

Safeguarding Adults at Risk Policy and Procedure

Reference number	QP113
Name of responsible (ratifying) committee	Policy Review Group
Document Manager (job title)	Group Quality Manager
Date issued	November 2004
Review date	February 2024
Electronic location	Sharepoint/Policies and Procedures

Version Tracking

Version	Date Ratified	Brief Summary of Changes	Owner
1	22 February 2019	Amended to reflect updated ISO 9001 2015 controlled document register	JP
16/1	1 April 2020	Annual issue update	JP
2	26 Feb 2021	Reference to Training Now separate Safeguarding Policy and addition to types of abuse	JP
17/1	26 Mar 2021	Amended to reference new NICE ng189 guidance for Care Homes, NICE document saved as a supplement to this policy	JP
V2	04 Mar 2022	Amendments to some wording throughout, addition of reference to Criminal Justice Act (p6) and clarity for DBS checks against children's lists for front line staff. Issue numbers no longer used across company; version control by valid dates	MBrad
V3	23 Feb 2023	Minor grammatical amends and introduction of Agincare Safeguarding Hub.	MBrad

Purpose of this Document

This document outlines the policy of the Agincare Group in relation to dealing with allegations or suspicions of abuse. Agincare has a duty to tackle abuse and has a zero-tolerance approach. Everyone in Agincare has a responsibility to report abuse as part of this Company Policy and the duty of care owed to adults at risk.

Government Guidance

The Agincare Group of companies undertakes to work in compliance with relevant legislation concerning adults at risk of abuse including the Health and Social Care Act (Regulated Activities) Regulations 2014, and the local authority policies with whom we contract. The Care Act 2014 gives responsibility to each local authority for establishing Safeguarding Adults Boards who are required to make enquiries, cooperate with relevant partners and

arrange independent advocacy. Membership of the Adult Safeguarding Boards must include the local authority, the NHS Clinical Commissioning groups in the area and the Chief Police Officer. Other members can include members of CQC, Health watch, and provider groups. The six key principles for Adult Safeguarding Boards are:

- Empowerment – personalisation, presumption of person-led decisions and informed consent
- Prevention – it is better to take action before harm occurs
- Proportionality – proportionate and least intrusive response
- Protection – support and representation for those in greatest need
- Partnership – local solutions through services working in their communities
- Accountability – accountability and transparency in delivery

On 26th February 2021 the National Institute for Clinical Excellence (NICE) published [guidance NG189 'Safeguarding Adults in Care Homes'](#); Agincare services support the good practice in NG189 which is available at the link to be read by Care Home employees alongside this guidance.

Training Now, part of the Agincare group of companies has a separate 'Safeguarding Policy' specifically to support the welfare of learners and apprentices. Ofsted, the regulator for training and education services check all training companies have effective policies and procedures that protect 'at-risk' adults and children it works with. This Safeguarding Adults at Risk Policy applies to all employees, including teaching and learning coaches, and all employed by Training Now in relation to protecting the people using any Agincare care and support service; for example, where an apprentice or learner identifies or suspects abuse of a service user in the course of their work, this policy must be adhered to.

Staff are expected to have appropriate knowledge concerning their local authority policy and procedures for Safeguarding Adults at Risk commensurate with their position within the company. Registered managers are responsible for ensuring they have an up to date copy of local Adult Protection Policy at each location where there is regulated activity and the location where care and support is provided and for following the required local processes.

All staff are expected to comply with professional codes of conduct, employer policies and procedures and to act at all times in the best interests of the people receiving the service. Local authorities have the lead role for coordinating Safeguarding enquiries*. However, the responsibility for safeguarding and promoting the welfare of adults at risk, including those in need of protection, cannot fall entirely on one agency. All statutory agencies, service commissioners and providers must work together to develop and implement joint policies, procedures, and practice.

* Local authority processes vary; some require completion of a safeguarding referral form that will be available via their website, some require a telephone referral. Some local authorities refer to the first point of contact as 'Triage', 'MASH' (Multi Agency Safeguarding Hub) or simply Adult Safeguarding Team.

Principles underpinning this Policy

All Agincare staff have a duty to protect adults at risk in their care. This policy relates to the protection of adults at risk for those aged 18yrs and over. A separate policy exists in respect of safeguarding children.

The Safeguarding Adults at Risk Policy applies to all groups irrespective of ethnicity, gender/transgender, race, disability, sexual orientation, age, religion or belief.

Every adult has the right to live free from harm and be treated in accordance with the principles of respect, dignity, autonomy, privacy and equity.

Every adult has the right to make choices and have those decisions respected, therefore any intervention needs to be based on the concept of empowerment and participation of the adult at risk.

All individuals have the right to protection and help when they are unable to make their own decisions and/or protect themselves or their assets.

The aim of this policy is to ensure that Agincare staff offer a consistent approach to the safeguarding of adults at risk. All relevant Agincare policies and procedures must be considered when managing an adult at risk and these include:

- Whistle blowing
- Recruitment Policies
- Disciplinary Policies
- Mental Capacity Act/Deprivation of Liberty Safeguards
- Complaints Procedure

Definitions

The Care Act defines an adult at risk as an adult who:

- has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- is experiencing, or at risk of, abuse or neglect; and
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect

Previously defined in 'No Secrets', a document repealed by The Care Act 2014 harm was defined as: "a violation of an individual's human and civil rights by any other person or persons. It exists where the adult at risk suffers significant harm or is exposed to significant risk". The Care Act makes no such definition however.

The process of referral to the DBS register refers to 'The Harm Test' which it states as relating to harm as:

- Physical
- Neglect
- Psychological/emotional
- Financial or material
- Sexual
- Discriminatory
- Failure to prevent self-harm
- Organisational

Harm may:

- Consist of a single act or repeated act
- Be physical, verbal or psychological
- Be an act of neglect or an omission to act,
- Occur when an adult at risk is persuaded to enter into a financial transaction or sexual act to which he or she has not consented, or cannot consent.

Adults at risk may be harmed by a wide range of people including:

- Relatives and family members
- Professional staff
- Paid care workers
- Volunteers
- Other people using the service
- Neighbours, friends and associates,
- People who deliberately exploit vulnerable people
- Strangers.

The roles, powers and duties of Agincare whilst involved in an enquiry, in relation to the perpetrator, will vary depending on whether he/she is:

- a member of care staff
- a Manager
- a service user within the same service as the victim (see Appendix 1)
- a spouse, relative or member of the person's social network
- a carer; i.e.: someone who is eligible for an assessment under the Care Act 2014
- a neighbour, member of the public or stranger
- a person who deliberately targets vulnerable people in order to exploit them

As well as the Care Act definition of Harm and the DBS 'Harm test' referring to the categories of abuse listed above, there are additional categories of abuse that have to be considered:

The following definitions of abuse are recognised by **CQC** on the statutory notification form

- Physical
- Neglect
- Psychological/emotional
- Financial or material

- Sexual
- Discriminatory

These are the same as for the DBS harm test although do not include failure to prevent self-harm or organisational abuse

Some **local authorities** have added the following definitions to the lists above

- Modern Day Slavery
- Domestic Abuse
- Exploitation by Radicalisation
- Forced Marriage
- Cuckooing
- Gaslighting

Additionally, in April 2015, the 'Prevent Statutory Duty' under Section 26 of the Counter-Terrorism and Security Act 2015 was made a statutory responsibility for specified authorities; those authorities include but are not limited to health, social care, the police and education. The Duty stated that the sector needed to demonstrate "*due regard to the need to prevent people from being drawn into terrorism*".

Any suspicion by staff or others that is reported to us in our role as care provider must be alerted to the local authority under their standard safeguarding procedures and notified to CQC using a statutory notification on abuse or allegations of abuse. On the CQC notification, there is no dedicated criteria for this category, it is advised that it is included in psychological/emotional with clarity in the 'additional information' section.

NICE NG189 refers to indicators of abuse using the terms 'consider' and 'suspect' to define the extent to which an indicator suggests abuse or neglect, with 'suspect' indicating a stronger likelihood of abuse or neglect.

- To 'consider' abuse or neglect means that this is one possible explanation for the indicator.
- To 'suspect' abuse or neglect means a serious level of concern about the possibility of abuse or neglect.

NG189 provides information about possible indicators of neglect and of physical, psychological, sexual, financial abuse and organisational abuse

Abuse as a crime

Alongside the safeguarding adult procedures, people who use services must be afforded the same rights to justice and the protection of the law as any other citizen. Where a crime is suspected, it should be reported to the police with the consent of the adult at risk.

A crime may also need to be reported without the person's consent, where there is a duty of care to report the crime and/or it is assessed as in the person's best interests in line with the Mental Capacity Act 2005.

Examples of such crimes include:

- Being physically assaulted (even if there is no resulting injury) may be an offence under Section 39 of the Criminal Justice Act 1988.
- Unwanted sexual touching (intentional) may be an offence under Section 3 of the Sexual Offences Act 2003.
- Harassment (causing alarm or distress) of another person may be an offence under the Protection from Harassment Act 1997. The Criminal Justice Act will also cover a range of Hate Crimes such as racial or homophobic offences
- Taking the money or possessions of others may be an offence under Section 1 of the Theft Act 1968.

Staff need to be made aware of their professional boundaries which set limits to the worker; this includes personal and material boundaries. If these boundaries are not respected, there is increased potential for harm to occur.

Observing clear boundaries may also protect the staff member from spurious allegations. Staff need to clearly understand what the aim and objectives of the service are, and how their role fits within this.

Professional boundaries are clear within the Employee Handbook and what constitutes potential harmful behaviour. For example: meeting a service user outside working hours; any sort of personal relationship; or accepting payment or gifts for services.

Harm may occur when an adult at risk lives alone, with a relative, within a residential or nursing home, day services, hospitals, within domiciliary care services or in other places where people may be assumed to be safe or in public places. Appendix one provides guidance to help support managers in deciding whether a safeguarding alert should be made when an incident has occurred between people using the service (Care and nursing homes, day services, Extra Care facilities and supported living).

Mental Capacity

The Mental Capacity Act 2005 provides a framework to empower and protect people who may lack capacity to make some decisions for themselves. It makes clear who can take decisions in which situations, and how they should go about this. It has introduced a new criminal offence of ill treatment or wilful neglect of a person who lacks capacity.

The five key principles in the Act are:

- Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise.
- A person must be given all practicable help before anyone treats them as not being able to make their own decisions.
- Just because an individual makes what might seem an unwise decision, they should not be treated as lacking capacity to make that decision.
- Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests.

- Anything done for or on behalf of a person who lacks capacity must be the least restrictive of their basic rights and freedoms.

An assessment of someone's capacity is often an integral part of all assessments of risk and for care and support.

The initial and reviewed assessments of a person's capacity will inform any safeguarding strategy discussions/meetings.

In some situations, particularly alleged sexual or financial abuse, whether the individual had the capacity to consent to the given act or transaction can be crucial in determining whether the situation was abusive or consensual. Where these actions concern staff however, consensual arrangements are considered an abuse of position and trust.

Where a member of Agincare staff has concerns that an individual is experiencing or may have experienced abuse, they must raise their concerns with their Line Manager immediately so appropriate actions as detailed in this policy can take place. Any necessary assessment of the person's capacity can then be discussed as part of the enquiry.

In some cases, where an adult is 'choosing' to remain in or return to an abusive situation/relationship, it will be necessary to establish whether they have the mental capacity to make that decision. The local authority will determine this as part of their enquiry once a concern has been raised.

If the balance of evidence establishes that the individual can meet the requirements set out in the test of capacity, then they have the right to make that decision as long as no-one else is put at risk by their actions (i.e. if there were children or other 'vulnerable' people involved, further assessment would be required).

Where an adult does make an informed decision to remain in an abusive situation, this often causes moral/professional dilemmas for care workers. In such situations, it is essential to have fully considered and recorded all risk assessments and advice/support offered and given, in conjunction with the Local Authority Safeguarding Team.

Where no-one is appointed to act on behalf of a person who may lack capacity it is important that any decision made on their behalf is done in their best interests as defined by the Mental Capacity Act; advocacy must also be considered. In safeguarding such decisions will be made by Agincare and the multi-agency professionals and others at the adult protection meeting.

Where a person who may have experienced abuse or neglect, or an alleged abuser, lacks capacity, the Local Authority or NHS body may instruct an IMCA (Independent Mental Capacity Advocate) to represent the person concerned if it is satisfied that it would be of benefit to the person to do so.

Duties/Roles/Responsibilities – Operational Staff

It is the duty of all members of staff within the Agincare group of companies to be vigilant regarding the welfare of our clients. All staff have a responsibility for following both Agincare's

and the local authority's reporting procedures for the safeguarding of adults at risk and to support agencies with statutory responsibility for acting on allegations of adults at risk of harm, in all the stages of the process:

- Identifying adults in need of support or protection, or families in need of extra help with caring.
- Contributing to enquiries about an adult at risk and their family.
- Investigating allegations.
- Assessing the specific needs of adults at risk, including the informal carer (if there is one) capacity to meet those needs.
- Planning and providing support to adults at risk, especially those at risk of significant harm, and their families.
- Managing the alleged perpetrator when this is an employee of Agincare.
- Participating in safeguarding adults conferences.

All Agincare services should display the local arrangements for making a safeguarding referral. In most cases this will be a contact number/ email within the local authority. **A copy of the local authority Safeguarding Adults Procedures should be available in all Agincare offices and care homes for reference and in home care the 'Information leaflet' should be held within their home file. An Easy Read version of the leaflet is available.**

Agincare managers must ensure that all staff within their service are aware of Agincare's Safeguarding Adults Policy and Procedures **and** the local referral procedures.

It is good practice that the managers of services, which are locality based, make themselves known to the local authority local team managers or service managers responsible for their client groups.

Action on Abuse or Allegations of Abuse

Where an allegation of abuse is received this Safeguarding Adults at Risk Policy and Procedure must be followed but managers must consult their Local Authority policies and procedures which may have different local protocols depending on the authority. Managers must alert the local authority following their local guidelines and take the necessary immediate action regarding the safety of the Adult at Risk and the required action regarding the perpetrator where this is a member of Agincare's staff.

All employees have a duty of care to report any concerns of abuse they have. These might include evidence or suspicions of bad practice by colleagues and managers or abuse by another service user, staff or their family and friends. See also Agincare's Whistle-blowing Policy.

In safeguarding people who use Agincare Services we must have an approach of "zero tolerance" to ensure that vulnerable adults are protected.

Duty of Candour

The legal Duty of Candour for registered care providers is set out in the Health and Social Care Act 2008 (Regulated Activity) Regulations 2014. (See Agincare's duty of Candour Policy)

The 2014 regulations (Regulation 20) require registered persons to notify people who use services when an incident appears to have resulted in harm. The regulations impose a more specific Duty of Candour on providers where any harm to a person from their care is above a certain harm threshold. The regulations say that the duty of candour should only apply where there has been 'significant harm'. Significant harm has been defined as either a serious injury that has occurred where there is a long-lasting effect on a person's health and well-being. The 'harm thresholds' and response levels are detailed in the Duty of Candour Policy.

Recruitment

Agincare takes great care in the recruitment of staff, carries out all required checks on applicants to ensure that they are suitable for the intended role and will co-operate in all Government initiatives regarding the sharing of information on staff who are found to be unsuitable to work with vulnerable people. This includes specific checks for people who are teaching and in regulated activity.

All front-line staff undergo enhanced disclosure checks with the Disclosure and Barring Service and are checked against the DBS Adults First and Children lists; and all support function employees undergo standard DBS.

Responsibilities and Accountability – Senior Management

The Chief Executive holds overall responsibility for the protection of adults at risk and reports to the Board on such matters.

The Board holds responsibility for strategic and corporate matters associated with the safeguarding of adults at risk.

Issues related to harm caused by Agincare staff is discussed as part of the reporting procedures to the Quality Management Committee meetings and serious incidents are highlighted via Quality Risk Management reports to the Board.

In addition to this Agincare operates a Safeguarding Hub which meets quarterly; made up of Director Safeguarding Leads from each operating company and Quality/HR Managers it looks at, discusses and analyses current issues, trends and legislation, sharing good practice and examining commonalities.

Training

Agincare will support any member of staff who has concern about the care and welfare of an adult at risk with whom they have had contact, under whatever circumstances.

All staff who have contact with service users must undertake training and development in safeguarding adults and to have an annual update/refresher training on adult's at risk procedures. The staff selection assessment training and induction programme, which is required to be completed by all staff, includes safeguarding adult's awareness training.

Supervision and support are in place within Agincare for all staff. All employees must raise any safeguarding adults concerns with their line manager at the earliest opportunity. The manager should subsequently record and discuss within the supervision process.

Where any report is received from, or involves an employee who is an apprentice with, Training Now, the manager will liaise with the Training Now Designated Safeguarding Lead to determine best course of action and support.

Monitoring of Compliance

Monitoring of the implementation of this policy is undertaken through the oversight of notifications of safeguarding adults alerts made by Agincare staff through the audit process.

All safeguarding alerts/referrals must be notified at the earliest opportunity to the relevant Operations Manager/senior team and the Group Quality Manager. This provides senior management oversight of our compliance with local policies and offers assurance of adherence to this policy.

All safeguarding adult's alerts/referrals that involve a member of Agincare staff or an Agincare service must be notified to CQC as soon as possible but no later than 72 hours following the alert. This notification should be copied to the Group Quality Manager.

ONCE YOU HAVE UNDERSTOOD THIS POLICY, PLEASE REFER TO AGINCARE'S SAFEGUARDING ADULTS PROCEDURE CONTAINED WITHIN THIS DOCUMENT

Contact Details

Each Agincare Service will have relevant local authority safeguarding team contacts listed and available for both staff and service users. The contact details of relevant organisations are:

Social Services, Adult Services (Contact your local office whose contact details will be available to you through your managed office, alternatively, go to www.direct.gov.uk and search 'contacts' then 'local councils')

Disclosure and Barring Service – See Agincare's Disclosure and Barring Service Policy; no staff member should make a referral to the DBS without following the policy and the decision for a referral lies with the company Director

Care Quality Commission - www.cqc.org.uk Tel: 03000 616161

Safeguarding Adults Procedure

Stage	Activity	Supporting Documentation
1	<p>The order in which actions are taken will depend upon the urgency of the situation and the degree of perceived immediate risk or threat to the adult.</p> <p>Please refer to the Flow Chart at appendix 2 – which sets out the action to be taken if harm is suspected or witnessed as follows:</p> <ul style="list-style-type: none"> • Decide if urgent Police or medical intervention is needed and arrange accordingly • Maintain the service user's safety • Inform line manager and if necessary the Safeguarding Lead/Group Quality Manager • Complete an Incident Report form • Telephone the local authority safeguarding adults team and make a safeguarding adults referral • Complete a Body Map if appropriate and document the action taken in the care records. • Do not start an investigation • Agincare's Disciplinary Procedures <u>may</u> apply • Notify CQC of the abuse or allegation of abuse and copy in your line manager and the Quality Manager 	<p>Incident Report Form (accident/incident report form)</p> <p>Local Authority Safeguarding Adults Referral</p> <p>Body Map (If appropriate)</p>
2	<p>What to do if a Service User discloses harm</p> <p>Listen carefully to what is being said:</p> <ul style="list-style-type: none"> • Ensure the person is not interrupted and discouraged from reporting abuse. • Give reassurance that information is being treated seriously, that it is not their fault and they have done the right thing in sharing the information. • Take time to listen and do not ask leading questions. • Do clarify that you have understood what the person is telling you. • Ensure any evidence is retained or preserved. 	<p>Written record of Disclosure. DO NOT write this on the service user's care delivery record; use a blank format. Ensure your written record is dated, timed and indicates all person's present. Write factually what the person</p>

	<ul style="list-style-type: none"> • Ensure that a detailed written record is made as soon as possible following disclosure – it does not matter how this is written only that it is done immediately. • Do not start an investigation. <p>Inform your line manager immediately unless they are implicated in the allegation. If this is the case, inform their line manager.</p> <p>In the case of a potential criminal offence, ensure the Police are called immediately to investigate and collect any forensic evidence. The Police should have the first opportunity of interviewing the witness.</p> <p>Note: Alerting only requires reporting an allegation or suspicion. Questioning the person about an incident could prejudice a future investigation.</p>	<p>has told you, do not use opinion or assumption</p> <p>Safeguarding Adults Referral (available from your local authority)</p>
3	<p>Do not, under any circumstances, discuss the allegation of harm with the alleged perpetrator until this has been agreed with the appointed local authority safeguarding manager.</p> <p>Where the alleged perpetrator is a member of Agincare staff, immediate discussion should take place with a senior manager about whether to suspend pending investigation. The outcome will be dependent upon whether the allegation has potential for criminal charge or there is a risk to other service users or there is potential for destruction or falsifying of evidence and/or records.</p>	<p>Safeguarding Adults Referral</p> <p>Disciplinary Policy and Procedure</p>
4	<p>Action in Emergency Situations</p> <ul style="list-style-type: none"> • If the situation is an emergency, with a service user in immediate danger, staff should take urgent action to intervene and call for assistance as soon as possible. • They should give any necessary first aid if they are trained and feel confident and contact appropriate emergency services if necessary. • If the perpetrator remains present, staff should seek to calm the situation. 	<p>Health & Safety Policy</p>

	<ul style="list-style-type: none"> • Staff have a right to avoid putting themselves at risk of violence or other harm. 	
5	<p>Referral to other agencies</p> <p>Local Authorities have a duty to provide services for adults at risk and to undertake enquiries into situations where adults at risk are suffering, or are at risk of suffering significant harm.</p> <p>Where possible, any concerns should be discussed with the adult at risk and with their family and/or carer(s), and their agreement sought for a referral to the local authority safeguarding adults team. Where such discussion and agreement seeking could jeopardise the safety of the adult at risk, a referral may be made without consent of the individual, if it is thought they would remain at risk of harm without the referral.</p> <p>In an emergency situation where an adult at risk is at significant risk of harm, it may be appropriate to contact the Police for support following discussion with the line manager or On Call Manager.</p>	Safeguarding Adults Referral (from your local authority) CQC Statutory Notification forms
6	<p>Referral</p> <p>Every local authority will process the safeguarding adult's referral in a different way. However, the following would be expected.</p> <ul style="list-style-type: none"> • They will assess the information and gather more details, if they conclude the alert meets the criteria to proceed to safeguarding adults enquiry. They will pass the referral to the relevant social services Safeguarding Manager. • The Safeguarding Manager will take responsibility for arranging an initial enquiry meeting to which the relevant Agincare Manager should be invited. • If the Agincare Manager is considered implicated in any allegation, the expectation is that the local authority would contact Agincare Head Office and request the attendance of a Senior Manager. ▪ The purpose of an initial enquiry meeting is to agree an investigation plan which will then be implemented, and investigation reports produced. Agincare should contribute to the enquiry as required. If the initial enquiry meeting decides it 	Safeguarding Adults Referral (from your local authority)

	<p>is appropriate for the provider to investigate, Agincare personnel attending should undertake or delegate the investigation. Agincare's Root Cause Analysis Investigation Guidance should be followed when the investigation is complete. See also information at end of procedure on levels of investigation.</p> <ul style="list-style-type: none"> ▪ A Safeguarding Adults case conference will be convened following the investigation. ▪ A decision will be taken at the conference as to whether the case should be closed or if further investigation is needed. The outcome of the case conference could be that the allegation is substantiated, unsubstantiated or that the investigation was inconclusive. Agreement will also be reached as to whether a review conference is required. <p>NB: Local authorities will use different terminology; including Section 42 Enquiry, Enquiry meeting, strategy meeting or investigation meeting; the concluding meeting may be called a case conference or an enquiry review meeting;</p>	<p>Investigation Analysis Guidance</p> <p>Safeguarding Outcome Record</p> <p>Local Authority Safeguarding Adults Multi-Agency Policy & Procedures</p>
7	<p>Confidentiality and Information Sharing</p> <p>Personal information about adults at risk, carer(s) and families held by Agincare is normally subject to a duty of confidentiality and would not normally be disclosed without the consent of the adult at risk. However, the Data Protection Act 1998 and General Data Protection Regulations allows disclosure of confidential information necessary to safeguard the welfare of adults at risks.</p> <p>Information may, and should be, disclosed to third parties, and if necessary without consent, to assist with the prevention and detection of adults at risk of harm. This relates both to adults who may be the victim of harm and adults who may pose a risk (perpetrators) to adults at risk.</p> <p>Where there are doubts about sharing information with other agencies, discussion should take place with the appropriate Agincare Line Manager, Group Quality Manager or Caldecott Guardian (see Agincare's Confidentiality, Data Protection and Disclosure Policy). Consideration should be given to</p>	

	<p>what information can be documented, and where, that will not put the adult at further risk.</p> <p>The documenting of such information sharing or reports should be made in the service user file and may be shared with relevant agencies.</p>	
8	<p>Safeguarding Adults and Complaints Management</p> <p>Agincare is committed to ensuring that their services are as good as they can be. All complaints, whoever manages them within the organisation, should have safeguarding principles applied and appropriate action taken if the complaint raises issues which have caused or could potentially cause harm to an adult at risk.</p>	<p>Complaints Management Policy and Procedure</p> <p>Duty of Candour Policy</p>
9	<p>MENTAL CAPACITY ACT 2005</p> <p>Any referral should consider the mental capacity of the adult at risk to make decisions in relation to their health and social care needs. Mental capacity refers to the ability to understand an act, decision or transaction and their consequences.</p> <p>In law, every adult has the right to make their own decisions and is assumed to have the capacity to do so unless it has been assessed that they do not. An adult at risk, for example who suffers from a mental disorder, is not necessarily incapable of giving consent.</p> <p>Mental capacity should always be assessed in relation to the specific issue and context that is being considered. It is important to assess whether the adult at risk is capable of making the particular decision that is required at that point in time. This will recognise that mental capacity may change over a period of time, and/or they may have a condition that leads to fluctuations in mental capacity.</p> <p>When you are making a referral or taking part in a safeguarding adult's investigation, it is important to respect the right of adults at risk to make decisions about their own safety. They should therefore be encouraged to make decisions that they are able to make. Difficulties arise when it is not clear whether</p>	<p>Mental Capacity Best Interest Decision Record</p>

	<p>the adult at risk is capable of making a decision or whether the decision is being made under duress.</p> <p>In some situations, it may be necessary to make decisions for adults at risk to protect them from harm. It is important that the member of staff making the decision is acting in the best interests of the adult at risk and with due regard to their duty of care. Any best interest decisions must be made by adhering to the statutory 'best interests' principles. Further information can be found in the Mental Capacity Act Code of Practice. See also Agincare's Mental Capacity Act and Deprivation of Liberty Safeguards Policy.</p>	Mental Capacity Act and Deprivation of Liberty Safeguards Policy
10	<p>Attending Safeguarding Adults Meetings</p> <p>Agincare staff may be invited to attend safeguarding adult's enquiry if they have a significant contribution to make. It would normally be the case that this will be the manager of the service. Safeguarding Adults enquiries should always be attended. If a member of staff is not able to attend, it would normally be expected that they have a deputy attend on their behalf who has been apprised of all relevant information. If this is not possible, discussion must take place with the relevant line manager. When attending, you must ensure you take copies of all the relevant documentation including:</p> <ul style="list-style-type: none"> • Copy of safeguarding referral • Safeguarding Adults Investigation Reports • Safeguarding Adults strategy meeting minutes • Service User and staff records as appropriate • Investigation report and investigation analysis (where the service has been asked to investigate all or part of the allegation) <p>The process for investigation will vary from area to area and it is crucial that staff are aware of their local process.</p> <p>Agincare would normally be expected to produce a report on our involvement with a service user and submit this to any safeguarding adult's conference. If staff are unclear about the content of a report, it is</p>	Local Safeguarding Adults Multi-Agency Policy & Procedures

	<p>recommended they discuss this with their line manager or the Group Quality Manager.</p> <p>Written and verbal information must distinguish between fact, observation, allegation and opinion. Information presented to the safeguarding adults conference should include:</p> <ul style="list-style-type: none"> • Details of Agincare's involvement with the adult at risk, carer(s) and/or family. • Information about the adult at risk needs' and how these are being met. • Indications of Agincare's planned ongoing work with the adult at risk and/or family. <p>Agincare staff, as part of a safeguarding adult's conference, are expected to participate in the analysis of all the information available to the conference and contribute to decisions about ongoing risk and any actions.</p> <p>If the fact or likelihood of harm is agreed at the conference, a detailed adult at risk protection action plan will be agreed which should:</p> <ul style="list-style-type: none"> • Identify the risks • Agree actions to reduce or minimize the risks identify who is responsible for implementation • time scales for completion <p>All Agincare staff attending a safeguarding adult's conference should always ensure they are fully prepared.</p> <p>The minutes of all safeguarding adults at risk meetings/conferences should be agreed by all attendees for accuracy. The final minutes must not be shared with others or circulated outside the attendees of the safeguarding process without the consent of the Conference chairperson. They must be stored securely separately from service user records or, if this is not possible, destroyed or returned to the local authority safeguarding team.</p>	
11	<p>Reports and Statements</p> <p>It may be necessary for Agincare staff to make verbal or written statements to the police, solicitors, and</p>	

	<p>other officers in relation to safeguarding adult's investigations.</p> <p>All requests for witness statements or giving evidence in court should be discussed with the relevant line manager as soon as possible following the request.</p> <p>If required, support should be sought from the Operations Manager or Group Quality Manager who will, if necessary, obtain legal advice.</p>	
12	<p>Supporting Victims of Harm</p> <p>Where a service user is an alleged victim of harm they should be supported and reassured. The Registered Manager should ensure that their care package is uninterrupted at what may be a difficult time for them.</p> <p>If they are within an Agincare service where harm has been perpetrated, all steps should be taken to protect them from further harm and to protect other service users from potential harm.</p> <p>The service user should be supported to make a complaint if they are unhappy with the outcome of a safeguarding adult's investigation.</p>	Care plan review form (if required)
13	<p>Supporting staff who report harm perpetrated by colleagues</p> <p>The Whistleblowing Policy should be adhered to whereby one member of staff alleges harm caused by another staff member.</p> <p>No member of staff should be made to feel uncomfortable nor unsupported whilst any necessary investigations take place.</p> <p>The Registered Manager will ensure compliance with the Whistleblowing Policy in these circumstances.</p>	Whistleblowing Policy and Procedures
14	<p>Managing and supporting staff who are alleged perpetrators of abuse</p> <p>When an allegation is received, the manager must decide on the appropriate response for managing the alleged perpetrator where this is a member of Agincare staff. The decision to suspend, dismiss or manage the employee by other means such as reallocation of duties, increased supervision and</p>	

	<p>cessation of lone working will be dependent on the seriousness of the allegation and other factors. Managers are to discuss the appropriate response with their line manager/HR.</p> <p>When an allegation is concluded and the staff member permitted to return to work a return to work interview must be carried out to determine any additional support they require including where the allegation has been unsubstantiated. If the conclusion of the investigation is substantiated and of sufficient nature to dismiss, summary dismissal can take place following Agincare's disciplinary policy and procedure and consideration must be given to refer the person to the disclosure and Barring Service.</p>	<p>Disciplinary Policy and Procedure</p> <p>Return to work interview form</p> <p>Disclosure and Barring Service referral procedure</p>
15	<p>Service Users that are alleged to have perpetrated abuse</p> <p>Agincare recognises the on-going duty of care to Service Users who perpetrate abuse and will facilitate any necessary action to ensure support continues to be provided and to address any harmful behaviour in a revision of care planning and in agreement with the local authority.</p>	<p>Care plan review form</p> <p>Challenging behaviour assessment</p> <p>General risk assessment</p>

	<p>The Police and Criminal Evidence Act 1984 (PACE) and the Codes of Practice issued under it give suspects who are “mentally vulnerable” a number of safeguards in any police investigation. A mentally vulnerable suspect is someone whose mental state or capacity means they may not understand the significance of questions or replies. If there is any doubt, the suspect should be treated as mentally vulnerable and an appropriate adult should be called. (An appropriate adult is a person who is independent of the police and who is responsible for ensuring a ‘mentally disordered’ person is treated fairly. If they are in police custody, the appropriate adult in these circumstances cannot be a solicitor). Agincare should ensure, as far as practicable, that a service user for whom we are providing a service is provided with an appropriate adult. Code B of PACE gives the right to search and seize documentation; if any incident of abuse is subject to Code B, the manager must provide the police with the documentation requested although should retain copies. CQC inspectors have the right under PACE to use code B and seize documents</p>	
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Associated Agincare Documents

- Whistleblowing policy
- Complaints management policy
- Recruitment policy
- Disciplinary policies and procedures
- Mental Capacity Act and Deprivation of Liberty policies
- Notification reporting

Contractual impact

Agincare’s policies and procedures are to be followed in conjunction with the requirements of the contracts under which you provide services. There may be occasions where the contract contains requirements which appear to contradict or be in addition to, standard Company policy. In these instances, you are to:

- If the requirement is in addition to standard company policy - adhere to the terms and conditions of your contracts
- If the requirement is lesser than standard company policy - follow company policies and procedures

If you require any further clarification please contact the Commercial Department for guidance.

Training

The management team of Agincare believe that, in order to provide a quality service, Agincare requires high quality staff who are suitably trained, supervised and supported.

Agincare policies and procedures are referenced in the induction programme and are available for staff in their work place (Care Home or Branch office). Staff will be informed of how to access all policies, procedures and related documentation and of how to seek further advice regarding Agincare's agreed ways of working. Staff should be provided with regular updates to encourage continuous improvement and include latest good practice.

Agincare is committed to provide an ongoing programme of support for all staff. This includes supervisions, appraisals and training which will be in line with company policy, contractual obligations and current best practice.

REVIEW OF THIS POLICY

Review of this document is recorded on the controlled index and reviewed annually as part of the management review process.

Name: Policy Review Group

Date: February 2023

Appendix 1 - Service User to Service User Abuse

Appendix 2 – Safeguarding Adults Flow Chart

For Care home staff [NICE ng189 Safeguarding Adults in Care homes](#) should be read in conjunction with this policy

Appendix 1

Service User to Service User Abuse

This guidance is to help support managers in deciding whether a safeguarding alert should be made when an incident has occurred between people using the service (Care and nursing homes, day services and Extra Care facilities).

Sometimes people living in a residential care setting can experience more than one type of abuse from other people using the service. In communal living settings, not all of the people get on all of the time and having an argument for example can sometimes be a healthy way of expressing opinion and debating an issue. Sometimes however, abuse can be open, deliberate and obvious and other times it can be spontaneous or it can be carried out over long periods covertly.

Common types of abuse between service users

The following types of abuse will be most common between service users in residential and nursing homes, and supported tenancies:

Physical abuse includes:

Hitting, slapping, kicking, pushing, biting, pinching, causing pain or physical harm.

Psychological/emotional abuse includes:

Threats of harm, humiliation, intimidation, coercion, controlling, harassment, degrading treatment, verbal abuse.

Sexual abuse includes:

Rape and sexual assault or sexual acts to which the adult at risk has not consented, or could not consent or was pressurised into consenting.

Financial and material abuse:

Misappropriation of a person's property, assets, income, funds or any resources without their informed consent or authorisation.

Discriminatory abuse:

Abuse based on a person's race, sex, disability, faith, sexual orientation, or age, other forms of harassment, slurs or similar treatment or hate crime/hate incident.

When should you make a safeguarding alert to the local authority?

An incident occurs or is a concern reported to you

Does the incident indicate a form of abuse?

Physical abuse

Sexual abuse

Psychological/emotional abuse

Financial and material abuse

Discriminatory abuse

NB: Abuse may occur without any intent to cause harm

Consider the seriousness of the allegation or concern, taking into account:

- The nature and extent of the concern
- The length of time it has been occurring
- The impact of the incident
- The risk of repeated incidents for the person
- The risk of repeated incidents for others

Does the person appear to have experienced harm or are they at risk of harm if the safeguarding alert is not made?

Consider the adult at risk's wishes about what they want to happen next. Sometimes it will be necessary to report a concern without the person's consent. Such as in the following circumstances:

- It is in the public interest e.g. there is also a risk to others, abuse has occurred on property owned or managed by an organisation with a responsibility to provide care
- The person lacks mental capacity to consent and it is in the person's best interests
- The person is being unduly influenced or intimidated, to extent that they are unable to give consent
- It is in the person's vital interests (to prevent serious harm or distress or life threatening situations)
- It is necessary to prevent crime

If there is uncertainty, consider the additional guidance and seek advice as required. Contact the lead for safeguarding adults in your area

Additional Guidance: Alert Decision Support Tool

When considering whether to make a safeguarding adult alert, the following examples can be used to support your decision making. This is a general guide; it is important however to take into account the unique circumstances of the situation in reaching your decision

NB: in the following examples, 'person' refers to resident or tenant

Type of abuse	Safeguarding alert may not be required. Consider alternative responses e.g. revised care plans, care reviews, complaints etc.	Safeguarding alert likely to be required Making an Alert means reporting a concern into the safeguarding adult procedures
Physical	<p>One person 'taps' or 'slaps' another but not with sufficient force to cause a mark or bruise and the victim is not intimidated. Isolated incident, care plans amended to address risk of reoccurrence.</p> <p>One person shouts at another in a threatening manner, but the victim is not intimidated. Care plans amended to address risk of reoccurrence.</p>	<p>Isolated incident causing harm.</p> <p>Predictable and preventable (by staff) incident between two adults at risk.</p> <p>Harm may include: bruising, abrasions and/or emotional distress caused.</p>
	<p>Illustrated example: Nathan has learning disabilities and lives in a care home with 3 other people. When walking through the lounge he is pushed by Mike, another resident, as he rushes past. Nathan stumbles and falls over. He is a bit shocked but is not hurt. Staff tell the manager, who decides that a safeguarding alert is not required. They provided Nathan with support and advise the other resident of the need to take greater care in the future.</p>	<p>Nathan has learning disabilities and lives in a care home with 3 other people. When walking through the lounge he is pushed by Mike, another resident as he rushes past. Nathan stumbles and falls over. Staff have spoken to Mike about this before, but it has happened several times now. Nathan has bruised his arm, and is upset and anxious around Mike. They provide Nathan with support and make a safeguarding alert.</p>
	<p>Illustrated example: Iris is in her 80's, has dementia and lives in a nursing home. During lunch she sits with Joyce, but becomes disorientated and confused about where she is. As staff walk over to reassure her, she becomes agitated and throws her tea cup in frustration. The tea cup lands up in Joyce's lap, who is initially cross, but is not scalded or otherwise hurt. Staff tell the manager, who decides that a safeguarding alert is not required. They provide both Iris</p>	<p>Iris is her 80's, has dementia and lives in a nursing home. During lunch she sits with Joyce, but becomes disorientated and confused about where she is. As staff walk over to reassure her, she becomes agitated and throws her tea cup in frustration. The tea cup hits Joyce on the side of her head. This has not happened before. Joyce is distressed and has a small cut on her cheek. Staff provided both Iris and Joyce with support. Later Joyce was unable to remember what had happened due to her dementia. Staff tell the manager, who decides that a safeguarding alert is required.</p>

	and Joyce with support and review the incident and the support provided.	
Psychological/emotional	One person is teased or spoken to in a rude, insulting, belittling or other inappropriate way by another person. Isolated incident. Respect for them and their dignity is not maintained but they are not distressed. Actions being taken to prevent reoccurrence.	Isolated incident(s) resulting in harm or recurring/persistent, or is happening to more than one adult at risk. Persistent teasing Harm may include: distress, demoralisation, loss of confidence or dignity.
	Illustrated Example Harinder is in her 30's. She has cerebral palsy and uses a wheelchair outside of her home. Harinder lives in a supported living accommodation. The tenancy support worker overhears another tenant, Mark, shouting at her, calling her derogatory names. Harinder says they had been arguing and Mark just 'lost it'. Harinder says this is unlike him, they are friends and she doesn't know why he got so cross. The tenancy support worker provides Harinder with support. She tells her manager who speaks to Mark about acceptable behaviour and encourages him to apologise.	Harinder is in her 30's; she has cerebral palsy and uses a wheelchair outside of her home. Harinder lives in a supported living accommodation. The tenancy support worker overhears another resident, Mark, shouting at her, calling her derogatory names. Harinder is very upset ; she says that Mark is doing this ' all the time ', he only lives next door so it is hard to avoid him. She says she avoids going out in case she sees him. The tenancy support worker tells her manager, they provide Harinder with support, and make a safeguarding alert .
Sexual	Isolated incident of teasing or low level unwanted sexualised attention (verbal or non-intimate touching) directed at one person from another, whether or not they have mental capacity. Care plans being amended to address. Person is not distressed or intimidated.	Intimate touch between service users without valid consent or recurring verbal sexualised teasing resulting in harm Harm may include: emotional distress, intimidation, loss of dignity
	Illustrated Example: Margaret resides in a care home. She wakes one night to find another resident, Albert getting into bed with her. Margaret calls for assistance and a member of staff comes to redirect Albert. Albert is confused; he seems to think this is his bedroom and that he is getting into bed with his wife. Margaret is unhappy that this happened. The care staff provide her with support, encourage her to use the lock on her door and review the care plans in place for Albert so as to be more aware of his whereabouts. Margaret is reassured by	Margaret resides in a care home. She wakes one night to find another resident, Albert getting into bed with her. Margaret calls for assistance and a member of staff comes to redirect Albert. Albert is confused; he seems to think this is his bedroom and that he is getting into bed with his wife. Margaret is distressed ; she reports that Albert had touched her breasts . Margaret is anxious about it happening again . The care staff provide her with support, and inform the manager, who decides that a safeguarding alert is required.

	this. The manager decides that a safeguarding alert is not required.	
Discriminatory	<p>Isolated incident of person being treated differently/unfairly for reasons of race, sex, disability, faith, sexual orientation or age by another service user. Actions being taken to address. Person is not distressed, intimidated or socially excluded.</p> <p>Isolated teasing incident, insulting comment reflecting discriminatory beliefs. No distress caused. Actions being taken to address.</p>	<p>Isolated incidents(s) resulting in harm, reoccurring or repeated incident. A hate crime or deliberate intent to cause distress. Harm may include: distress, social exclusion, social withdrawal, loss of confidence.</p>
	<p>Illustrated Example</p> <p>David, Carl and John share a flat together. Staff become aware that John is being teased by the others about his sexuality. Staff overhear them calling him 'gay' and that he is 'like a woman'. This makes John uncomfortable. The support worker holds a house meeting to address this issue; provides John with support and speaks separately with David and Carl about appropriate behaviour. The manager decides that a safeguarding alert is not required.</p>	<p>David, Carl and John share a flat together. Support staff become aware that John is doing all the household tasks. Staff overhear David and Carl calling him 'gay' in a derogatory way, saying he is 'like a woman' and that it is his job to do all their cleaning, washing and cooking. Staff have tried to address this before through house meetings and by speaking to David and Carl about appropriate behaviour. John appears increasingly withdrawn and upset. The manager decides to make a safeguarding alert.</p>
Financial/material	<p>A person has borrowed items from another person with their consent but items are returned to them. Actions being taken to prevent reoccurrence</p>	<p>Service user has taken item(s) from another service user without their consent and have not returned them.</p>
	<p>Illustrated Example</p> <p>Daljit has mental health problems; He lives alongside Marc in a supported housing tenancy. Daljit has been lending Marc money. The support worker is concerned that it takes a long time for Daljit to get his money back. Daljit says he finds it difficult to say no, but also that he is a friend and wants to help. The support worker agrees to support Daljit to be more assertive with Marc, and to offer Marc support with his budgeting.</p>	<p>Daljit has mental health problems. He lives alongside Marc in a supported tenancy. Daljit has been lending Marc money. The support worker is concerned that Daljit does not get his money back. Daljit says he finds it difficult to say no and feels intimidated and pressurised and wants to be left alone. The support worker feels Marc is exploiting Daljit because he cannot stand up to him. Daljit doesn't have enough money for his own needs. The worker informs her manager, who decides that a safeguarding alert is required</p>

Responsibilities in relation to the adult at risk

Alongside the decision to make a safeguarding alert you must also:

- Assess the risk of harm
- Seek medical attention if needed
- Take action to keep the person safe
- Consider if the incident need be reported to the police
- Consider if the person has any unmet needs
- Review the relevant care plans
- Provide help to understand the safeguarding procedures
- Provide support to participate in the safeguarding procedures
- Consider if a relative or other representative needs to be informed and involved in decisions. Is an advocate needed?
- Keep clear records of actions and decisions

Responsibilities in relation to the person alleged to have caused harm

Alongside the decision to make a safeguarding alert you must also:

- Assess the risk of further incidents
- Review the person's care plan
- Consider if the person has any unmet needs
- Help them understand the safeguarding procedures
- Provide support to participate in the safeguarding procedures
- Consider if a relative or other representative needs to be informed and involved in decisions. Is an advocate needed?
- Keep clear records of actions and decisions

NB: In assessing risk, it is important to seek to understand the underlying reasons for the incident or concern. Consider what factors that have triggered or contributed to the incident or concern, and focus on these when reviewing arrangements to keep people safe

References: Leeds City Council Communications. Leeds safeguarding Adults Partnership

Appendix 2

