



Nottingham City  
**Adult Safeguarding**  
Partnership Board

# Nottingham & Nottinghamshire Multi-Agency Safeguarding Vulnerable Adults Guidance



Version number: 2.1	
Approved with effect from: 01/04/2015	Previous version: 01/10/2013
Amendments: Review to ensure care act compliance	

## Contents:

<b>1</b>	<b>Possible Indicators of Abuse</b>	<b>4</b>
1.1	Self harm and neglect	Error! Bookmark not defined.
<b>2</b>	<b>Other Factors for Consideration</b>	<b>7</b>
2.1	Safeguarding children	7
2.2	Think family	7
2.3	Multi-agency public protection arrangements (MAPPA)	8
2.4	Violence to staff	8
<b>3</b>	<b>Links to Other Processes</b>	<b>9</b>
3.1	Linking other processes to safeguarding adults	9
3.2	Domestic violence and abuse	10
3.3	Honour based violence and forced marriage	11
3.4	Hate crime and mate crime	12
3.5	Anti-social behaviour (ASB)	12
3.6	Deprivation of Liberty Safeguards (DoLS)	13
3.7	Human trafficking	Error! Bookmark not defined.
3.8	Violent extremism	Error! Bookmark not defined.
<b>4</b>	<b>Record Keeping</b>	<b>15</b>
4.1	Storing DATA	16
<b>5</b>	<b>Preserving Evidence</b>	<b>Error! Bookmark not defined.</b>
5.1	Methods of preservation	18
<b>6</b>	<b>Safeguarding Adults and the Law</b>	<b>19</b>
6.1	Introduction	Error! Bookmark not defined.
6.2	Human Rights and Equality	19
6.3	Care Act 2014	20
6.4	Criminal Law	20
6.5	Financial Exploitation	21
6.6	Civil Law	21
6.7	Public Law	21
6.8	Mental Capacity Act 2005	22
6.9	Deprivation of Liberty Safeguards (DoLS)	22
6.10	Confidentiality	Error! Bookmark not defined.
<b>7</b>	<b>Creating your own Internal Procedures</b>	<b>24</b>
7.1	Organisations' internal procedures	24
7.2	Checklist	Error! Bookmark not defined.

## 1 Possible Indicators of Abuse

**The indicators below are by no means exhaustive and you should not wait until one of these factors become apparent.**

**If you are ever in doubt whether an adult at risk has been abused, you should raise the concern with the person responsible for referring to the local authority within your organisation and your manager (if different) immediately, in line with the safeguarding adults procedure.**

**Physical abuse** including hitting, slapping, and pushing, kicking, misuse of medication, restraint, or inappropriate sanctions **may** be indicated by:

- Any injury not fully explained by the history given;
- Injuries inconsistent with the lifestyle of the adult at risk;
- Bruises and / or welts on face, lips, mouth, torso, arms, back, buttocks, thighs;
- Clusters of injuries forming regular patterns;
- Burns;
- Friction burns, rope or electric appliance burns;
- Multiple fractures;
- Lacerations or abrasions to mouth, lips, gums, eyes, external genitalia;
- Marks on body, including slap marks, finger marks;
- Injuries at different stages of healing;
- Medication misuse.

**Domestic Violence** including psychological, physical, sexual, financial, emotional abuse and honour based violence.

In 2013, the Home Office announced changes to the definition of domestic abuse:

- Incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse... by someone who is or has been an intimate partner or family member regardless of gender or sexuality
- Includes: psychological, physical, sexual, financial, emotional abuse; so called 'honour' based violence; Female Genital Mutilation; forced marriage.
- Age range extended down to 16 (although these procedures should only be followed if an adult at risk aged 18 or over, as per the criteria in the Nottingham and Nottinghamshire Safeguarding Adults Procedures for Referrers, is subject to domestic violence).

Many people think that domestic abuse is about intimate partners, but it is clear that other family members are included and that much safeguarding work (that meets the criteria for an adult at risk) that occurs at home is, in fact is concerned with domestic abuse. This confirms that domestic abuse approaches and legislation can be considered safeguarding responses in appropriate cases.

Further guidance to support practitioners and managers entitled Adult Safeguarding and Domestic Abuse published by ADASS and the LGA can be found at [http://www.local.gov.uk/publications/-/journal\\_content/56/10180/3973717/PUBLICATION](http://www.local.gov.uk/publications/-/journal_content/56/10180/3973717/PUBLICATION)

**Sexual abuse** including rape and sexual assault or sexual acts to which the adult at risk has not consented, or is incapable of giving informed consent or was pressured into consenting. This may involve contact or non-contact abuse (e.g. touch, masturbation, being photographed, teasing, and inappropriate touching) and **may** be indicated by:

- Significant change in sexual behaviour or attitude;
- Pregnancy;
- Wetting or soiling;
- Poor concentration;
- Adult at risk appearing withdrawn, depressed, stressed;
- Unusual difficulty in walking or sitting;
- Torn, stained or bloody underclothing;
- Bruises, bleeding, pain or itching in genital area;
- Sexually transmitted diseases, urinary tract or vaginal infection, love bites;
- Bruising to thighs or upper arms.

**Psychological abuse** including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks **may** be indicated by:

- Change in appetite;
- Low self-esteem, deference, passivity and resignation;
- Unexplained fear, defensiveness, ambivalence;
- Emotional withdrawal;
- Sleep disturbance.

**Financial or material abuse** including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits **may** be indicated by:

- Change in living conditions
- Lack of heating, clothing or food
- Unexplained sudden inability to pay bills or maintain lifestyle;
- Unusual or inappropriate bank account activity;
- Withholding money;
- Unexplained loss/misplacement of financial documents
- Recent change of deeds or title of property;
- Sudden or unexpected changes in a will or other financial documents
- Unusual interest shown by family or other in the person's assets;
- Person managing financial affairs is evasive or uncooperative;
- Misappropriation of benefits and / or use of the person's money by other members of the household;
- Fraud or intimidation in connection with wills property or other assets.

**Modern Slavery** encompasses slavery, human trafficking; forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment. People who have been trafficked may:

- Show signs of consistent abuse or have untreated health issues.
- Have no identification documents in their personal possession, and little or no finances of their own.

- Be unwilling to talk without a more 'senior', controlling person around who may act as their translator.
- Sleep in a cramped, unhygienic room in a building that they are unable to freely leave.
- Be unable to leave their place of work to find different employment, and fear that bad things may happen if they do.
- Be charged for accommodation or transport by their employers as a condition of their employment, at an unrealistic and inflated cost which is deducted from their wages.

They may be forced to work in certain types of industries or activities, such as:

- Factories, farms or fast food restaurants.
- Domestic service, such as a cleaner or nanny.
- Street crime, such as pickpocketing or robbery.
- Services of a sexual nature.

**Discriminatory abuse** including racist, sexist, that based on a person's disability, culture and other forms of harassment, slurs or similar treatment **may** be indicated by:

- Lack of respect shown to an individual;
- Signs of a sub-standard service offered to an individual;
- Repeated exclusion from rights afforded to citizens such as health, education, employment, criminal justice and civic status.

**Organisational abuse (previously known as institutional abuse)** Neglect and poor professional practice in care settings also need to be taken into account. It may take the form of isolated incidents of poor practice at one end of the spectrum, through to pervasive ill treatment or gross misconduct at the other. It can occur when the routines, systems, communications and norms of an institution compel individuals to sacrifice their preferred lifestyle and cultural diversity to the needs of that institution. Repeated instances of poor care may be an indication of more serious problems. Organisational abuse **may** be indicated by:

- Inappropriate or poor care;
- Misuse of medication;
- Restraint;
- Sensory deprivation e.g. denial of use of spectacles, hearing aid etc;
- Lack of respect shown to personal dignity;
- Lack of flexibility and choice: e.g. mealtimes and bedtimes, choice of food;
- Lack of personal clothing or possessions;
- Lack of privacy;
- Lack of adequate procedures e.g. for medication, financial management;
- Controlling relationships between staff and service users;
- Poor professional practice.

**Neglect and acts of omission** including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, and the withholding of the necessities of life, such as medication, adequate nutrition and heating **may** be indicated by:

- Physical condition of person is poor e.g. bed sores, unwashed, pressure ulcers (see below for more information on pressure ulcers);

- Clothing in poor condition e.g. unclean, wet, ragged;
- Inadequate physical environment;
- Inadequate diet;
- Untreated injuries or medical problems;
- Inconsistent or reluctant contact with health or social care agencies;
- Failure to engage in social interaction;
- Malnutrition when not living alone;
- Inadequate heating;
- Failure to give prescribed medication;
- Poor personal hygiene;
- Failure to provide access to key services such as health care, dentistry, prostheses.

Neglect can also lead to pressure ulcers. If you suspect a pressure ulcer is as a result of neglect please follow these procedures in conjunction with your own internal procedures for pressure ulcers.

**For more information on pressure ulcers follow this link;** [Pressure](#)

**Self- neglect** this covers a wide range of behaviour neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding.

### 1.1 Self harm

Self-harm does not come under the scope of these procedures. However, this does not mitigate your duty of care in such cases and should be addressed by your organisations' own internal procedures. For more information on self-harm visit [www.nice.org.uk](http://www.nice.org.uk).

## 2 Other Factors for Consideration

### 2.1 Safeguarding children

The safety of others should also be considered. If a child or young person is thought to be at risk, you should make a referral to the relevant local authority following their safeguarding children/child protection procedures.

Where the allegation relates to historical abuse that happened when the adult at risk was a child, it should be dealt with under child protection procedures in the same way as a contemporary concern and a referral should be made to the relevant local authority.

The Nottinghamshire Safeguarding Children Board provides, amongst other things, the guidance and thresholds for safeguarding children; these can be found in the pathway to provision documentation. More information on this can be found at [www.nottinghamshire.gov.uk/pathwaytoprovision](http://www.nottinghamshire.gov.uk/pathwaytoprovision)

Nottingham City Safeguarding Children Board provides, amongst other things, guidance and thresholds for safeguarding children; more information on this can be found at <http://www.nottinghamcity.gov.uk/nscsb>

### 2.2 Think family

The 'Think Family' approach calls for adult's and children's services to work closely together and take a whole family approach to ensure better outcomes for children and adults from families with complex needs.

The Social Care Institute for Excellence key messages from think family are;

- Think child, think parent, think family in order to develop new solutions to improve outcomes for parents with mental health problems and their families;
- Take a multi-agency approach, with senior level commitment to implement a think family strategy;
- Review whether criteria for access to adult mental health and to children's services take into account the individual and combined needs of children, parents and carers;
- Ensure screening systems in adult mental health and children's services routinely and reliably identify and record information about adults with mental health problems who are also parents;
- Listen to parents and children – most want support that is flexible, based on a relationship with a key worker and takes account of their practical priorities;
- Build resilience and manage risk – ensure ready access to specialist mental health and children's safeguarding services when needed and that staff know who makes what decision in what circumstances;
- Be creative – consider allocating an individual budget to provide flexibility and tackle stigma by developing non-traditional ways of providing services;
- Increase every family member's understanding of a parent's mental health problem – this can strengthen their ability to cope.

**For more information on Think Family follow this link; [www.scie.org.uk/publications/guides/guide30/](http://www.scie.org.uk/publications/guides/guide30/)**

### **2.3 Multi-agency public protection arrangements (MAPPA)**

Multi-agency public protection arrangements (MAPPA) is the name given to arrangements for the "responsible authorities" tasked with the management of registered sex offenders, violent and other types of sexual offenders, and offenders who pose a serious risk of harm to the public.

The "responsible authorities" of the MAPPA include the **National Probation Service**, HM Prison Service and England and Wales Police Forces. MAPPA is coordinated and supported nationally by the Public Protection Unit within the National Offender Management Service. MAPPA was introduced by the **Criminal Justice and Courts Services Act 2000** and was strengthened under the **Criminal Justice Act 2003**.

Other organisations have a duty to cooperate with the responsible authority, including the sharing of information. These include:

- Local authority children and family, and adult social care services;
- Clinical Commissioning Groups and NHS Trust Development Authority;
- Jobcentre Plus;
- Youth offending teams;
- Local housing authorities;
- Registered social landlords with accommodation for MAPPA offenders.

**For more information about MAPPA follow this link; [MAPPA](#)**

### **2.4 Violence to staff**

If there is a concern about violence to staff being committed by an adult at risk, then your own internal 'violence to staff' procedures should be followed.



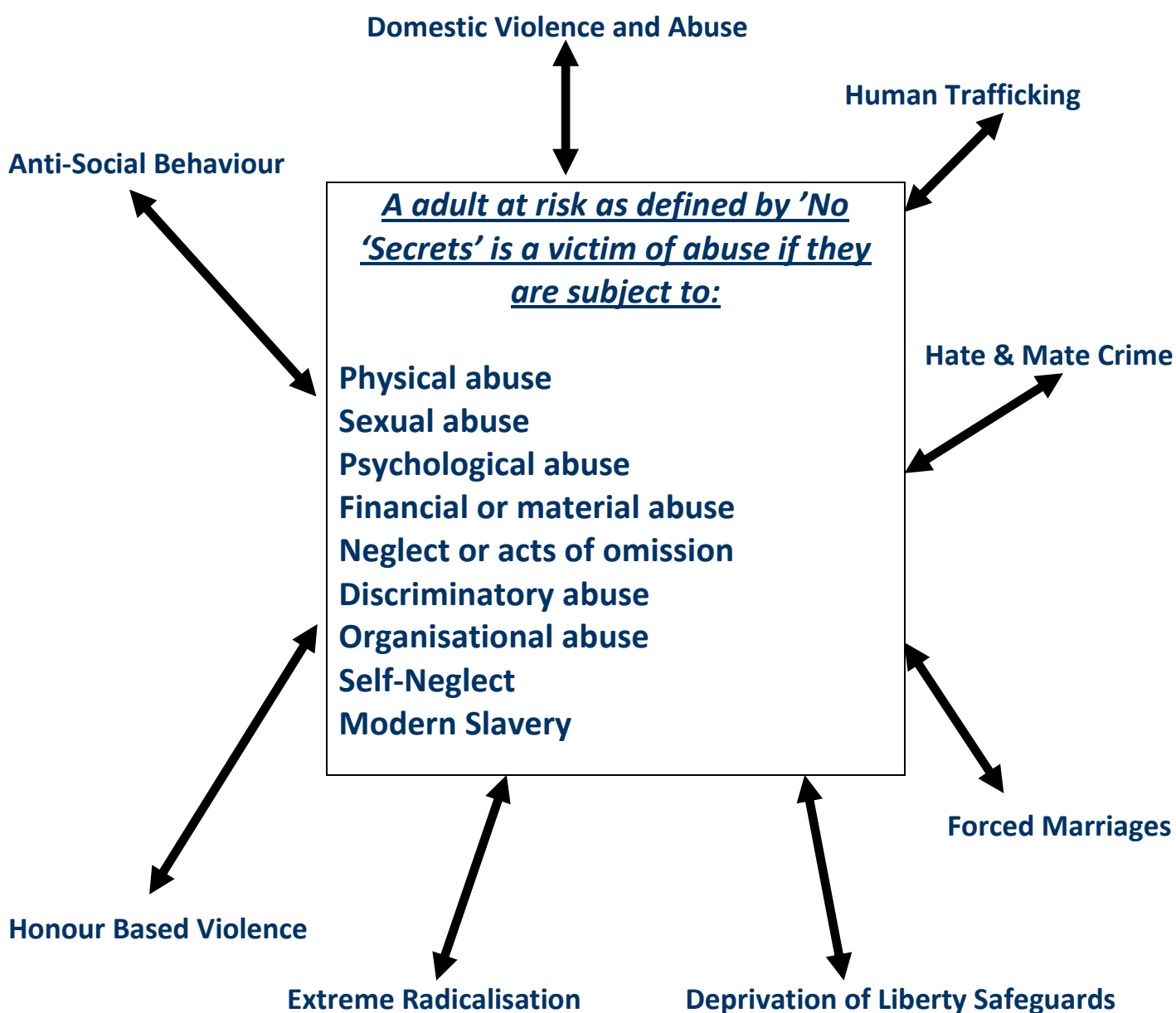
### 3 Links to Other Processes

#### 3.1 Linking other processes to safeguarding adults

There is a link between some legislation, procedures and guidance which may mean you need to follow more than one process at the same time. The diagram below, and the text that follows, gives examples of factors that interface with each other in relation to safeguarding adults.

Where an adult at risk is subject to any of the following, these safeguarding adults' procedures must be considered in addition to any other work.

The following diagram shows how these links work;



### 3.2 Domestic violence and abuse

**Interface with safeguarding adults; if an adult at risk is subject to domestic abuse, these multi-agency procedures will need to be followed in conjunction with your own internal procedures for domestic abuse.**

Domestic violence and abuse is defined by the Government as the following: ‘any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse;

- Psychological;
- Physical;
- Sexual;
- Financial;
- Emotional.

Controlling behaviour is; a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.\*

\*This definition includes so called ‘honour’ based violence, female genital mutilation and forced marriage, and is clear that victims are not confined to one gender or ethnic group. (Please see below for more details).

Whilst this is not a legislative change, the definition will send a clear message to victims about what does constitute domestic violence and abuse’.

**If someone is at risk of immediate risk of abuse then please call the police on 999. If it is an historic incident(s) then please call the police on 101.**

#### ***Multi-agency risk assessment conferences (MARAC)***

Multi-agency risk assessment conferences (MARAC) are meetings held with local agencies discussing the higher risk victims of domestic abuse in their area. All agencies attending the MARAC are signed up to the Nottinghamshire information sharing agreement and confidentiality is a priority. This operates in both Nottingham and Nottinghamshire local authorities.

The only time where the confidentiality is broken is where there are concerns about children / adults at risk.

Agencies share information about the whole family and suggest actions which will make survivors and their children safe and hold the perpetrator to account.

The main aim of the MARAC is to increase the safety, health and wellbeing of adults and any children, and any information is kept within the MARAC.

More information on the MARAC and its process, including how to refer into the MARAC can be found at [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk) and [www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk)

### 3.3 Honour based violence and forced marriage

**Interface with safeguarding adults; if an adult at risk is subject to honour based violence or a forced marriage, these multi-agency procedures will need to be followed in conjunction with your own internal procedures for honour based violence and forced marriage.**

#### *Honour Based violence*

The Crown Prosecution Service and Association of Chief Police Officers have a common definition of honour based violence:

"Honour based violence" is a crime or incident, which has or may have been committed to protect or defend the honour of the family and/or community'.

This definition is supported by further explanatory text:

"Honour Based Violence" is a fundamental abuse of Human Rights.

There is no honour in the commission of murder, rape, and kidnap and the many other acts, behaviour and conduct which make up "violence in the name of so-called honour".

The simplicity of the above definition is not intended in any way to minimise the levels of violence, harm and hurt caused by the perpetration of such acts.

It is a collection of practices, which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour. Such violence can occur when perpetrators perceive that a relative has shamed the family and / or community by breaking their honour code.

Women are predominantly (but not exclusively) the victims of 'so called honour based violence', which is used to assert male power in order to control female autonomy and sexuality.

Honour based violence can be distinguished from other forms of violence, as it is often committed with some degree of approval and/or collusion from family and/or community members.

#### *Forced Marriage*

The definition of forced marriage that the Crown Prosecution Service uses is the definition adopted by the Government and the Association of Chief Police Officers. Forced marriage as set out in A Choice by Right published by HM Government in June 2000;

'Is a marriage conducted without the valid consent of one or both parties where duress is a factor'?

'A forced marriage is a marriage in which one or both spouses do not (or in the case of some adults with learning or physical disabilities, cannot) consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure.'

Forced marriage is a violation of human rights and is contrary to UK law, including the Matrimonial Causes Act 1973, which states that a marriage shall be avoidable if; 'either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise.'

A forced marriage differs from an arranged marriage, in which both parties consent to the assistance of their parents or a third party in identifying a spouse, although the difference between the two may be indistinct.

Forced marriages are generally made because of the family pride, the wishes of the parents, or social obligation.

The United Nations sees forced marriage as a form of human rights abuse, since it violates the principle of the freedom and autonomy of individuals.

**For more information on honour based violence and forced marriage follow these links; [www.fco.gov.uk/forcedmarriage](http://www.fco.gov.uk/forcedmarriage) or [www.karmanirvana.org.uk](http://www.karmanirvana.org.uk) or [www.anncrafttrust.org](http://www.anncrafttrust.org)**

### **3.4 Hate crime and mate crime**

**Interface with safeguarding adults; if an adult at risk, be subject to hate or mate crime, these multi-agency procedures will need to be followed in conjunction with your own internal procedures for hate and mate Crime.**

#### ***Hate crime***

Hate crime is any criminal offence which is perceived by the victim, or by another person, to be motivated by a hostility or prejudice based upon the person's;

- Disability;
- Race, colour, ethnic origin, nationality or national origins;
- Sexual orientation;
- Gender or gender identity;
- Religion or belief.

Hate crime can be committed in many forms. This might include verbal abuse, insults, threats and name calling, damage to property, graffiti or writing, on-line bullying, malicious complaints, anti-social behaviour, attacks or violence, arson and the setting of fires.

#### ***Mate crime***

Mate crime is where an individual pretends to be friends with a person with a disability; the individual uses the disabled person instead of being a good friend. The individual may have been known to the disabled person for a long time or may have just met with them.

A 'mate' may be a friend, family member, supporter, paid staff or another person with a disability. Mate crime is committed by someone known.

Mate crime does not start with bullying, but starts with people saying they are a friend. It often happens in private and is not seen by others.

Mate crimes are disability hate crimes.

**For more information on hate crime follow this link; [www.stophateuk.org](http://www.stophateuk.org)**

### **3.5 Anti-social behaviour (ASB)**

**Interface with safeguarding adults; if an adult at risk is subjected to anti-social behaviour, these multi-agency procedures will need to be followed in conjunction with your own internal procedures for anti-social behaviour.**

Anti-social behaviour (ASB) is behaviour that is 'acting in a manner that caused or is likely to cause harassment, alarm or distress to one or more persons not of the same household (as the defendant)' (Crime and Disorder Act 1998).

There have been many examples in recent years of individuals who have had their lives blighted by anti-social behaviour, including some which have resulted in the deaths of the victims; Fiona Pilkington killed herself and her disabled daughter in 2007 after years of harassment; Gary Newlove was killed after he confronted a group of teenagers; and the death of David Askew, a man with learning difficulties who collapsed and died when confronting youths.

There are many types of anti-social behaviour including aggression, cruelty, violence, theft, vandalism, lying, manipulation, and drug and alcohol abuse.

In Nottingham and Nottinghamshire, there are Community Safety Partnerships (CSP) for every borough and district.

Linked to the CSPs are groups that meet on a regular basis to discuss and problem solve incidents of anti-social behaviour that adult at risks are subjected to. Depending on the borough or district, some of these groups may be called vulnerable person's panels (VPPs) and some are called local multi-agency problem solving groups (LMAPs).

For more information on the groups within your area please contact your local community safety partnership.

### **3.6 Deprivation of Liberty Safeguards (DoLS)**

**Interface with safeguarding adults; if an adult at risk is being unlawfully deprived of their liberty, these multi-agency procedures will need to be followed in conjunction your own internal procedures for deprivation of liberty safeguards.**

Deprivation of liberty safeguards apply to people who have a mental disorder or disability of the mind, such as dementia or a profound learning disability and who do not have mental capacity to decide whether or not they should be accommodated in the relevant care home or hospital to be given treatment, and who need to be cared for in a way which requires significant restriction.

**For more information on MCA and DOL's follow these links; [MCA & DoLS](#)**

### **3.7 Human trafficking**

**Interface with safeguarding adults; if an adult at risk is identified as a victim of human trafficking, these multi-agency procedures will need to be followed in conjunction with your own internal procedures for human trafficking.**

Human trafficking is a crime against humanity. It involves an act of recruiting, transporting, harbouring or receiving a person through a use of force, coercion or other means, for the purpose of exploiting them. Every year, thousands of men, women and children fall into the hands of traffickers, in their own countries and abroad.

Every country in the world is affected by trafficking, whether as a country of origin, transit or destination of victims.

**For more information about human trafficking follow this link; [Human Trafficking](#)**

### 3.8 Violent extremism

**Interface with safeguarding adults; if an adult at risk is identified as or is subjected to exploitation into violent extremism, these multi-agency procedures will need to be followed in conjunction with your own internal procedures for violent extremism.**

Individuals may be susceptible to exploitation into violent extremism by radicalisers. Violent extremists often use a persuasive rationale and charismatic individuals to attract people to their cause. The aim is to attract people to their reasoning, inspire new recruits and embed their extreme views and persuade vulnerable individuals of the legitimacy of their cause.

‘Channel’ is the multi-agency safeguarding process which is now in place across the country to ensure a safeguarding approach to protect individuals or groups who may be vulnerable to recruitment by violent extremists. Channel provides a mechanism for supporting those, who may be vulnerable, to violent extremism by assessing the nature and the extent of the potential risk and, where necessary, providing an appropriate support package tailored to an individual’s needs.

The Prevent strategy is part of the UK Counter-Terrorism Strategy known as Contest. The strategy involves thousands of people – police and intelligence officers, the emergency services, local authorities, businesses, voluntary and community organisations, governments and other partners – working in partnership across the UK and the world to protect the public.

The strategy has four key elements;

- Pursue – to stop terrorist attacks;
- Prevent – to stop people becoming terrorists or supporting violent extremism;
- Protect – to strengthen our protection against terrorist attack;
- Prepare – where an attack cannot be stopped, to mitigate its impact.

**For more information follow this link: [violent extremism](#)**

## 4 Record Keeping

Good record keeping is a fundamental part of good practice. It is particularly important to make clear, factual and detailed written and / or electronic records when you are told about or witness abuse or neglect against an adult at risk.

**Individual organisations will have their own recording / filing system which all staff should be familiar with and follow.**

**This guidance should be used in addition to this, rather than instead of.**

### *General advice*

The following pointers may be useful when keeping records or taking notes in relation to safeguarding adults concerns;

- Where possible you should make notes at the time you are being told about a concern;
- Explain to the person raising the concern that you are taking notes so that you can be accurate in your recording;
- Use the person's own words where possible;
- In some circumstances it would not be appropriate to be taking notes at the time the allegation is being made. Make a written report as soon as possible afterwards. Try to remember what the person said, using their own words and phrases
- Use a pen or biro with black ink if you possibly can;
- In your written report factual information should be clearly separated from expression of opinion;
- Sign, date and time your report;
- Be aware that your report may be required later as part of a legal action or disciplinary procedure or litigation claim;
- In all recording, proper consideration must be given to the requirements of current data protection legislation;
- Detailed records of abuse **should not** be kept on an open file unless to do so would impede the Freedom of Information Act 2000

### **A note from the Police and Crown Prosecution Service regarding record keeping and 'Third Party Material':**

**All agencies need to be aware that where there is a criminal prosecution the police and CPS are required to check whether there is any material that is not in the possession of the police which may have relevance to the case. For example, health and / or social work records may contain information which is either of evidential value or may be undermining to the prosecution. If this material is of evidential value, the police may need to take further statements. If the material is undermining or may be of assistance to the defence case, the prosecution team will need access to the material, which may then need to be disclosed to the defence.**

**If the owner of that material does not consent to this, a court order will have to be sought for disclosure.**

**With this in mind, it is essential that staff in all organisations maintain accurate records at all times.**

### *Referrals*

You should keep documented records about a decision whether to make a referral or not and these should be kept on the individual's record. When a referral is made, you may find it useful to complete;

- Appendix one – referral form; and
- Appendix two – body map.

Although these do not need to be sent to the relevant local authority as part of the referral, they will need to be kept on the individual's file. You will need to make the local authority aware they exist when making the referral.

For Nottinghamshire you can download these at [www.safeguardingadultsnotts.org](http://www.safeguardingadultsnotts.org) and by following the link to the procedures.

#### **4.1 Storing DATA**

When considering the storage of data your own internal procedures will need to be followed.



## 5 Preserving Evidence

**WHILST YOUR EFFORTS TO PRESERVE EVIDENCE MAY BE VITAL,  
YOUR FIRST CONCERN IS THE IMMEDIATE HEALTH AND WELLBEING OF THE ADULT AT  
RISK.**

The Police will follow their own internal guidelines for preserving evidence.

When Police involvement is required following suspected physical or sexual abuse, they are likely to be on the scene quickly.

To enable the Police to investigate effectively, **it is imperative that vital evidence is preserved**. For the short time before the Police arrive, what you do or do not do can make a vital difference. What follows is a checklist which may help to ensure that evidence is not destroyed.

In all cases, the following apply;

- Where possible, leave things as they are. If anything has to be handled, keep this to a minimum. **Do not clean up. Do not touch what you do not have to;**
- **Leave weapons where they are unless they are handed to you.** If you have to receive them, take care not to destroy fingerprints. Do not wash anything or in any way remove fibres, blood etc;
- **If you are handed any items of possible interest**, e.g. a weapon, put them in separate paper bags which must be sealed and given unopened to a Police Officer. Note on the bags what is contained and store in a secure place;
- **Only where necessary (if they are un-wearable)**, change and preserve the clothing and footwear of the victim. Handle these as little as possible and store them in separate sealed bags. Hand the sealed bags to a Police Officer;
- Preserve anything used to comfort or warm a victim, e.g. a blanket;
- Note in writing the state of the clothing of both the victim and the alleged perpetrator. Note the injuries in writing. Make full written notes on the conditions and the attitudes of the people involved in the incident;
- Care should be exercised that there is no cross-contamination between the victim and the alleged perpetrator. Therefore, members of staff attending to the victim should not have any contact with the alleged perpetrator and vice versa;
- Note and preserve any obvious evidence such as footprints or fingerprints;
- Secure the room and do not allow anyone to enter until the police arrive;
- Any written record relating to the incident or its surrounding circumstances should be preserved and made available to the Police. Any decisions made by senior managers should also be recorded and made available.

In addition, in the case of sexual abuse, the following apply;

- It is crucial for both the victim and the alleged perpetrator to be medically examined for forensic evidence at the earliest opportunity (this examination would normally be carried out at the Sexual

Assault Referral Centre). Whilst respecting the wishes of the victim, they should be discouraged from washing or bathing until such time as an examination has been undertaken;

- Try not to have any person in physical contact with both the victim and the alleged perpetrator as cross-contamination can destroy evidence. This may be difficult if you are alone on duty and need to speak to or have contact with both parties, but be aware that any one touching both the victim and the alleged perpetrator will cross-contaminate;
- Preserve bedding where appropriate;
- Note and preserve any bloody items;
- Preserve any used condoms.

In any instance where a victim is seriously injured and is taken to hospital, ask that a sample of blood be taken before any transfusion, as a transfusion will invalidate any evidence in relation to blood.

### **5.1 Methods of preservation**

- For most things, use clean brown paper, a clean brown paper bag or a clean envelope if possible. If using an envelope, do not lick it to seal;
- For liquids, use clean glassware;
- For knives and other metal objects, use a polythene bag;
- For fire damaged materials, use a nylon bag.

These are obviously ideal solutions and may not be possible at the time of a trauma. However, do the best you can.

## 6 Safeguarding Adults and the Law

### 6.1 Introduction

The general legal framework for the protection of adults at risk from abuse in England and Wales derives from an assortment of legislation, guidance and ad hoc court interventions which are wide ranging, unlike the single statutory framework that exists in Scotland or the structured legal framework concerned with vulnerable children. Below are some areas that may be useful.

### 6.2 Human Rights and Equality

The Human Rights Act (HRA) 1998 is a key component for safeguarding as it requires respect for human rights and encourages high standards of practice by public bodies. It not only provides a course of action in cases of abuse but also provides a framework which can further the development of a culture where abuse is not tolerated. Section 6 of the HRA 1998 places a duty on public authorities to comply with the European Convention on Human Rights. The Convention Rights (or Articles of the Convention) which have the most relevance in the context of community care law are Articles 2, 3, 5, 8 and 14;

- Article 2 – The right to life;
- Article 3 – Degrading treatment;
- Article 5 – Detention;
- Article 8 – Private life, family and home;
- Article 14 – Discrimination.

Other statutory provisions must be interpreted so far as it is possible to do so compatibly with the Convention Rights and the exercise of functions must be carried out compatibly with the Rights. In general terms it is unlawful for a public body to act in such a way as to violate a person's Convention Rights. However in some instances there is a duty on the public body to positively uphold a person's Convention Rights as opposed to not interfering with it e.g. respecting a person's Article 8 right. Any interference with a person's Convention Rights must be justified, proportionate and least restrictive in terms of options available.

Good practice will be consistent with human rights obligations. However, consideration of the issues needs to be consciously integrated into service delivery and will result in a more focused consideration of individual needs. It will often be necessary to weigh in the balance competing interests under the Convention Rights and where infringement is permitted in the interests of others or the wider public interest, the justification must be well reasoned and clear.

It is particularly important that vulnerable persons unable to protect themselves receive the benefit of these rights. Since everyone is entitled to the benefit of the Convention Rights it is also important to look beyond the obvious recipient of services and consider who will be affected by their delivery.

The Equality Act 2010 is also of particular significance whenever a public body is developing or implementing safeguarding measures. Section 149 of this Act provides, in respect of people with "protected characteristics", including age, gender, gender reassignment, race, disability, pregnancy and maternity, religion or belief and sexual orientation, that:

A public authority must, in the exercise of its functions, have due regard to the need to;

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**6.3 Care Act 2014** The Care Act 2014 puts adult safeguarding on a legal footing and requires that each Local Authority must:

- 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
- set up a Safeguarding Adults Board (SAB) with core membership from the local authority, the Police and the NHS (specifically the local Clinical Commissioning Group/s) and the power to include other relevant bodies
- 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.

**6.4 Criminal Law**

All persons are entitled to the protection of the criminal law and, in addition to the general law; there are a number of specific offences that address persons who are particularly vulnerable. The Police will advise appropriately on these issues. Application of the law is often difficult because of evidential requirements and demands of court processes. In the public interest the Police require careful and full co-operation from all professionals when dealing with these difficult areas.

**Mental Capacity Act 2005;** Section 44 makes it an offence for anyone caring for, or who is an attorney under a lasting power of attorney or enduring power of attorney, or is a deputy for a person who lacks capacity, to ill-treat or wilfully neglect that person. The provision is limited to people who lack capacity.

**Mental Health Act (MHA) 1983;** Section 127 makes it an offence for managers of hospitals or care homes or their staff to ill-treat or wilfully neglect a patient (whether detained or not) who is receiving treatment for their mental disorder in that establishment. In addition it is an offence for any individual to ill-treat or wilfully neglect a mentally disordered person who is subject of their guardianship under the MHA 1983. However, it is limited procedurally because proceedings can only be brought with the permission or "leave" of the Director of Public Prosecutions.

**Sexual Offences Act 2003;** Sections 20-33 create offences that rely on the inability of the person to refuse the sexual activity on account of lack of capacity or where the person is unable to communicate refusal. Sections 34-37 relate to situations where the person suffering from a mental disorder is induced, threatened or deceived into sexual activity where the perpetrator knows or could reasonably be expected to know that the person suffered a mental disorder. Sections 38-41 relate to care workers where the assumption is that the worker must have known or reasonably expected to have known that the person had a mental disorder and do not rely on the inability of the victim to refuse.

**Domestic Violence, Crime and Victims Act 2004;** Section 5 makes it an offence to cause or allow the death of a child or adult at risk and is designed to address the evidential problem of proving who in that household was actually responsible for causing or allowing the death to occur. In such circumstances a person is guilty of an offence if there was significant risk of serious physical harm, and the person either caused the victim's

death, or was or ought to have been aware of the risk and failed to take steps to protect the victim, and the act occurred in circumstances that the person foresaw or ought to have foreseen. The definition of household includes people who do not live in the property but whose visits are sufficiently frequent for them to be counted as a member of such.

**Domestic violence, crime and victims (amendment) Act 2012;** The 2012 Act extends the offence of causing or allowing the death of a child or vulnerable adult in section 5 of the 2004 Act (“the causing or allowing death offence”) to cover causing or allowing serious physical harm (equivalent to grievous bodily harm) to a child or vulnerable adult (“the causing or allowing serious physical harm offence”). Sections 5 and 6 of the 2004 Act were enacted to deal with the situation where it was clear that one of a number of adults in a household was responsible for the death of a child or vulnerable adult in that household but it could not be proved which one. The 2012 Act is intended to fill a recognised gap in the law in cases where, although it is clear that serious injuries short of death suffered by a child or vulnerable adult must have been sustained at the hands of one of a limited number of members of the household, there is insufficient evidence to point to the particular person responsible. Like the causing or allowing death offence and section 6 of the 2004 Act, the causing or allowing serious physical harm offence and new section 6A of the 2004 Act together form a package of measures intended to prevent those accused of causing serious physical harm to a child or vulnerable adult from escaping justice by remaining silent or blaming someone else.

**Fraud Act 2006;** Section 4 concerns “fraud by abuse of position” and makes it an offence for a person who occupies a position where he or she is required to safeguard (or not act against) the financial interests of another person, to dishonestly abuse that position, with the intent of self-benefit or to benefit others.

## 6.5 Financial Exploitation

The Nottingham & Nottinghamshire Multi-Agency Policy and Procedures includes an expectation that adult at risks will be protected from financial exploitation. This will require consideration of welfare benefits provision, Court of Protection powers and the misuse of powers of attorney in addition to many aspects of the criminal law. Liaison with finance houses regarding their arrangements for dealing with the affairs of vulnerable people may be appropriate and effective.

## 6.6 Civil Law

A range of remedies are available to individuals to seek protection through the courts for themselves and their assets. The ability of public authorities to access these provisions on behalf of others is limited and good links with private solicitors experienced in these areas and who can act on their behalf need to be developed. In some cases the intervention of state agencies with responsibility to act for those who are not competent to protect their own interests and give instructions may be necessary.

## 6.7 Public Law

The statutes providing for services to adults were, for the most part, drafted without consideration of human rights or concepts of protection of the adult at risk from abuse, neglect and exploitation. They are complex and piecemeal. It is necessary to consider existing provisions with imagination in their interpretation and application.

The human rights imperatives will assist as will the obligation on Local Authorities under Section 17 of the Crime and Disorder Act 1998 to carry out their various functions with due regard to the likely effect on, and the need to do all that they reasonably can to prevent crime and disorder in their areas.

Community care provisions concerned with the needs of disabled, elderly and infirm persons, environmental health and housing powers and those related to harassment and anti-social conduct will be relevant.

## 6.8 Mental Capacity Act 2005

The Mental Capacity Act 2005 (the Act) provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for themselves.

The introduction of the Mental Capacity Act Code of Practice gives the following guidance on who the Code of Practice is for;

- ‘Certain categories of people are legally required to ‘have regard to’ relevant guidance in the Code of Practice. That means they must be aware of the Code of Practice when acting or making decisions on behalf of someone who lacks capacity to make a decision for themselves, and they should be able to explain how they have had regard to the Code when acting or making decisions.’ See the Code of Practice for details of those categories;
- The Act applies more generally to everyone who looks after, or cares for, someone who lacks capacity to make particular decisions for themselves. This includes family carers or other carers. Although these carers are not legally required to have regard to the Code of Practice, the guidance given in the Code will help them to understand the Act and apply it. They should follow the guidance in the Code as far as they are aware of it.’

**For more detailed guidance on MCA codes of practice follow this link; MCA Code of Practice Link to; Joint MCA document**

## 6.9 Deprivation of Liberty Safeguards (DoLS)

The Deprivation of Liberty Safeguards (DoLS) apply to people who have a mental disorder or a disability of the mind, such as dementia or a profound learning disability, and who do not have mental capacity to decide whether or not they should be accommodated in the relevant care home or hospital to be given care or treatment, and who need to be cared for in a way which requires significant restriction.

**For more detailed guidance on DoLS follow this link; DoLS Code of Practice**

## 6.10 Confidentiality

The important duties in relation to adult at risks cannot be met without effective and appropriate sharing of relevant information, some of which may usually be regarded as confidential between a practitioner and patient or client. Protection for the vulnerable is only possible, and services may only be appropriately co-ordinated, if those forming judgments about necessary action have access to all the relevant information.

The principles concerning the protection and disclosure of information are governed by the Data Protection Act 1998 together with application of the HRA 1998 principles. The Act applies several basic principles to the disclosure of information. These essentially require data to be processed fairly, legally, accurately and that the information be retained no longer than necessary, they restrict the transfer of data as well as unnecessary reprocessing of data, and require organisations holding such information to take appropriate measures to restrict unauthorised access to it.

Data protection and human rights legislation has increased the need to be able to justify disclosure. However, neither legislation nor ethical principles are intended to increase the vulnerability of those requiring protective action or make it more difficult to act to give that protection. They are concerned with promoting good practice and ensuring that information is shared on a need to know basis and can be justified after carefully considering the implications and in particular the purpose for which it will be used.

It is important that disclosure of information takes place according to principles of good practice and on a need to know basis. Those seeking disclosure should be clear about the reasons information is required and the purposes for which it is likely to be used.

Confidential information can be shared if required in performance of a statutory obligation, necessary to protect from harm or if it is in the public interest to do so. It is clearly in the public interest that the framework of protection required by Government and set out in the guidance operates effectively and that those unable to protect themselves are protected.

Provisions of the Crime and Disorder Act 1998 encourage effective sharing of material in the interests of reducing crime and disorder and complement the public interest obligation for public agencies to co-operate with the detection and prevention of serious crime. Section 115 allows any person, who otherwise would not have the power to disclose information, to do so where this is to Police, Local Authority, Probation or Health Authority, and is necessary or expedient for the purposes of any provision of the Act.

Good working arrangements, procedures and protocols will do much to reassure professional staff that information shared will be handled appropriately and sensitively. For more information, see the Nottingham and Nottinghamshire Information Sharing Protocol.

## 7 Creating your own Internal Procedures

Each organisation should, in addition to these multi-agency procedures and guidance document, have their own internal procedures detailing with how allegations of abuse and safeguarding adults' issues are dealt with in their own organisation. This should be consistent with the multi-agency procedures and should detail staff in your organisation responsible for the role of referrer.

This guidance is aimed at assisting organisations in completing their own internal procedures.

### 7.1 Organisations' internal procedures

Organisations' own internal procedures relating to safeguarding adults should be consistent with the Nottingham and Nottinghamshire Multi-Agency Safeguarding Adults' Procedure and Guidance. They should:

- Include a statement of commitment to safeguard adults at risk of abuse or neglect;
- Provide guidance on minimising and preventing abuse;
- State what to do in an emergency;
- Provide details of those responsible for 'referring to the local authority' in your organisation (there should always be more than one person);
- Detail key responsibilities for the person raising a concern;
- Provide a telephone number and details of how to make a referral;
- Provide a copy of the referral pro forma;
- Detail key responsibilities for the person raising the concern – i.e. their duty to ensure a person's safety and wellbeing and to report;
- Detail how your organisation will work to undertake section 42 enquiries when the Local Authority causes you to do so;
- Detail how you will be able to assure the local authority that any safeguarding work undertaken is outcome focused, based on the wishes of the adult (or their representative);
- Reference the role of staff and volunteers;
- Provide appropriate and accessible information for services users;
- Be cross referenced with other internal policies and procedures within your organisation. For instance domestic violence, hate and mate crime, anti-social behaviour, serious incidents, health and safety, disciplinary policies etc;



## 7.2 Checklist

The following checklist should be used in conjunction with this guidance to assist you in compiling your organisation's own internal policy and procedures.

- |      |  |                          |
|------|--|--------------------------|
| 1.   | <b>Our internal policy and procedures includes a statement of commitment to a zero-tolerance of abuse and neglect within our organisation.</b>                     | <input type="checkbox"/> |
| 2.   | <b>Our internal policy and procedures includes guidance on minimising and preventing abuse.</b>  | <input type="checkbox"/> |
| 3.   | <b>Our internal policy and procedures are consistent with the Nottingham and Nottinghamshire multi-agency safeguarding adults' policy, procedure and guidance.</b> | <input type="checkbox"/> |
| 4.   | <b>Our internal policy and procedures provide details of what to do in an emergency.</b>   | <input type="checkbox"/> |
| 5.   | <b>Our internal policy and procedures provides the correct names of people in our organisation who are responsible for making a referral.</b>                      | <input type="checkbox"/> |
| 6.   | <b>Our internal policy and procedures details the key responsibilities for the person raising a concern in line with the multi-agency procedure.</b>               | <input type="checkbox"/> |
| 7.   | <b>Our internal policy and procedures provides telephone numbers and details of how to make a referral.</b>  | <input type="checkbox"/> |
| 8.   | <b>Our internal policy and procedures includes copies of the referral pro forma, or its computer file location which is accessible to referrers.</b>               | <input type="checkbox"/> |
| 9.   | <b>Our internal policy and procedures details key responsibilities for a person raising a concern in line with the multi-agency procedure.</b>                     | <input type="checkbox"/> |
| 10   | <b>Our internal policy and procedures details how our organisation will work to undertake section 42 enquiries when the Local Authority causes you to do so.</b>   | <input type="checkbox"/> |
| 11   | <b>Our internal policy and procedures detail how we are able to assure the local authority that any safeguarding work undertaken is outcome focused.</b>           | <input type="checkbox"/> |
| 12.  | <b>Our internal policy and procedures provides information about the role of staff and volunteers in relation to safeguarding adults.</b>                          | <input type="checkbox"/> |
| 13.  | <b>Our internal policy and procedures offers relevant information for service users, families and carers and/or information about where this can be obtained.</b>  | <input type="checkbox"/> |
| 14.. | <b>Our internal policy and procedures has been cross referenced with our other internal policy and procedures and is compatible.</b>                               | <input type="checkbox"/> |
| 15.  | <b>Our internal policy and procedures has details of who is responsible for ensuring that it is updated when necessary.</b>  | <input type="checkbox"/> |