

Our safeguarding protocol

The Care Quality Commission's commitment to safeguarding

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1. Introduction

- 1.1 Within this document the term safeguarding, whether it is used in relation to health or social care, refers to an organisation's responsibility to protect people whose circumstances make them particularly vulnerable to abuse, neglect or harm. CQC recognises that a person's need to be safe is determined by their individual circumstances, rather than the care setting they are in and that this may change at different stages of anyone's life. Effective safeguarding depends on a multi-agency partnership within which CQC may contribute. This different relationship is reflected in the various levels of engagement with multi-agency procedures.
- 1.2 CQC has developed this protocol for staff to describe its role in safeguarding both children and adults. It covers all the relevant health and social care sectors for which CQC has regulatory responsibility and provides the principles for how CQC will work to help ensure people are protected. It may also provide helpful guidance for stakeholders on the role of CQC in local safeguarding procedures. Detailed guidance for staff and stakeholders will be developed to support this protocol.
- 1.3 This protocol replaces previous protocols issued by the Commission for Social Care Inspection, the Healthcare Commission and the Mental Health Act Commission. It identifies a range of subsidiary guidance for staff.

Our vision

- 1.4 Safeguarding is a key priority for CQC, which reflects both our focus on human rights and the requirement within the Health and Social Care Act 2008 to have regard to the need to protect and promote the rights of people who use health and social care services. Regulated services, the providers of health and adult social care services, local councils and primary care trust commissioners have a key role in safeguarding. We will monitor how these roles are fulfilled through our registration, compliance and assessments of quality.
- 1.5 While there are significant differences in the statutory basis and policy context between safeguarding children and safeguarding adults, which will be reflected in our processes, for both there is an overarching objective of enabling people to live a life free from abuse. This can't be achieved by any one agency alone; safeguarding is ultimately the responsibility of whole communities and depends on the everyday vigilance of everyone who plays a part in the lives of children or adults in vulnerable situations to ensure that people are kept safe from harm.

2. Safeguarding adults – policy background

- 2.1 Unlike safeguarding children, where there are distinct responsibilities in statute, arrangements for safeguarding adults fall under the Department of Health policy framework of 'No Secrets' guidance (2000), which gives councils the responsibility for establishing and coordinating local multi-agency procedures for responding to allegations of abuse. It also introduced the principle that social services departments and their partners should set up adult protection committees (now sometimes referred to as safeguarding adults partnership boards).
- 2.2 In 2005, the Association of Directors of Social Services published a set of standards in *Safeguarding Adults – A National Framework of Standards for good practice and outcomes in adult protection work*. These are a non-mandatory set of good practice standards and some of the terminology used has been adopted within this protocol.
- 2.3 'Adult protection' focuses on responding to abuse after it happens. 'Safeguarding adults' involves the systems, processes and practices to enable people to live a life that is free from abuse and neglect through:
- Awareness of issues about the abuse of adults – including, for example, easily accessible information for the public about what is abuse and where/how to get help.
 - Ensuring priority is given to keeping people safe from abuse – including, for example, leadership within organisations and a clear commitment to stamp out abuse wherever it happens.
 - Helping to prevent people from experiencing abuse in the first place – including actions that can be taken to reduce the potential for abuse.
 - Recognising and acting appropriately when there are allegations of abuse – including prompt referrals to councils under the multi-agency procedures.
 - Supporting the person who has experienced abuse – including supporting them through the process and involving them where and as appropriate in the development of a protection plan.
- 2.4 In October 2008, the Department of Health launched a public consultation on its review of *No Secrets*. In January 2010, the Government announced its response to the consultation which included:
- Its vision of safeguarding adults as encompassing protection, justice and empowerment.

- National leadership through an Inter-Departmental Ministerial Group (IDMG) on Safeguarding Vulnerable Adults.
- New legislation to put local safeguarding adult's boards on a statutory footing.
- A programme of work including the development of new multi-agency guidance.

2.5 The Safeguarding Vulnerable Groups Act 2006 (SVGA) has come into force, introducing a new Vetting and Barring Scheme that replaces the Protection of Vulnerable Adults list and the Protection of Children Act list. The Act defines who is required to register with the Scheme in relation to whether they are undertaking 'regulated activities' as defined in the SVGA, working in specified places or hold certain positions. For the first time an adults barred list will apply to the NHS. Membership of the scheme is to be phased in over a five-year period. Regulated activity providers, keepers of registers, local authorities and supervisory bodies such as CQC are amongst a number of bodies that all have a statutory duty to refer people. Guidance on when CQC should refer is currently being developed. Further information can be found at <http://www.isa-gov.org.uk/>

2.6 Personalization is a key aspect of the Government's vision for public services in order to enable people to feel empowered and supported in meeting their aspirations. It is also relates to CQC's strategic objective of ensuring that care is centred on people's needs and protects their rights.

The Putting People First concordat describes a range of features that will be central to this system-wide transformation including safeguarding. They include:

- joint (local council & PCT) strategic needs assessment to inform the local community strategy and an integrated approach to commissioning and market development;
- prevention, early intervention and enablement become the norm;
- universal information, advice & advocacy, irrespective of eligibility for public funds;
- common assessment – with greater emphasis on self-assessment;
- person-centred planning and self-directed support become mainstreamed, with personal budgets for everyone eligible for publicly-funded care and support and more people opting to arrange their own support with direct payments.
- Adult Social Care to champion the needs and rights of disabled people and older adults, safeguarding and promoting dignity, supporting a collective voice through user-led organisations, enhancing social capital and developing the local workforce.

Whilst care provided to people employing and directing their own personal assistants is outside of CQC's regulatory remit, we will nevertheless have an interest in how councils are building safeguarding into policy and practice in support of the personalization agenda. There are a various ways of contributing to this including, for example, support in recruitment and vetting, access to advocacy, community safety services, risk assessment tools, review mechanisms etc

3. Safeguarding children – policy background

- 3.1 Regulatory responsibility for inspection of safeguarding arrangements for children in England lies with Ofsted. Local authorities are charged under the Children Act 1989 and 2004 with lead responsibility for keeping children safe, securing the wellbeing of the residents in their local area and ensuring effective partnership working across local partners, including health. This responsibility and compliance by councils with the Children Act is monitored by the Government Offices. Within this framework, however, CQC has a responsibility to regulate NHS and independent sector providers and their compliance with the legal requirements placed upon them primarily by the Children Acts and the Health and Social Care Act 2008. A three-year programme of joint inspections with Ofsted was launched in June 2009, which will visit each local authority once and report on arrangements for safeguarding and the care of looked after children.
- 3.2 The statutory guidance *Working Together to Safeguard Children* was revised in March 2010 and is helpfully explicit about CQC's role and that of individual organisations. It also recognises that it is most important for local systems to work effectively with the regulator, so we will usually maintain a watching brief, intervening only if local systems trigger serious concerns, consistently fail to respond to early concerns or need specific support or intervention.
- 3.3 CQC conducted a review of arrangements for safeguarding children in the NHS in early 2009, alongside the Laming review, resulting in a significant government focus and performance management regime to ensure that all NHS organisations are working together and sharing information in a timely and appropriate way.

- 3.4 Under the revised *Working Together to Safeguarding Children*, PCTs are required to notify CQC on the initiation of a serious case review, which are sent to a central, dedicated mailbox and are acknowledged on receipt. The notifications are passed to assessors as information for use as part of the regulatory compliance activity. Since 1 January 2010, Ofsted has committed to sharing full serious case review reports with CQC, to enable us to assess the implementation of action plans, and there is provision for us to become involved as appropriate in providing expert advice for serious case review evaluations. This detail is still to be confirmed.

4. Core functions

Registration

- 4.1 Registration is the foundation of CQC's new regulatory framework and provides a common platform across health and social care. All providers must meet essential standards of safety and quality set by registration and by the ongoing monitoring of providers' compliance. This common platform will help to develop a more integrated approach at service level as it will help to ensure that people will have common expectations and experiences of safeguarding, whether they are using the services of an acute hospital or a care agency supporting them in their own home.

Compliance

- 4.2 CQC has produced guidance that describes what services need to do to safeguard children and adults. We believe that a person's right to live a life free from abuse and neglect, and for abuse to be prevented, is as important as responding to it after it has happened. As previously described, the legislation and government guidance about child and adult abuse is different. CQC's essential standards of safety and quality state that services must take account of both government and local guidance.

To support staff and providers in making decisions about provider's registration status and ongoing compliance, CQC has published the following:

- *Guidance about compliance*
- *Guidance about compliance: Judgment framework*

4.3 In regards to safeguarding, CQC will focus on Outcome 7, safeguarding and safety (Regulation 11). However, it is important to recognise that effective safeguarding requires compliance with a whole range of registration requirements – not just the regulation that explicitly covers safeguarding. For example, effective safeguarding requires robust recruitment and vetting processes for staff, enough well trained and competent staff, effective and appropriate treatment and systems that allow people who use services and their representatives to feedback concerns. The examples detailed in the table below are illustrative rather than exhaustive.

Other outcomes relevant to safeguarding

Section	Outcome	Regulation*	Title
Safeguarding and safety	7	11	Safeguarding people who use services from abuse
Safeguarding and safety	9	13	Management of medicines
Safeguarding and safety	10	15	Safety and suitability of premises
Safeguarding and safety	11	16	Safety, availability and suitability of equipment
Suitability of staffing	12	21	Requirements relating to workers
Suitability of staffing	13	22	Staffing
Suitability of staffing	14	23	Supporting workers
Quality and management	17	19	Complaints

* Regulations of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2009.

4.4 CQC will use its range of enforcement powers, where registration requirements are not being met. We will particularly focus on using these powers in relation to services that are delivering poor quality outcomes.

- 4.5 Where regulatory action is being considered or undertaken, CQC will share all relevant information with the local safeguarding partnership on an ongoing basis.
- 4.6 The regulatory framework includes a suite of notification requirements both from the NHS and the independent sector. This data should inform our assessment systems about overall trends and risks as well as individual concerns. Within the NHS, for example, the notification system will be linked through the National Patient Safety Agency to serious untoward incident reporting and the management of serious case reviews.
- 4.7 CQC's health and social care enforcement policy can be found at:
http://www.cqc.org.uk/_db/_documents/CQC_Enforcement_Policy_Final2.pdf

While working in partnership with other agencies, CQC will not suspend its own statutory enforcement responsibilities pending the outcome of another (for example, criminal) process, where to do so would run counter to the safety and well-being of the people who use the service. This is in accordance with lessons highlighted within the 'Longcare' inquiry (Burgner et al 1998) and our statutory duties. In such circumstances, we will aim wherever possible to coordinate actions in order to preserve evidence and avoid impeding each other's investigations or enforcement action.

4.8 **Assessments of quality**

An assessment of quality describes CQC's activity in relation to its powers to carry out periodic reviews and special reviews and to publish information. Safeguarding will be integral to all assessments of quality.

5. **The role of CQC in local safeguarding procedures**

- 5.1 CQC's function in response to safeguarding concerns is primarily, as a regulator, to ensure that commissioners and providers of care have adequate systems in place to ensure the safety of children, young people and adults whose circumstances make them vulnerable to abuse.

Where a safeguarding alert suggests a breach of regulations or the registered person not being fit for the role, we will consider what regulatory

action is needed by the Commission and undertake that work in partnership with other agencies.

Where safeguarding concerns relate to a regulated service our participation, in our capacity as a regulator, in local strategy and action planning is essential. There are four main areas of partnership working in which CQC may be involved:

- Information sharing.
- Safeguarding adult strategy meetings.
- Local safeguarding boards.
- Serious case reviews.

5.2 Information sharing

CQC recognises that successful regulation is dependant upon good and timely information sharing with partner agencies and, wherever possible, the sharing of information with any particular agency should be in accordance with a protocol. Information sharing by CQC should always be fair and proportionate and within legal requirements to protect those to whom the shared information relates. It is important to share information so that we can:

- Promote improvements in health and social care.
- Work in partnership with other regulators and agencies.
- Play our role in the systems that aim to protect people who are at risk.

CQC is committed to principles of openness and accountability and will, wherever appropriate, share information in line with the Freedom of Information Act. Further detailed guidance on the CQC protocol governing sharing of information can be found at:

http://www.cqc.org.uk/_db/_documents/Information_sharing_v_2_78-09_200910133519.doc

Agencies that have been involved in the investigation/safeguarding assessment will share information in accordance with any information sharing protocols in place. The outcome of the safeguarding assessment (including investigation reports where appropriate) must be shared with CQC where it relates to a regulated service, whether or not CQC has been directly involved in the assessment or investigation process.

Where CQC has undertaken a review in response to the safeguarding concerns, this will be shared in the multi-agency forum and details of enforcement action will be notified to the council as required within the Health and Social Care Act 2008 and regulations.

5.3 Safeguarding strategy meetings

When a council accepts a referral regarding safeguarding adults, it will communicate with relevant agencies to assess the risk and take any necessary action. This is often referred to as a “strategy meeting”.

While CQC should always be made aware of any concern about safeguarding adults within a regulated service, it is not routinely necessary for CQC to attend all safeguarding strategy meetings. CQC’s involvement with the strategy meeting should take place when:

1. A person or people registered with CQC to provide services are directly implicated.
2. Urgent or complex regulatory action is indicated.
3. Any form of enforcement action has started, which relates to risks to people using the service or their quality of care, is under consideration in relation to the service or location involved.

CQC will provide relevant information to the chairs of all strategy meetings convened in relation to regulated services as requested. For example, information from CQC about the quality of service and regulatory track record of the provider may be useful to the chair of the meeting in determining the provider’s level of involvement in the process. The general assumption is that where registered providers and managers are judged to be fit and not implicated in the alleged abuse then they will be pro-actively involved as partners in tackling the abuse.

Where the concern relates to a service regulated by CQC, the chair of the strategy meeting should be asked to provide copies of the minutes and any action plans regardless of whether CQC has attended the meeting or not. Records relating to the strategy meetings may be subject to Freedom of Information Act requests.

In the majority of cases it will be the Compliance Inspector who attends safeguarding strategy meetings; however where the safeguarding issues apply to a large organisation, or there are multiple safeguarding concerns, the Compliance Manager may wish to attend.

The above paragraphs refer in general to adult strategy meetings. CQC would not usually be involved in safeguarding strategy meetings for children – in these cases the lead regulator would be Ofsted.

5.4 Local safeguarding boards

Each local authority will have established two local safeguarding boards, one for children and young people and one for adults whose circumstances make them vulnerable to abuse.

A local safeguarding board is an inter-agency forum for agreeing how different services and professional groups should cooperate to safeguard residents in their local area, and for making sure that arrangements work effectively for bringing about good outcomes for children and adults whose circumstances make them vulnerable to abuse.

CQC will not routinely attend local safeguarding boards. However, CQC recognises that relationships between CQC and local safeguarding boards are useful to ensure that the local safeguarding arrangements are working effectively and raise area-wide issues where necessary. In order to achieve this, regions will attend safeguarding boards, at least once per year, by invitation or agreement. This will allow a particular focus of this meeting on the contribution of CQC including, for example to:

- Share information.
- Assess the effectiveness of safeguarding partnerships.
- Discuss a local or regional safeguarding matter.

CQC has no decision-making authority on local safeguarding boards.

Additionally, meeting with the chairs of the local safeguarding boards may be helpful in clarifying the role of the regulator, sharing relevant information and promoting joint working with relevant agencies. It may also be helpful where there are area-wide concerns regarding safeguarding arrangements.

In the majority of cases, it will be the Compliance Manager who maintains the relationship with the local safeguarding board and its chair

5.5 Serious case reviews

CQC recognises that we may have a role to play in Serious Case Reviews (SCR) and the learning that arises from them, particularly where they relate to a service regulated by CQC. CQC is not however routinely involved in all SCR's and we hold no decision-making authority within this process.

When a SCR is initiated, each relevant service will undertake a separate management review of their involvement with the case. The aim of a management review is to openly and critically examine an organisation's practice to see if there are any changes required or opportunities for learning.

When requests for management review reports are received by CQC the regional director determines the local response to the request. If management review reports are completed, the regional director agrees the report before it is shared with the local safeguarding partnership.

There is also the potential to learn from Domestic Homicide Reviews where the victim is considered a "vulnerable adult" in terms of the No Secrets guidance.

Children

Under the revised *Working Together to Safeguarding Children* commissioning PCTs are required to notify CQC on the initiation of a serious case review. The notifications are sent to a central, dedicated mailbox (safeguardingchildren@cqc.org.uk), acknowledged on receipt and then passed to assessors for information as part of the regulatory compliance activity.

Ofsted are committed to providing full copies of paperwork associated with SCRs, once their evaluation is completed. CQC will use this information within the reviews to inform its regulatory processes and monitor completion of actions by regulated organisations where relevant.

Adults

There is no legal framework for adult SCRs; however local safeguarding partnerships will notify CQC of the instigation of a SCR and of their outcomes and associated action plans on completion.

Regional safeguarding leads are responsible for collating regional information on all SCRs notified to CQC and the outcomes in a standardised format.

6. The role of other agencies

Local multi- agency procedures will usually describe the roles of key partner agencies and organizations. This will typically include;

Police - investigation into allegations which relate to possible criminal activity and where a criminal prosecution may be indicated – Where this is the prime investigation strategy other agencies must ensure that their input or action does not adversely impact on the integrity of the investigation.

Social services – in addition to the wider role in co-ordinating the multi-agency procedures, within their role as commissioners of care the local council may also look at specific issues arising from the safeguarding alert in relation to compliance with service agreements or individual care contracts or undertake a review or reassessment of a person's care needs.

The Director of Adult Social Services is expected to ensure “a clear organisational focus on safeguarding adults in vulnerable situations” (Best Practice Guidance on the Role of the Director of Adult Social Services) and has a broader role which includes driving partnership working, delivering an integrated whole systems approach to supporting communities; and promoting social inclusion and wellbeing. These elements can be an important contributor to the prevention agenda within safeguarding.

The Provider / Manager of the health or social care service – The relevant agencies will decide at the beginning of the strategy process whether it would be appropriate for the registered provider or manager to conduct an investigation and then report back to the multi-agency forum which maintains an overview.

7. Management of safeguarding information received by CQC

- 7.1 As a regulator, CQC will receive information in relation to potential or alleged safeguarding incidents. The majority of this information will be received by Shared Services. Safeguarding information can be identified through either receipt of formal notifications from providers or through other written or verbal information, complaints, concerns or allegations. The information we receive is triaged and identified as either a safeguarding alert or a safeguarding concern.
- 7.2 A CQC safeguarding alert is where shared services are the first agency receiving the safeguarding information and/or there is a need for CQC to take immediate action. In response, CQC will take immediate action by making verbal contact with an inspector/assessor to advise them of its receipt. The safeguarding alert is responded to by an inspector or

assessor on the same working day. The local council will be informed using the contact route which has been agreed in accordance with the local safeguarding procedures. Such alerts are relatively rare because in practice most service providers are aware of expectations to make a referral directly to the council.

- 7.3 A CQC safeguarding concern is other safeguarding information, where CQC is not the first agency receiving this information and there is no need for us to take immediate regulatory action. The information may already have been notified to the local authority or police. CQC will risk assess the information (whether directly coming to us or via the local council) to determine whether urgent regulatory action is needed. Safeguarding concerns are responded to within two working days of receipt of the information through the normal, existing processes.
- 7.4 In adult services, councils will in turn notify CQC of safeguarding information received by them in relation to services regulated by CQC. Councils will also notify CQC if information that we have passed on to them is not accepted as a safeguarding referral and the reason for this.
- 7.5 In adult services, councils will also notify CQC of the outcome of safeguarding investigations that relate to regulated organisations. These outcomes should be captured within the quality risk profile so that they are taken into account when making assessments of services.
- 7.6 If there is an indication of any criminal activity, CQC will also refer the information to the local police force in parallel with passing it to the local council.

8. Mental capacity

- 8.1 Legislation that contributes to safeguarding includes the Mental Capacity Act 2005, which provides a framework for decision making in relation to mental capacity and two legal offences of mistreatment and willful neglect in respect of people who are thought to 'lack mental capacity'. The five key principles within the Mental Capacity Act including the checklist concerning best interests decision making need to be embedded in everyday practice when safeguarding decisions are being considered. Some complex decisions may also need to be referred to the Court of Protection.
- 8.2. CQC has a statutory responsibility to protect the interests of people whose rights have been restricted under the Mental Health Act.
- 8.3 New deprivation of liberty safeguards under the Mental Capacity Act were implemented in April 2009, which apply to care homes and hospitals.

Councils and PCTs have a specific role to play and CQC has a monitoring role in relation to the operation of these safeguards. Independent Mental Capacity Advocates (IMCAs) were also established and may be used in cases concerning safeguarding adults.

- 8.4 CQC guidance on mental capacity, including the deprivation of Liberty safeguards can be found at;
(link to follow)

9. Collection of safeguarding data

9.1 CQC data collection will be incorporated in the supporting methodology that underpins this protocol and will include the following elements:

- Information on compliance with CQC's organisational requirements.
- Information that may contribute to national reporting (to be determined).
- Information that can assist with the monitoring of compliance and assessment of quality.
- Information about the provenance of abuse in regulated services.

Useful links

The following reports and links are helpful in providing additional information and context.

Adults

Department of Health, *No Secrets – Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse*, 20 March 2000

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4008486

Commission for Social Care Inspection (CSCI), *Safeguarding Adults: A study of the effectiveness of arrangements for safeguarding adults*, November 2008

[http://www.cqc.org.uk/_db/_documents/safeguard\[1\].pdf](http://www.cqc.org.uk/_db/_documents/safeguard[1].pdf)

CSCI, *Raising Voices: Views on safeguarding adults*, April 2008

http://www.cqc.org.uk/_db/_documents/raising_voices.pdf

CSCI, *Rights, risks and restraints: An exploration into the use of restraint in the care of older people*, November 2007.

[http://www.cqc.org.uk/_db/_documents/restraint\[1\].pdf](http://www.cqc.org.uk/_db/_documents/restraint[1].pdf)

UK Study of Abuse and Neglect of Older People 2007

The study came out of an Action on Elder Abuse submission to the Health Select Committee and was funded by Comic Relief and the Department of Health

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_076197

'Blowing the whistle on abuse of adults with learning disabilities' – Article in the *Journal of Adult Protection*

http://www.careknowledge.com/uploadedFiles/CareKnowledge_CMS/Public/Journals/Journal_of_Adult_Protection/JAP_2007/JAP92MayCalcraft.pdf

Partnership means protection? Perceptions of the effectiveness of multi-agency working and the regulatory framework within adult protection in England and Wales

<http://www.careknowledge.com/secure/contenttypes/doc.aspx?id=54420>

Partnership and Regulation in Adult Protection, 2007

This study was funded by the Department of Health (Modernising Adult Social Care Programme) between 2004-2007.

<http://www.sheffield.ac.uk/prap>

Improvement and Development Agency, Details of safeguarding vulnerable adults improvement programme for councils

<http://www.idea.gov.uk/idk/core/page.do?pagelId=14866608>

Clinical governance and adult safeguarding: an integrated process :

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_112361

Children

Children's Act 2004

http://www.uk-legislation.hmso.gov.uk/acts/acts2004/ukpga_20040031_en_1

Children's Act 1989

http://www.opsi.gov.uk/acts/acts1989/ukpga_19890041_en_1

Working Together to Safeguard Children

<http://www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/workingtogether/workingtogethertosafeguardchildren/>

Laming Report One Year On

<http://www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/workingtogether/workingtogethertosafeguardchildren/>

Effectiveness of New Local Children Safeguarding Board in England

<http://publications.dcsf.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DCSF-RB126&>