significant and regular contact with vulnerable people, they should undertake the same checks as they would when employing paid staff. Employers and supervisors should ensure that volunteers are fully aware of agency policy and procedures governing the protection of vulnerable adults and what they (volunteers) should do and to whom they can refer if they have any concerns.
- 7.5 Internal guidelines for all staff.** Provider agencies will produce for their staff a set of *internal guidelines* which relate clearly to the multi-agency policy and which set out the responsibilities of all staff to operate within it. These will include guidance on:
- identifying vulnerable adults who are particularly at risk;
 - recognising risk from different sources and in different situations and recognising abusive behaviour from other service users, colleagues, and family members;
 - routes for making a referral and channels of communication within and beyond the agency;
 - assurances of protection for whistle blowers;
 - working within best practice as specified in contracts;
 - working within and co-operating with regulatory mechanisms; and
 - working within agreed operational guidelines to maintain best practice in relation to:
 - challenging behaviour
 - personal and intimate care
 - control and restraint
 - sexuality
 - medication
 - handling of user's money
 - risk assessment and management.
- 7.6** Internal guidelines should also cover the rights of staff and how employers will respond where abuse is alleged against them within either a criminal or disciplinary context.
- 7.7 Information for users, carers and the general public.** Information leaflets should be produced in different, user friendly formats for service users and their carers, These should explain clearly what abuse is and also how to express concern and make a complaint. Service users and carers should be informed that their concern or complaint will be taken seriously, be dealt with independently and that they will be kept informed of the outcome. They should be reassured that they will receive help and support in taking action on their own behalf. They should also be advised that they can nominate an advocate or representative to speak and act on their behalf if they wish.
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- 7.8 In addition agencies should produce a range of information leaflets which set out how members of the public can express concern or make a complaint if they suspect or encounter abuse of a vulnerable adult. Such information must be made available in different languages and various formats and could be lodged in public places, eg libraries and doctors' surgeries
- 7.9 **Direct payments.** Anyone who is purchasing his or her own services through the direct payments system and the relatives of such a person should be made aware of the arrangements for the management of adult protection in their area so that they may access help and advice through the appropriate channels. Care managers, who play a role in direct payments, could be asked to help users who are at risk of abuse.

THE PROJECT STEERING GROUP MEMBERSHIP

Appendix I – page

Peter Dunn, Department of Health and Chair of the Steering Group.

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Naseem Aboobaker, Mushkil Aasaan.

Marion Beeforth, Survivors Speak Out.

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Ian Davey, Director of Social Services, Rochdale MBC, Chair of Disabilities Committee, Association of Directors of Social Services.

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David Ellis, Department of Health.

Brenda Fearne, Practitioners Alliance Against Abuse of Vulnerable Adults (PAVA).

David Gilbertson, ACPO Metropolitan Police (represented by Sue Williams).

Annette Goulden, Department of Health.

Gillian Harrison, Home Office.

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Jane Heaton, NHS Executive, Department of Health.

Christiana Horrocks, VOICE UK.

Ginny Jenkins, Action on Elder Abuse.

Deborah Kitson, Ann Craft Trust (previously NAPSAC, National Association for the Protection from Sexual Abuse of Adults and Children with Learning Disabilities)

Robert Lindsey, Department of Health.

Paul Mascia, Department of Health.

Paul Maxwell, Department of Health.

Janice Miles, NHS Confederation.

Linda Nazarko, Registered Nursing Home Association (RNHA).

Ann Pridmore, British Council of Disabled Persons (BCODP).

Leo Quigley, Sheffield Social Services Department.

Angela Ruggles, Department of Health.

Jackie Scott, Deaf-Blind UK (first meeting).

Graham Sharp, Metropolitan Police.

Chris Vellenoweth, NHS Confederation.

Pat Vogt, Inspector SSI, National Assembly for Wales.

Richard Wood, British Council of Organisations of Disabled Persons.

Annette Young, Consultant.

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| Human Rights Act 1998 | Sexual Offences Act 1956 |
| Local Authority Social Services Act 1970 | Sexual Offences Act 1967 |



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