



SAFEGUARDING

**A GUIDE FOR NON-SPECIALISTS IN
THE LEARNING AND SKILLS SECTOR**

Safeguarding – what do we mean?

'Safeguarding' focuses on keeping children and vulnerable adults safe from people who may abuse them. It clearly links with 'health and safety' and in the context of the Common Inspection Framework (CIF) also has close links with 'equality and diversity' and with learners' involvement in contributing to the suitability of the training arrangements made with and for them.

What is the purpose of this guide?

The guide has been developed to help training providers in the learning and skills sector ensure that they have in place a comprehensive set of arrangements which will minimise the likelihood of learners being abused and will help managers and staff to take appropriate action should abuse be suspected.

This guide acknowledges that certain contexts (for example employer responsive provision) are less likely to encounter many vulnerable adults – nonetheless, training providers offering employer responsive provision will need to demonstrate an awareness of potential issues regarding safeguarding and will have appropriate anticipatory measures in place and effective risk assessment processes in place.

In developing their safeguarding arrangements, training providers will be able to demonstrate their commitment to safeguarding and meet the requirements of the CIF.

This guide recognises that training providers will be at different stages in their safeguarding arrangements. The step-by-step nature of this guide is designed both to help those providers at an early stage and to offer the opportunity for on-going development to providers whose safeguarding arrangements are more established. Readers are urged to visit the FREE LSIS on line training course to further inform their thinking in relation to safeguarding, it can be found at www.leadershiplearning.org.uk

At frequent points in the text, questions will be raised. They are in colour, bold and in an enlarged font.

The guide's structure

Topics will be dealt with in the following sequence:

Section 1.

What the term 'safeguarding' encompasses

Section 2.

Reasons for effective safeguarding arrangements (legal, moral/social).

Section 3.

How safeguarding arrangements align with other policies and procedures

e.g. user (particularly learner) voice; health and safety; equality and diversity; quality improvement.

Section 4.

The pathway to effective safeguarding

★ Policies – what a safeguarding policy should consider and other related policies.

★ Supporting procedures and strategies – involving learners in safeguarding, involving parents/carers and employers, involving external organisations, embedding safeguarding in your provision, establishing a listening culture, responding to suspicions.

Section 5.

Further guidance and sources of information and advice.

Section 6.

Overall checklist.

Appendix One:

Abuse and neglect:

Appendix Two:

Legislation and guidance

Appendix Three:

Indicative responsibilities of the 'designated person'

Appendix Four:

The 5 Rs – Recognise, Report, Record and Refer

Appendix Five:

Equality Legislation Overview

Section 1

What the term ‘safeguarding’ encompasses.

In formal terms, the safeguarding and promoting the welfare of children means:

‘The process of protecting children from abuse or neglect, preventing impairment of their health and development, and ensuring they are growing up in circumstances consistent with the provision of safe and effective care that enables children to have optimum life chances and enter adulthood successfully.’ (DCSF, 2006)

‘Safeguarding’ and ‘protection’ – what’s the difference?

‘Safeguarding’ is the word that applies to all the work an organisation does to provide a safe, positive and friendly environment for its learners. It means actively seeking to involve the whole community in keeping learners safe and promoting their welfare. In this sense, ‘safeguarding’ is anticipatory and preventative and is everyone’s responsibility.

‘Protection’ is a central part of safeguarding and promoting welfare. It is the process of protecting individual learners identified as either suffering or at risk of suffering significant harm as a result of abuse or neglect. In this sense, ‘protection’ refers to the procedures that come into force when there is a particular concern or incident. Protection is a statutory responsibility, it only focuses on abuse or neglect.

Effective safeguarding helps to reduce the need for protection, but it is vital to have rigorous and clear procedures in place in case a problem arises. If a learner suggests that they are being abused, or if someone reports abuse or bad practice that could put a learner’s welfare at risk, these procedures must be understood and followed by everyone involved.

What is the Vetting and Barring Scheme, and why do we need it?

Following the high profile legal cases surrounding the death of Victoria Climbié (Laming Inquiry 2003) the Soham murders and subsequent Bichard inquiry (2004) and the Laming review into the death of Baby “P” (2009), new arrangements for the protection and welfare of children and vulnerable adults came into being. Following the recommendations made in the Bichard Report 2004 where it was said

“New arrangements should be introduced requiring those who wish to work with children or vulnerable adults to be registered. The register would confirm that there is no known reason why an individual should not work with these client groups”

The Vetting and Barring scheme will register all people doing certain specified work with children or vulnerable adults, providing a consistent measure of protection across a wide range of settings. Once it is fully

implemented in 2015, every individual who is doing, or seeking to do, a specified range of work or volunteering with children or vulnerable adults must apply to register with the Independent Safeguard Authority (ISA).

The Government is introducing the Scheme to support children and vulnerable adults by ensuring those who are unsuitable are not given positions of responsibility, while those against whom concerns are raised are detected earlier and are prevented from continuing to do certain specified work with them.

In short, Safeguarding is intended to keep children and vulnerable adults safe from a range of potential harm and looks at preventative action, not just reaction. The definition from “Keeping it Safe” is useful: “The term ‘safeguarding’ describes the broader preventative and precautionary approach to planning and procedures that are necessary to be in place to protect children and young people from any potential harm or damage” (National Council for Youth Services”)

In its recent document ‘The Coalition: Our programme for government’ the Government set out its aim to ‘review the criminal records and vetting and barring regime and scale it back to common sense levels’.

In order to deliver this promise and carry out the remodelling, the Vetting and Barring Scheme will be halted. The first phase of registration was due to commence on 26 July 2010.

Although the Scheme is halted whilst the Government undertakes its review, new safeguarding regulations introduced in October 2009 continue to apply. These include:

- ★ ‘A person who is barred from working with children or vulnerable adults will be breaking the law if they work or volunteer, or try to work or volunteer with those groups.
- ★ An organisation which knowingly employs someone who is barred to work with those groups will also be breaking the law.

If your organisation works with children or vulnerable adults and you dismiss a member of staff or a volunteer because they have harmed a child or vulnerable adult, or you would have done so if they had not left, you must tell the Independent Safeguarding Authority.’

In October 2009, the right to ask for an enhanced CRB disclosure was extended to all those who employ or use volunteers in types of activity called ‘Regulated Activity’. This right remains, and you should continue to carry out appropriate pre-recruitment checks, including CRB checks where appropriate or required by law.

The independent Safeguarding Authority will continue to carry out its work as an independent decision making body as well as continuing to maintain the barred lists. They will

also continue to accept referrals, full guidance on which is available from their website (*Source ISA website June 2010*). For further information, please contact the VBS contact centre on **0300 123 1111**.

How confident are you that boards of governors, trustees, other policy-makers in your organisation, members of staff and volunteers fully understand what the term ‘safeguarding’ means?

How would you evidence their understanding?

Please type your answer here

How confident are you that your arrangements allow for the routine checking of your learners’ circumstances and to alert you to any potentially adverse situations?

Please type your answer here

Whom are we safeguarding?

Training providers’ safeguarding arrangements are in place to protect children and vulnerable adults. A ‘child’ is defined as anyone under the age of 18 and a ‘vulnerable adult’ means a person who may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him/herself, or unable to protect him/herself against harm or exploitation.

However, providers should also realise that a number of other situations may render a person ‘vulnerable’ such as - victims of domestic violence, young people living away from home or in temporary accommodation, migrants, living in a drug-misusing family, living in areas of high crime, likely to face racism and young people who themselves may have caring responsibilities.

What are we safeguarding from?

In general, training providers should ensure that their safeguarding arrangements are designed to prevent:

- Sexual abuse or inappropriate relationships
- Physical and emotional abuse or neglect
- Exploitation e.g. financial, sexual, forced marriage
- Domestic violence
- Bullying inc. cyber bullying
- Victimisation (race, sexuality, gender, disability etc.)
- Self harm

Note: Other learner welfare arrangements should be covered by existing policies and procedures relating to health and safety and to equality of opportunity - for example preventing accidents, potentially unsafe activities and environments (both work-related and recreational), race, religious and cultural issues.

Section 2

Reasons for good safeguarding arrangements (legal, moral and social)

Legal

Training providers are required by law (Education Act 2002 Section 157/175) to secure the safety of children, young people and vulnerable adults who are participating in their programmes.

Much of the main legislation is outlined in Appendix Two. The following, however, is essential guidance from HM Government's publication "Working Together to safeguard Children" (2006) with additional guidance:

To fulfil their commitment to safeguard and promote the welfare of children, all organisations that provide services for, or work with, children and vulnerable adults must have:

- * Clear priorities for safeguarding and promoting the welfare of children, explicitly stated in strategic policy documents
- * A clear commitment by senior management to the importance of safeguarding and promoting children's welfare. (Additional guidance: the term "senior management" will always refer to the CEO and will include boards of governors, trustees etc. as appropriate.)
- * A clear line of accountability within the organisation for work on safeguarding and promoting the welfare of children. (Additional guidance: this line of accountability will necessarily include a 'designated person' who has lead responsibility for safeguarding all learners, is the person to whom staff should report any disclosure or concerns, who provides safeguarding advice and support to other staff and liaises with external agencies – See Appendix Three)
- * Recruitment and human resources management procedures that take account of the need to safeguard and promote the welfare of children and young people, including arrangements for appropriate checks on new staff and volunteers
- * Procedures for dealing with allegations of abuse against members of staff and volunteers
- * Arrangements to ensure that all staff undertake appropriate training to equip them to carry out their responsibilities effectively, and keep this up-to-date by refresher training at regular intervals; and that all staff, including temporary staff and volunteers who work with children, are made aware of the establishment's arrangements for safeguarding and promoting the welfare of children and their responsibilities for that
- * Policies for safeguarding and promoting the welfare of children (e.g. pupils/students), including a child

protection policy, and procedures that are in accordance with guidance and locally agreed inter-agency procedures

- * Arrangements to work effectively with other organisations to safeguard and promote the welfare of children, including arrangements for sharing information
- * A culture of listening to, and engaging in dialogue with, children – seeking children's views in ways that are appropriate to their age and understanding, and taking account of those views in individual decisions and in the establishment or development of services
- * Appropriate whistle-blowing procedures, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed.

Do you have clear recruitment practices for staff and volunteers to ensure that safeguarding is prioritised?

Who in your organisation is clear over the appropriate external agencies to contact when abuse is suspected?

Please type your answer here

Moral and social

The emphasis on safeguarding has arisen because of high profile abuse cases (e.g. Victoria Climbié* and the Soham murders). Abuse is not confined to sexual or physical abuse and organisations need to ensure that staff understand abuse and can recognise it or at least be alert to its possibility.

Below are a series of quotes you may find interesting and thought provoking. The first quote is from the Bichard report outlining why it is so important to do the best we can do to prevent people who want to hurt children and vulnerable adults from getting into a position where they may be able to do so. To see the full report go to: <http://police.homeoffice.gov.uk/publications/operational-policing/bichard-inquiry-report>

“For those agencies whose job it is to protect children and vulnerable people, the harsh reality is that if a sufficiently devious person is determined to seek out opportunities to work their evil, no one can guarantee that they can be stopped. Our task is to make it as difficult as possible for them to succeed...” The Bichard Report 2004 – para 79).

“Every full double-decker bus at the end of a day is likely to take home around 7 seriously unhappy children. Most of the lower deck would at some time in their childhood have been going home to serious worries. Approximately 10 children may be going home to a ‘double-shift’ of cleaning, laundry, shopping & preparing meals, and 2 or 3 will be in fear of violence between their parents whilst they were out, or what might happen that evening”.
Cawson et al (2000) Child maltreatment in the United Kingdom: a study of the prevalence of child abuse and neglect. NSPCC p.93 (NB based on busload of 70 children)

“... in so many of these cases there must have been someone who knew what was going on and who could have saved a life”
(Michael Mansfield referring to Victoria Climbié and the Baby P cases in ‘Memoirs of a Radical Lawyer’ Bloomsbury 2009

(In February 2000 Victoria Climbié died as the result of severe physical abuse and neglect that had spanned several months. She was in the care of her father’s aunt who had brought her to the UK from the Ivory Coast, because her parents had wanted a better life for her. During the months leading to her death, Victoria was known to 12 different services, which included 4 social services departments, 2 hospitals and 2 child protection teams. None of these agencies took steps to protect Victoria from the torture that led to her tragic death, and they failed to work together to identify the full extent of her abuse.)*

Are you confident that your organisation’s procedures for recording and reporting suspected abuse are clearly defined and understood?

Please type your answer here

Section 3

How safeguarding arrangements align with other policies and procedures

A whole organisation approach needs to be embedded with regard to Safeguarding. The impact that it has across the areas mentioned below is wide ranging and broad.

Comprehensive safeguarding arrangements in training providers' quality system will include strategies for:

- * Responding to the views of users
- * Equality of opportunity
- * General health and safety
- * Quality improvement

Regard needs to be given to your practices, policies and procedures and how you need to incorporate safeguarding into your organisational framework. The following questions may help you to understand some of the areas of safeguarding that you may be asked about during an OFSTED inspection for example.

Do you have a clear strategy for learner involvement? If so, does it include learners' involvement in identifying situations and locations of risk (e.g. isolated areas of a training site, underpasses, learners leaving work/training late at night) and ways to minimise dangers?

How confident are you that your learner support arrangements help learners to understand what is appropriate and what is not, build learners' self-belief and confidence to challenge what is inappropriate and give learners avenues to address and report their concerns?

Does your strategy for ensuring equality include a recognition of particular safeguarding issues relating to race, gender, disability, sexuality?

Is it clear that your 'safe learner' strategies encompass health, safety and welfare?

Does your Quality Improvement system routinely include a review of all policies and procedures at least annually?

Please type your answer here

Section 4

The pathway to effective safeguarding

What your safeguarding policy should consider

The extent of how much detail and guidance your policy will provide will depend on the size of your organisation and the type of contact you have with children or vulnerable young adults.

Training providers might consider drawing up a 'safeguarding position statement' – a short statement that highlights the provider's approach to creating a safer learning environment). This position statement commits an organisation to having policies and procedures in place. The over-arching policy statement itself may be brief. What is particularly important are the details to be found in your procedures or action plan which will clearly state what measures have been taken and what measures are to be developed or improved, in other words how the policy will be put into practice. A 'safeguarding position statement' may look something like this:-

ABC Training* believes that it is always unacceptable for a learner to experience abuse of any kind and recognises its responsibility to safeguard the welfare of all learners by commitment to practice that protects them.

ABC Training* recognises that:

The welfare of the learner is paramount.

All learners, regardless of age, disability, gender, racial heritage, religious belief, sexual orientation or identity, have the right to equal protection from all types of harm or abuse.

Working in partnership with learners and with other agencies is essential in promoting a safe learning environment.

ABC Training's* commitment is further formalised in our safeguarding policy document.

The purpose of the policy and its associated documents is to:

Provide protection for the learners at ABC Training*

Provide staff and volunteers with guidance on procedures they should adopt in the event that they suspect a learner may be experiencing, or be at risk of harm.

The policy applies to all staff, including senior managers and the board of governors; paid staff; volunteers and part-time workers; agency staff; learners; or anyone working on behalf of ABC Training*

We will seek to safeguard all learners by:

Valuing them, listening to them, and respecting them.

Adopting safeguarding guidelines through procedures and a code of conduct for staff and volunteers.

Recruiting staff safely.

Sharing information about concerns with agencies who need it, and involving learners and their parents/carers appropriately.

We are also committed to reviewing our policy and practice annually.

Signed
(Chief Executive)

(* Please insert your own company name here)

What your safeguarding policy should consider

Consider the following areas when drawing up your policy:

Why is the safeguarding policy important?

What is abuse how might abuse take place in the work carried out by your organisation?

What to do if there is a suspicion of abuse? What to do if a vulnerable person reports abuse happening at home or elsewhere? How to get in touch with local authority social services, in case a concern needs to be reported?

What safeguards are or will be put in place to protect children or vulnerable adults.

How will staff and volunteers be supported in their understanding and awareness of child or vulnerable adult protection issues e.g. what sort of training will be provided?*

How will the policy be put into practice within all levels of your organisation and within all policies and procedures. How will the policy be monitored and reviewed?

How will confidentiality be kept should an allegation be made e.g. how will records be kept and who will have access to them? However the welfare of the vulnerable person is paramount and this may mean that you must breach your organisation's rules of confidentiality.

How will other sensitive or potentially sensitive information be handled e.g. web-based materials and activities?

Who within your organisation (the 'Designated Person') will deal with allegations or suspicions of abuse and make sure they get proper child protection training. Everyone should be clear about who this person or these

*Note on training

Training providers should ensure that staff have received appropriate training in safeguarding. Training does not have to entail attendance at courses unless it is specialist training such as that for the Designated Person. Training can take a number of forms – e-learning. Internal/external courses or workshops, agenda points at meetings inc. governors/trustees, staff induction, written materials.

It is worth noting that the “Handbook for the inspection of further education and skills from September 2009” makes it clear that all staff who work with young children and/or vulnerable adults need appropriate child protection training. It does not stipulate that such staff must have a recognised qualification, although it does indicate (p.63) that in providers that are judged to be outstanding for safeguarding that: "All provider staff who teach, train or work intensively and frequently with learners aged up to 18 or vulnerable adults have been trained to Local Safeguarding Children Board (LCSB) level 2 in safeguarding". This is an illustrative characteristic rather than a prescriptive one, and indicates the level of training rather than a specific qualification. It is a matter for providers to determine the content of the training, and who provides it. However, it would be good practice for training providers to check with the LCSB that the training is appropriate. When inspecting, HMI will seek to reassure themselves that relevant staff have been trained thoroughly in the provider's procedures for safeguarding; they will not be seeking specific qualifications in safeguarding. (See also the Ofsted site in Section Five reference 3). Extensive training is also available via LSIS. E-learning is available via the LSIS virtual learning environment (VLE) as part of the online learning resource at www.leadershiplearning.org.uk or access the LSIS website www.lsis.org.uk for more information and details regarding other safeguarding courses available.

Each member of staff within education and training organisations has a legal responsibility to safeguard all learners. It follows, therefore, that each member of staff must have an awareness of their organisation's safeguarding policies and procedures, must adhere to these policies and procedures, must be vigilant and must actively work to create a culture which assures learners that they will be listened to. Appendix Four (*the 5 Rs is a generic LSIS produced set of guidelines which may be useful to issue to all members of the organisation*).

Other related policies/procedures to support the safeguarding policy

Safer recruitment policy - 'Safer recruitment' refers to safeguarding considerations being incorporated into every stage of staff and volunteer recruitment processes - advertising the vacancy, short-listing, inviting candidates to interview seeking references, conducting the interview, making a conditional offer and carrying out pre-employment checks.

Equality and diversity policy, including anti-racism and anti-homophobia

Anti-bullying policy, including cyber-bullying

Acceptable use of technology policy

Whistle-blowing policy

Programme of induction and training for staff

Code of professional conduct for staff (*This code of conduct is likely to cover propriety and behaviour, transporting learners, gifts, rewards and favouritism, relationships with learners, acceptable use of technology policy, social contact, use of physical intervention, first aid and administration of medicine and one-to-one situations.*)

Policy relating to the recruitment and use of volunteers (*where appropriate*)

User voice arrangements (*There are a variety of ways through which learners' awareness of safeguarding can be promoted – learner handbooks, codes of conduct, induction, intranet, learner representative arrangements, PHSE/Citizenship sessions, tutor time, handouts, peer mentors, displays. In fact, an effective Learner Involvement Strategy will include a number of ways in which learners are encouraged to speak out and will help to establish a 'listening culture'*).

Section 5

Further guidance and sources of information and advice

Each of the websites below was checked for currency of information and accessibility on January 1st 2010

1. The Excellence Gateway

<http://www.excellencegateway.org.uk/>

Click 'Register here'

Follow registration instructions

Once you have registered, log on to the website

Click on 'Resources' tab

Select 'Learner's Journey' (probably the default tab)

In the search box, type Safeguarding and click 'Go'

There are a number of items which can be downloaded

2. The Independent Safeguarding Authority

www.isa.gov.uk The Independent Safeguarding Authority (ISA) has been created to help prevent unsuitable people from working with children and vulnerable adults. The essential areas are the Vetting and Barring Scheme and the definitions of 'Regulated and Controlled Activity'. The ISA's work is constantly being updated and providers should visit this site frequently.

3. Ofsted. The following link contains highly relevant up-to-date questions and answers including questions on expectations relating to staff training.

www.ofsted.gov.uk/Ofsted.../Safeguarding/Learning-and-skills-providers-education-and-training-beyond-age-16

4. ChildLine www.bullying.co.uk This site contains advice on many aspects of bullying and is relevant to adults as well as children

5. Parentline plus www.parentlineplus.org.uk/ Again, as with the Childline website, many topics of immediate relevance to learners' well-being are covered

6. DCSF www.dcsf.gov.uk/bullying This site is a huge resource on every aspect of bullying.

7. "Safer Practice, Safer Learning" NIACE, 2007 sets out the safeguarding responsibilities of further education colleges, adult and community learning providers and providers of work-based training in the Learning and Skills Sector in England. www.niace.org.uk

8. LSIS website www.lsis.org.uk

Section 6

Here is a checklist of the main safeguards to have in place. You may have other essential safeguards specific to your organisation. Think about the safeguarding issues that might come up because of the types of learners you have contact with, or the types of activities they are involved in.

- * A safeguarding policy and a procedure for what to do if there are concerns about a child's/vulnerable adult's welfare.
- * A designated person for dealing with concerns or allegations of abuse and step-by-step guidance on what action to take.
- * A rigorous recruitment and selection process for staff and volunteers who work with children/vulnerable adults.
- * A written code of conduct which outlines good practice when working with children/vulnerable adult
- * A training plan and regular opportunities for all those in contact with children/vulnerable adults to learn about child/vulnerable adult health, safety and welfare.
- * A whistle-blowing policy. This is an open and well-publicised way for staff or learners to voice any concerns about abusive or unethical behaviour.
- * Information for young people and for parents/carers about the safeguarding policy and where to go for help.
- * A protective culture that puts learners' interests first – learners must feel confident that if they have concerns someone will listen and take them seriously.
- * Guidance on taking learners away on educational trips and on internet use: new technology safety, guidance on use of photographs, video, digital equipment and websites, including chat rooms.
- * Policies on equality of opportunity, bullying, health and safety and user voice as part of your quality system. You will need processes for dealing with complaints and for taking disciplinary action where necessary.

How is ISA registration different from a CRB disclosure?

An enhanced CRB disclosure, made in connection with doing certain work with children or with vulnerable adults, contains information about an individual's convictions and cautions, together with any information on that individual that is relevant to work with the relevant vulnerable group and is held by a local police force. In addition, if a barred list check is requested with the disclosure, then the disclosure also says whether the person is on ISA's list of those barred from doing certain work with children or with vulnerable adults. All of this is sent to both the individual, and the body considering using that individual. It shows information available up to the disclosure date.

[Click here to submit form](#)

Appendix One: Abuse and neglect

A. Children

The following definitions may be helpful. Please refer to - Working Together to Safeguard Children (DfES: 2006) for a fuller explanation if needed.

Abuse and neglect are forms of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent harm. Children may be abused in a family or in an institutional or community setting; by those known to them or, more rarely, by a stranger. They may be abused by an adult or adults or another child or children.

Physical abuse

Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces illness in a child.

Emotional abuse

Emotional abuse is the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. This may manifest itself in many ways

- * Telling a child they are worthless or unloved
- * Expectations of what can be expected of a child at age ranges may be great
- * Prevention of a child from engaging in normal social interaction with peers (overprotectiveness)
- * Seeing or hearing the ill treatment of another (such as a family member)
- * Bullying – causing a child to feel frightened or in danger
- * Exploitation or corruption

Sexual abuse

Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, including prostitution, whether or not the child is aware of what is happening.

- * Can involve physical and non physical contact
- * Physical = rape, buggery, or oral sex, or non-penetrative acts
- * Non contact activities = involving children in looking at pornographic material, involvement in the production of pornographic material or watching sexual acts, or encouragement to behave in sexually inappropriate behaviour.

Neglect

Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development.

It may include the following behaviour

- * Neglect during pregnancy as a result of maternal substance misuse
- * Failure to provide adequate food and clothing
- * Failure to provide adequate shelter – including abandonment
- * Failure to protect from physical and emotional harm and danger
- * Failure to provide adequate supervision including the use of inappropriate and inadequate carers
- * Failure to access appropriate medical care or treatment
- * Unresponsiveness to a child's basic emotional needs.

B. Vulnerable adults

The basis for the following is Department of Health guidance detailed in 'No Secrets' (2000) and the Protection of Vulnerable Adults (POVA) (2004).

A vulnerable adult is defined as someone:

- * 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.

Adults considered to be vulnerable in the above definition may have a range of learning difficulties and/or disabilities, including mental health difficulties, significant behavioural and emotional difficulties; cognitive learning difficulties, including severe and complex learning disability; sensory disability; speech and language disability and communication disorders, including autistic spectrum difficulties and Aspergers' Syndrome.

What is meant by abuse in the context of vulnerable adults?

In the context of vulnerable adults the following outlines the main 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 pressure into consenting
- * Psychological abuse, including emotional abuse such as – humiliation, controlling, intimidation, coercion, verbal abuse, isolation, withdrawal from support networks and services
- * Financial or material abuse, including theft, fraud, exploitation, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits
- * Neglect, 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
- * Discriminatory abuse, including racist, sexist, that based on a person's disability, and other forms of harassment, slurs or similar treatment. Refer to your own Equality & Diversity Policy.
- * 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

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. Patterns of abuse and abusing vary and reflect very different circumstances.

These include:

- * Serial abusing – “grooming” vulnerable individuals. Sexual abuse usually falls into this pattern as do forms of financial abuse
- * Long term abuse in the context of an ongoing family relationship such as domestic violence, 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, the carer may have issues such as debt, alcohol or mental health problems
- * Institutional abuse (such as Care Homes for example) which features poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and insufficient knowledge base within the provider or service
- * Unacceptable 'treatments' or programmes (again this may be more obvious in a Care Home situation) with sanctions or punishments such as withholding food and drink, seclusion, unnecessary and unauthorised use of control and restraint, or over-medication
- * Failure to ensure staff receive appropriate guidance on anti-racist and anti-discriminatory practice
- * Failure to access key services such as health care, dentistry

Appendix Two: Legislation and guidance

Summarised below are key pieces of legislation of particular relevance to safeguarding.

Children Act 2004

Section 10 places a duty on each local authority to make arrangements with relevant agencies to cooperate to improve the wellbeing of children (i.e. people under the age of 18). Section 11 gives a range of organisations, including local authorities, the police and health services, the duty to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children.

Safeguarding Vulnerable Groups Act 2006

Provides the legislative framework for the introduction of a new vetting and barring scheme for those working with children and vulnerable adults. The scheme is the Government's response to Recommendation 19 of the Bichard enquiry, 2004:

"New arrangements should be introduced requiring those who wish to work with children, or vulnerable adults, to be registered. This register – perhaps supported by a card or licence – would confirm that there is no known reason why an individual should not work with these client groups."

The primary aim of the scheme is to bar individuals from working in situations where evidence suggests that they present a risk of harm, to children or vulnerable adults. The new vetting and barring scheme, now known as the Independent Safeguarding Authority Scheme is currently under government review regarding its implementation.

Education Act 2002

Section 175 places a duty on local authorities, maintained schools, further education institutions including sixth form colleges, to carry out their function with a view to safeguarding and promoting the welfare of children and young people.

Section 157 places the same duty on independent schools, including academies and technical colleges

Rehabilitation of Offenders Act 1974

(Exceptions) Order 1975 as amended): Makes certain regulated activity (i.e. work with children) exempt from the ROA and therefore requires an individual to be subject to an Enhanced Criminal Records Bureau Disclosure Check.

Working Together to Safeguard

Children 2006

States that 'all agencies and individuals should aim to proactively safeguard and promote the welfare of children so that the need for action to protect children from harm is reduced'.

Children, 2004

Sets out the national framework for change programmes to build services around the needs of children and young people so that we maximise opportunity and minimise risk. It highlights five outcomes that are key to the wellbeing of children and young people all of which are underpinned by the Children Act 2004:

1. Stay safe
2. Be healthy
3. Enjoy and achieve
4. Make a positive contribution
5. Achieve economic wellbeing

The Equality Act 2010

On 6th April 2007, the Gender Equality Duty came into force. Gender Equality aims to promote equal opportunities between men and women, including transgender people, and to eliminate discrimination and harassment. The equality act 2006 amends the Sex Discrimination Act to place a statutory general duty on employers when carrying out their functions to have due regard to the need:

- ★ To eliminate unlawful discrimination and harassment
- ★ To promote equality of opportunity between men and women

Sex Discrimination Act 1975 and 1986

(Section 38) This act makes it unlawful to discriminate directly or indirectly on the grounds of sex or marital status, or to apply requirements or conditions which have a disproportionately disadvantageous effect on people of a particular sex or marital status, where these cannot be justified.

The Race Relations Act 1976 (Section 29)

This Act makes it unlawful to discriminate directly or indirectly on the grounds of colour, race, nationality (including citizenship), ethnic or national origin, or to apply requirement or conditions which have a disproportionately disadvantageous effect on people of a particular racial group, and which cannot be justified on non-racial grounds.

Employment Equality (Religion or Belief) Regulations 2003

The Employment Equality (Religion or Belief) Regulations make it unlawful to discriminate against workers because of religion or any religion, religious belief or similar philosophical belief. These Regulations apply to vocational training and all facets of employment, including recruitment, terms and conditions, promotions, transfers, dismissals and training. They make it unlawful on the grounds of religion or belief to:

- * Discriminate directly against anyone. That is, to treat them less favourably than others because of their religion or belief.
- * Discriminate indirectly against anyone. That is, to apply a criterion, provision or practice which disadvantages people of a particular religion or belief unless it can be objectively justified.
- * Subject someone to harassment. Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment having regard to all the circumstances and the perception of the victim.
- * Victimise someone because they have made or intend to make a complaint or allegation or have given or intend to give evidence in relation to a complaint of discrimination on the grounds of religion or belief.
- * Discriminate or harass someone in certain circumstances after the working relationship has ended.
- * Exceptions may be made in very limited circumstances if there is a genuine occupational requirement for the worker to be of a particular religion or belief in order to do the job or to comply with the religious or belief ethos of the organisation.

The Disability Discrimination Act (DDA) 1995 (and Amendment to DDA 2005)

This Act makes it unlawful for employers to discriminate, directly or indirectly, against a person with a physical or mental impairment for any reason related to their disability in all aspects of their employment. Employers also have a duty to consider making 'reasonable adjustments' to ensure that a disabled worker is not put at a substantial disadvantage by employment arrangements or any physical feature of the workplace.

Employment Equality (Age) Regulations 2006

This Act makes it unlawful to discriminate directly or indirectly on the grounds of age. The regulations cover people of all ages, both young and old. The regulations have a wide scope referring to 'workers' rather than 'employees'. Those covered include: employees, agency workers, apprentices, self-employed people, casual workers, contract workers, job applicants and former employees in certain circumstances. Unpaid volunteers are not covered by the legislations although students, e.g.

trainee teachers doing work experience, may be covered because the experience is part of a vocational training relationship.

Immigration, Asylum and Nationality Act 2006

The Immigration, Asylum and Nationality Act makes employers responsible for the prevention of illegal working by checking that employees who are subject to immigration control have leave to be in the UK which:

- * Does not restrict them from taking up jobs; or
- * Falls into a category where employment is allowed

Employers must take 'reasonable steps' to check the immigration status of all employees. Under Section 21 of the Act, an employer may commit a criminal offence if he/she knowingly employs an illegal immigrant.

The Human Rights Act 1998 mostly came into force in October 2000. The aim of the act is to give further effect in UK law to the rights contained in the European Convention on Human Rights. The act contains five articles of particular relevance to safeguarding:

- * Article 3 – no one shall be subjected to torture or to inhuman or degrading treatment or punishment.
- * Article 5 – the right to liberty and security of person.
- * Article 6 – the right to a fair trial.
- * Article 8 – the right to respect for private and family life.
- * Article 14 – freedom from discrimination in the enjoyment of Convention rights.

Children Act 1989 The Children Act 1989 covers the following:

- * Reforms the law relating to children.
- * Makes provision for local authority services for children in need and others.
- * Amends the law with respect to children's homes, community homes, voluntary homes and voluntary organisations.
- * Makes provision with respect to fostering, child minding and day care for young children and adoption, and for connected purposes.

Education Act 2002

Section 175 places a duty on local authorities, maintained schools, further education institutions including sixth form colleges, to carry out their function with a view to safeguarding and promoting the welfare of children and young people. Section 157 places the same duty on independent schools, including academies and technical colleges.

Safeguarding Children and Safer

Recruitment in Education 2007

This guidance document is a consolidated version of earlier guidance material. It looks at the recruitment and selection processes, recruitment and vetting checks, and duties for safeguarding and promoting the welfare of children in education.

Update: Equality Legislation Overview – LSIS document

Appendix Three: Indicative responsibilities of the ‘designated person’

- * To be accountable for the organisation's safeguarding practice
- * To ensure that safeguarding is afforded priority at the most senior level within the organisation
- * To ensure that sufficient resources are available to fulfil safeguarding responsibilities
- * To develop organisation-wide procedures, practice and guidance for safeguarding ensuring procedures are in place for managing allegations against staff, safeguarding, whistle-blowing and safe recruitment practices
- * To ensure that secure records of safeguarding concerns are stored and shared appropriately
- * To ensure that review systems are in place to incorporate new guidance and legislation as appropriate.
- * To maintain currency of training relating to identifying signs of abuse and appropriate referral.
- * To ensure the organisation's safeguarding policy is updated and reviewed regularly
- * To refer cases of suspected abuse or allegations to the relevant investigating agencies
- * To act as a source of support, advice and expertise within the organisation when deciding to make a referral by liaising with relevant agencies
- * To ensure all members of staff and other relevant parties have access to and understand the Safeguarding policy
- * To ensure all staff have induction training covering Safeguarding and are able to recognise and report any concerns immediately they arise
- * To keep detailed, accurate and secure written records of referrals / concerns
- * To arrange on-going training and guidance for governors, trustees, staff and volunteers appropriate to ensuring safeguarding

The 5 Rs

Recognise, Respond, Report, Record and Refer



If safeguarding is to impact on all aspects of the operational life of learning providers it must become the informed responsibility of everyone. All staff, governors, board members, trustees, volunteers, partners and others have a responsibility to actively make the learning environment safe and secure for all. LSIS recommend that all parties frame their thinking within the 5 Rs.

Recognise

The ability to recognise behaviour that may indicate abuse or other types of harm is of fundamental importance. Whether the abuse may occur on the premises of the learning provider, in the home or in any other setting in which the learner may find themselves, all those playing a role in meeting the learners' needs should be aware and informed so that possible abuse or other harm can be recognised, investigated and acted on seamlessly and effectively.

Signs and indicators of abuse in young people and/or vulnerable adults may include disclosure. This isn't always easy to recognise as such, as it may be that the learner is struggling to find the words, is using language the abuser uses for particular actions and body parts, or the disclosure is wrapped in analogy or euphemism which is difficult to identify. A learner may choose anyone in the organisation to disclose to including;

- lecturers/ tutors/ instructors
- volunteers
- staff from student services
- counsellors
- assessors
- business support staff

- student and trade union representatives
- catering or administrative staff
- peers and
- those offering additional services, such as Connexions staff

Or any people from these groups may be the ones to spot concerning signs or behaviour in the learner. This is why all staff and volunteers need to be trained in how to recognise and respond to this situation, and how to report a concern.

Recognising signs and indicators of abuse is also difficult, as any signs could have another explanation. It is important that all staff are trained in spotting possible signs, not encouraged to overreact and assume abuse is occurring, but to know when to pass on concerns to the appropriate person. It is important that there is a culture where people can discuss and raise concerns without worrying that they might get it wrong or that others will overreact. Reporting to someone with more experience and responsibility is the only way difficulties can be addressed.

Respond

The appropriate response is vital. No disclosure about possible abuse or neglect should ever be ignored. In order to determine the most appropriate response, find out if you are dealing with an allegation from a learner against a member of staff, another learner or another person outside the organisation. Is the disclosure from an individual alleging abuse to themselves or another person? Is this the reporting of a concern or suspicion? What is alleged to have happened? Your role in the moment when you listen and respond is to ascertain what you are dealing with. The individual may be very scared and emotional in telling you this information, so you must stay calm, use effective empathic listening skills, and not let them know if you are feeling panicked, shocked or outraged at what you are hearing, as this may shut them down. You need to ask open questions (not leading or suggestive ones) and gather just enough information to know that it is a disclosure of abuse that needs to be passed on, and how immediate the danger or harm is to the individual. It is not your role to get a detailed account, as the individual may have to tell their story numerous more times. You must also not make any promises about what will happen next, as you don't know - you just need to be clear that it will be treated in confidence but recorded and passed on to the appropriate people/ person i.e. the designated person (DP). Nor can you make promises that it will get better as the learner may be facing a difficult time ahead.

Do not lead or probe with questions - ask only completely open questions. Demonstrate interest and concern, and take it seriously, even if you are finding it difficult to believe because it is so shocking, or perhaps it is an allegation being made against someone known to you. Finally reassure that they have done the right thing by telling you, and you will do what you can to help.

Report

Report your concerns to your DP or their deputy, i.e. the person or small team with explicit responsibility for matters relating to safeguarding, as soon as possible. This should be the default action to take. Concerns of a staff member may not always

be apparent as safeguarding concerns. Something might at first appear to be related to equality, a practice issue or generally about the conduct of a staff member. In these cases, where it is not immediately apparent that the concern could be related to safeguarding, you may want to discuss this with your line manager. However, if it is likely to be a matter related to safeguarding, it must be reported directly to the DP, bypassing the line manager, as the less people in the chain of communication the better - as long as those with named responsibility within your procedures are aware of the situation.

All learning providers should ensure they have a member of staff of suitable seniority and with appropriate training and support with designated responsibility for safeguarding. This colleague must be publicly identified in ways, locations and formats which are easily accessible to all staff and learners. They should have a deputy in case of sickness, annual leave, or in the event of an allegation being made against them. In larger organisations a carefully thought through structure of DPs should ensure that enough people with safeguarding responsibility are accessible and available, without there being too many so that concerns are not shared, communication breaks down and information is lost.

Once you have reported concerns about abuse to the DP the responsibility for taking action lies with them. You are within your rights to check that appropriate action has been taken, but it may not be necessary for the DP to share the details of this with you for the confidentiality of the individual concerned. If you are genuinely concerned that the matter has not been taken forward you can make a referral directly out of the organisation, but bear in mind that action and referrals may have been made already that you are unaware of.

Record

You should record precisely what has been alleged, using key phrases and words the individual used. You are not expected to remember every detail of the conversation, and therefore it is not recommended that notes or any other recording is made during

the conversation, but immediately afterwards, as doing so during the conversation can cause the learner to feel afraid of the formality this might bring, when they just need someone to listen at this first stage. Sound recording of the conversation is also not recommended for the same reason. You should also record your observations of the individual, as well as your interpretation of the facts as long as you clearly identify when you are doing so. This record should be passed on, in person where possible, to the DP, who should store it securely and separately to learners' individual files. It should only be accessible to those who have responsibility over safeguarding matters.

Refer

This is not the responsibility of all staff members, but of the DP who should gather all the information to make a referral, if appropriate, by talking to the appropriate people inside or outside the organisation, and make the decision (in conjunction with their deputy if appropriate) on what action to take: i.e. whether to monitor and record the concern, or to refer it on. Only the DP or their deputy should be making referrals outside the organisation as it should prevent numerous referrals being made for the same incident; it allows consistency in the process, and means that the DP can build relationships with the referral agencies. No one else in the organisation should be making these enquiries, and should discuss with the DP any further action to be taken.

Update: Equality Legislation Overview

A new legal framework for equality



This is a general note on equality legislation. It gives a broad, general view and does not constitute legal advice. Full detailed information and guidance on the Equality Act 2010 can be obtained from the Equality and Human Rights Commission (www.ehrc.org.uk) and the Government Equalities Office (www.equalities.gov.uk)

The Equality Act 2010 (The Act) replaces existing anti-discrimination laws with a new single Act. This simplifies and harmonises the law, establishes consistency, and strengthens its provisions in some important ways. The following key parts of the Equality Act come into force in October 2010.

Public sector organisations and organisations delivering services on their behalf are covered by the terms of the Equality Act. The Act protects learners and staff from discrimination on the basis of protected characteristics which used to be called grounds. The protected characteristics are:

- Disability
- Age
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

What is meant by discrimination?

The Act prohibits direct and indirect discrimination on the basis of the above protected characteristics.

Direct discrimination happens when a person is treated less favourably than another because of a protected characteristic. For example, if a college child-care programme refused to enrol a male learner or to employ a male lecturer because of their sex, because it was felt that men posed a safeguarding threat that women did not, this could constitute unlawful direct discrimination.

Direct discrimination can also happen because of association or perception. For example, if a learner who has gay, same – sex parents, but who themselves is heterosexual is bullied because of their association with their parents this could constitute unlawful direct discrimination on the basis of sexual orientation. Direct discrimination also includes discrimination because a person is wrongly thought to have a protected characteristic. For example, if an assessor employed by a work based learning provider was incorrectly thought to be a Muslim and consistently received derogatory remarks from other staff or learners because of this, unlawful direct discrimination may have taken place on the basis of religion or belief.

Indirect discrimination happens when a rule, policy or practice that applies to everyone particularly disadvantages people who share a protected characteristic. For example, if a provider established a system whereby learners could only report breaches of safeguarding policy by ‘phone this might place deaf people who cannot use a ‘phone at a disadvantage. Unless the provider can justify this practice as a proportionate means of achieving a legitimate aim it is likely to comprise unlawful indirect discrimination.

Breastfeeding mothers

The Act specifically makes it unlawful to discriminate a woman because she is breastfeeding.

What is meant by harassment?

Harassment occurs when a person is on the receiving end of unwanted behaviour related to a protected characteristic which has the purpose or effect of:

- violating a person’s dignity or
- creating an intimidating, hostile, degrading, humiliating or offensive environment

“Unwanted” means ‘unwelcome’ or ‘uninvited’. It is not necessary for the victim to say that they object to the behaviour for it to be unwanted.

“Related to” has a broad meaning and includes situations where a person who is on the receiving end of unwanted behaviour does not have the protected characteristic, provided there is a connection between the behaviour and a protected characteristic. This would also include situations where the victim is associated with someone who has a protected characteristic or is wrongly perceived as having a particular protected characteristic. For example, if “page three” posters were displayed in a workshop in which learners had work experience this could constitute sexual harassment.

Pregnancy and maternity is not protected directly under The Act’s harassment provisions. However, unwanted behavior may amount to harassment related to sex.

Positive action

When people with protected characteristics are disadvantaged or underrepresented, for example, at certain levels of seniority in employment or on certain subject programmes as learners, it is lawful to provide extra help and/or encouragement to enable them to have the same chances as everyone else. The Act's positive action provisions allow publicly funded learning providers to take proportionate steps to support staff or learners to overcome disadvantage or to meet their needs.

The Public Sector Equality Duty

The Act includes a new public sector Equality Duty applying to all protected characteristics to replace separate public sector equality duties related to race, disability and sex. The Duty comprises a general duty, set out in the body of The Act and specific duties imposed through regulations. The Specific Duties are currently the subject of public consultation ending on 10th November 2010. It is anticipated that the general and specific duties will come into force in April 2011.

The general duty ensures that public authorities must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimization
- advance equality of opportunity between different groups
- foster good relations between different groups

The specific duties are designed to help public authorities meet the general duty. Once finalized they will cover:

- gathering, analyzing and publishing equality data
- setting equality outcome objectives

Safeguarding and equality

In the context of providing a safe environment in which to learn and work, equality legislation and related provider level equality and diversity policies are a powerful additional and parallel resource to set alongside Safeguarding legislation and policy. Equality law and policies reinforce key aspects of safeguarding eg in areas such as eliminating bullying and harassment, and tackling discrimination, and can help regulate how Safeguarding policy and practice is implemented.

Acknowledgements:

The 5 Rs document referred to as Appendix 4 is an LSIS produced document – other LSIS Documents/references to LSIS may have been used in the production of this booklet - further information regarding Safeguarding can be accessed from the LSIS website on www.lsis.org.uk



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