



Policy

THE CARE ACT 2014: SAFEGUARDING ADULTS

Statutory Basis for Policy

The Care Act 2014

<u>Version</u>				
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CARE ACT 2014: SAFEGUARDING POLICY

1. INTRODUCTION & BACKGROUND

The Care Act 2014 replaces numerous previous laws and builds on recent reviews and reforms to provide a single, coherent approach to adult social care in England. The aims of the Act include:

- a clearer and fairer approach to care and support;
- an approach that focuses on the physical, mental and emotional wellbeing of both the person needing care and their carer;
- the prevention and delay of the need for care and support;
- giving people control over their care; and
- collaboration and integration between local authorities and other public authorities, including health and housing to work seamlessly to meet care and support needs.

To achieve these aims, the Care Act outlines a number of changes in law and/or in practice that will affect all local authorities. The Act is divided into three main parts. Part One of the Act details the reform of adult social care legislation, and describes the journey through the reformed system for both the person receiving care and support and their carer. Part Two of the Act seeks to enhance the quality of care, by increasing transparency and putting people and their carers in control of their care and support. Part Three establishes Health Education England and the Health Research Authority. Since 2000 and the publication of “No Secrets” the local authority has been required to take a leading coordinating role with all relevant organisations on safeguarding adults in its area, the Care Act now places this in primary legislation for the first time.

The Care Act introduces new legislation governing social care but there is still a need for specialist and on-going training to keep up the legal literacy of specialist practitioners. Local authorities must also ensure they support workers to make sure they use the least restrictive options and comply with the Human Rights Act (HRA) and the Mental Capacity Act (MCA).

Therefore this policy needs to be read in conjunction with the Local Authority’s duties relating to the Deprivation of Liberty Safeguarding and the statutory requirement to apply the ‘acid test’ learning from the Supreme Court Judgement March 2014.

2. STATUTORY BASIS FOR THE POLICY

The Care Act was published as a Bill in the House of Lords in May 2013, and received Royal Assent on the 14th May 2014. The Act places a number of new legal requirements on all local authorities in relation to Adult Safeguarding.

The Care Act consolidates existing social care legislation into a single statute.

Sections 42 – 47 of the Care Act set out the Local Authorities responsibility for adult safeguarding for the first time in primary legislation. Responsibilities include:

- responsibility to ensure enquiries into cases of abuse and neglect
- establishment of Safeguarding Adults Boards on a statutory footing,
- puts Safeguarding Adults Reviews on a statutory footing
- information sharing

The Local Authority will be required to ensure that the criteria that are in force for adults to be considered under the **section 42** duties to make enquiries are implemented. The enquiry could begin and end with a conversation with the individual who is the subject of the concern, or to escalation to a much more formal multi-agency arrangement.

Section 46 repeals section 47 of the 1948 National Assistance Act, which confers a power to remove someone from his or her home in certain circumstances. It is in compatible with human rights legislation and the overall intent of the Act.

Section 47 also updates the duty originally set out at section 48 of the National Assistance Act 1948, to protect the property of adults who have been admitted to hospital or residential care, and also re-enacts an offence associated with this duty, found at section 55 of the National Assistance Act 1948.

Schedule 2 sets out the membership and funding of Safeguarding Adults Boards (SABs), along with SABs' duties to publish a yearly strategic plan and annual report.

Taken as a whole, these provisions set out a new legal framework for adult safeguarding, based on local authorities' existing responsibilities and practice, and current statutory guidance ("No Secrets"). Local authorities should review their current practice, with relevant partners, to determine any specific impacts.

3. POLICY STATEMENT

The third Stockport Multi Agency Safeguarding Adult's procedure was launched in 2014. The All Agency Safeguarding Adult's policy gives clear direction as to what information should be recorded. Employees of Stockport Metropolitan Council will ensure that the procedures are implemented when responding to allegations of abuse.

In terms of the Care Act requiring a changed approach to practice, adult safeguarding is the process of protecting adults with care and support needs from abuse or neglect. Professional, skilled supervision by line managers is an essential part of managing any safeguarding concern and to ensure Stockport Metropolitan Borough Council is Care Act compliant.

From April 2015 Stockport Metropolitan Borough Council with its partners will;

- Make enquiries, or ensure others do so, if it believes an adult is subject to, or at risk of, abuse or neglect. An enquiry should establish whether any action needs to be taken to stop or prevent abuse or neglect, and if so, by whom
- Continue to develop the Stockport Safeguarding Adults Board (SAB) with core membership from the local authority, the Police and the NHS (specifically the local Clinical Commissioning Group/s).
- The Overview and Scrutiny Committee and Health and Wellbeing Board will have sight of the SAB's strategy and annual reports
- Arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review (SAR) where the adult has 'substantial difficulty' in being involved in the process and where there is no other appropriate adult to help them
- Cooperate with each of its relevant partners in order to protect adults experiencing or at risk of abuse or neglect.

The Care Act also updates the scope of adult safeguarding, where Stockport Metropolitan Borough Council has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident here) -

- a) has needs for care and support (whether or not the authority is meeting any of those needs)
- b) is experiencing, or is at risk of, abuse or neglect, and
- c) as a result of those needs is unable to protect him or herself
- d) then it must and will cause an inquiry.

The statutory guidance enshrines the six principles of safeguarding:

- (i) empowerment - presumption of person led decisions and informed consent
- (ii) prevention - it is better to take action before harm occurs

- (iii) proportionality - proportionate and least intrusive response appropriate to the risk presented
- (iv) protection - support and representation for those in greatest need
- (v) partnerships - local solutions through services working with their communities
- (vi) accountability and transparency in delivering safeguarding

Employees of Stockport Metropolitan Borough Council will work to embed change as outlined within the Care Act including a move away from a process-led culture to a person centred approach which achieves the outcomes that people want.

Employees of Stockport Metropolitan Borough Council will take a flexible approach and work with the adult throughout the duration of the enquiry and beyond where necessary.

There are a number of other key responsibilities placed on the Local Authority in relation to adult safeguarding. These responsibilities are outlined below:

- Carers - The Care Act recognises the key role of Carers in relation to safeguarding. For example a carer may witness or report abuse or neglect; experience intentional or unintentional harm from the adult they are trying to support or a carer may (unintentionally or intentionally) harm or neglect the adult they support.
- Work with partners - The Care Act recognises that local authorities cannot safeguard individuals on their own; it can only be achieved by working together with the Police, NHS and other key organisations as well as awareness of the wider public. Fears of sharing information must not stand in the way of protecting adults at risk of abuse or neglect. The Act includes new duties for SABs to work more closely together and share information. The statutory guidance also introduces Designated Adult Safeguarding Managers (DASMs) in organisations concerned with adult safeguarding.

Agencies that support adults at risk of abuse and neglect can prevent and detect harm but they must act swiftly and competently when abuse is suspected or reported.

Stockport Metropolitan Borough Council will continue to work closely with partners to protect adults from abuse and neglect.

- Personalisation - The advances in personalisation of social care go hand-in-hand with the new approach to safeguarding; empowering people to speak out, make informed choices, with support where necessary, and encouraging communities to look out for one another. The two concepts are also inseparable from quality of life and dignity - overprotective approaches can in themselves put adults at risk of harm.

Stockport Metropolitan Borough Council will place an emphasis on sensible risk appraisal, not risk avoidance, which takes into account individuals' preferences,

histories, circumstances and life-styles to achieve a proportionate tolerance of acceptable risks. In the words of Lord Justice Munby "what good is it making someone safer if it merely makes them miserable?"

The Making Safeguarding Personal programme, led by the Association of Directors of Adult Social Services (ADASS) and the Local Government Association (LGA), with funding from the Department of Health (DH), has gained widespread momentum. It follows the edict of 'no decision about me without me' and means that the adult, their families and carers are working together with agencies to find the right solutions to keep people safe and support them in making informed choices. Stockport Metropolitan Borough Council will continue to develop its approach to Making Safeguarding Personal.

- Stockport Safeguarding Adults Board (SAB) – has responsibility to assure the effectiveness of safeguarding implementation in Stockport. It has a range of duties and for example the Care Act outlines says that if a SAB requests information from an organisation or individual who is likely to have information which is relevant to the SAB's functions, then they must share it with the Board. Additionally agencies should have drawn up a common agreement relating to confidentiality and the sharing of information between themselves based on the well-being of the adult at risk of abuse or neglect. It should also set out in what circumstances information will be shared without the agreement of the individual.
- Serious Adult Reviews – (SAR) - In addition the Act introduces statutory Safeguarding Adults Reviews (previously known as Serious Case Reviews) and gives Boards flexibility to choose a proportionate methodology. The purpose of an SAR must be to learn lessons and improve practice and inter-agency working. It defines the circumstances under which a SAB must conduct a SAR as "there is reasonable cause for concern about how the SAB, members of it or others worked together to safeguard the adult and death or serious harm arose from actual or suspected abuse."

It expects agencies to cooperate with the review but also gives Boards the power to require information from relevant agencies. The SAB may also commission a SAR in other circumstances where it feels it would be useful, including learning from "near misses" and situations where the arrangements worked especially well.

- Advocacy – Stockport Metropolitan Borough Council has a tripartite agreement with Tameside and Oldham and provides capacity to provide advocacy in safeguarding cases through the use of Together Working for Wellbeing. Stockport Metropolitan Borough Council employees will consider the appointment of an advocate when the individual is unable to speak for themselves without support (and meet the test set out in the Act) and is not befriended.