



social care
institute for excellence

Safeguarding and quality in commissioning care homes



The Social Care Institute for Excellence (SCIE) was established by Government in 2001 to improve social care services for adults and children in the United Kingdom.

We achieve this by identifying good practice and helping to embed it in everyday social care provision.

SCIE works to:

- disseminate knowledge-based good practice guidance
- involve people who use services, carers, practitioners, providers and policy makers in advancing and promoting good practice in social care
- enhance the skills and professionalism of social care workers through our tailored, targeted and user-friendly resources.

First published in Great Britain in February 2012
by the Social Care Institute for Excellence

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Introduction

This guide aims to support NHS and local authority commissioners of care homes to ensure that safeguarding is central to the commissioning process and a primary concern for residential and nursing care home providers.

The Government has identified six guiding principles on safeguarding which seek to increase the protection for those most at risk in society. Key points for commissioners are outlined here in relation to each of the principles.

About this guide

This guide aims to support NHS and local authority commissioners of care homes to ensure that safeguarding is central to the commissioning process and a primary concern for residential and nursing care home providers.

The guide sets out the framework that promotes good safeguarding practice in quality services. There are numerous functions within the framework, including the Care Quality Commission's role in assessing adherence to essential standards, local authority scrutiny, social work reviews and HealthWatch. The commissioner's role is to focus on the quality of services locally, or where out-of-area services are purchased, utilising information from partners. This should reduce duplication of effort and reduce the burden of monitoring on service providers.

The outsourcing of social care has led to increased emphasis on the role of commissioners and as personalisation promotes choice and control for individuals, the role is further developing. Commissioners will need to ensure that the local market offers quality and choice to individuals and that safeguarding and dignity are at the heart of service provision.

The guide includes key points for commissioners, links to related resources and practice examples that are believed to result in better outcomes. Good practice is difficult to define unless it is based on robust evaluation. SCIE encourages practitioners to share practice in a number of ways including the **Good Practice Framework**.

Empowerment

Key points for commissioners

- Commissioners include people who use services in all stages of the commissioning cycle – from service planning and specification to monitoring and evaluating service quality.
- Commissioners ensure that there is a choice of flexible, person-centred services available in the local area.

Commissioners ask care homes to demonstrate (as part of the prevention of safeguarding incidents) that:

- they include residents at all levels in the running of the home, including those who may lack capacity to make decisions
- they support residents to make their own decisions and to be involved in decisions about how care and treatment is provided in the home
- they are complying with the Mental Capacity Act 2005 – this includes ensuring that any decision taken on behalf of a person who has been assessed as lacking capacity (to make that decision), is made in their best interests
- they provide personalised services that promote choice and control for the individual whilst ensuring their safety
- residents and relatives have information on what they can expect from their service provider and information about complaints
- support, advocacy and representation are available to residents
- they empower residents to remain active, independent and linked to their communities
- risk assessment and risk enablement processes are clearly defined and effective.

Commissioners ask care homes (as part of the response to safeguarding concerns) to demonstrate that:

- individuals are supported during and after safeguarding investigations
- in the event of an alert, the individual concerned is at the centre of the safeguarding process and, wherever possible, they remain in control and make their own decisions.

Commissioners work with local authority service managers to ensure that:

- self-funders are offered assessment, information and advice
- people using services are empowered to protect themselves – they know how to identify and report abuse, neglect and harm

- residents and relatives are asked for feedback after they have made a complaint or experienced safeguarding procedures - did they feel listened to, do they feel safer? This is used to improve services.

'Duties to empower people to make decisions and be in control of their care and treatment is underpinned by the Human Rights Act 1998, the Equality Act 2010 and the Mental Capacity Act 2005.'

(DH, 2011)

Care home providers are required to meet Outcome 1 (Regulation 17) of the CQC Essential Standards of Quality and Safety, 'Respecting and involving people who use services'. People who are informed, in control of their lives and empowered to assert their views are less likely to be victims of abuse, neglect and harm and will be in a better position to speak out should it happen.

Personalisation

'Through personalisation commissioning is both rejuvenated and wholly transformed.'

(DH, 2007)

It is vital that commissioners develop their approaches in line with the aims and objectives of the personalisation agenda. Personalisation does not only apply to those who receive a personal budget - the principles can be applied across all social care services.

'At its simplest, personalisation, in the context of care homes, is putting the person who uses the service first in order to ensure that they can exercise choice and control over the way that services are provided. This is not a new concept for the best care homes. However, there is an expectation that health and social care services need to change to respond to the principles of personalisation as expressed in Putting People First. This requires services to be outcome-focused. Such services should ensure that peoples' needs are met in ways they choose, and not according to how professionals believe things should be achieved.'

(SCIE and the National Care Forum, 2009)

Integrated personalisation and safeguarding

'Safeguarding is promoting a more institutional approach of what not to do rather than encouraging a positive person-centred choice-sensitive culture in care.'

(Bowman, 2010)

There is a danger that safeguarding practices may stifle personalised approaches to care. If service providers seek to protect people at all costs, they are in danger of infringing the rights of individuals to choose what they do. It is important to note that protective measures, for example, restricting someone's movement in case they fall over, can be experienced as abusive by the individual.

It is important that personalisation is implemented in the context of safeguarding and vice versa. Those responsible for the development of both areas of practice should work together to achieve an integrated approach.

Risk assessment and risk enablement

Personalisation will have complex implications for safeguarding which will require a sophisticated and enabling approach to risk assessment. It is important that the social care workforce is supported to enable people to exercise choice and control whilst ensuring their safety and security. Risk assessment is a routine part of assessment, care planning and review but the increased emphasis on risk enablement presents new challenges. Social workers and care providers need to work closely with residents to ensure that the individual is enabled to make choices, even if those choices appear unwise and present an element of risk. If a person lacks capacity to make a decision, their close family or friends should be involved in making decisions in their best interests. Commissioners should include in their monitoring activities an assessment of the quality of risk assessment and risk enablement practice in care homes, including the outcomes for individuals.

If the care provider takes the view that a certain risk is too high, with a possibility that an individual who lacks the capacity to make a choice about their safety is being deprived of their liberty to reduce the risk, the provider must make an application to the local supervisory body.

Case study

Mrs Quin has dementia. She often wakes in the night and tries to leave the building in her night clothes, saying she has to get to school. The staff have, in the past, been able to distract her and get her to help make a cup of tea and then she has tended to go back to bed. However, now it is becoming necessary to lock the door to the exit as Mrs Quin becomes very agitated and adamant that she wants to leave.

The care home staff are concerned that locking Mrs Quin inside the building every night is a deprivation of her liberty. They refer to the local supervisory body to request authorisation to deprive her of her liberty and trained assessors are appointed. The assessors decide that it is a deprivation of liberty but that this is in proportion to the likelihood of harm to Mrs Quin and to the seriousness of that harm, and that it is the least restrictive option in terms of safeguarding her in this case.

See [Deprivation of Liberty Code of Practice](#).

See the section on the Deprivation of Liberty Safeguards (DOLS) in the [Legislative and Policy framework](#).

Involving people who use services

Recent research from the Joseph Rowntree Foundation on 'Involving users in commissioning local services' found that credible user involvement in commissioning is far from being achieved and that the skills, knowledge and practice of commissioners in this area are limited (JRF, 2010). The Department of Health (2007) recommend that citizens are involved in all stages of the commissioning process to ensure personalisation is written into contracts and person-centred services can be provided. The benefits of involving a wide range of stakeholders in the commissioning of services for older people have been demonstrated in a number of studies (Hughes et al, 2009). Commissioners should engage local groups of people who use services and carers and the voluntary organisations that represent them. They should also endeavour to involve people who are hard to reach by providing advocacy and support.

Resources

- [SCIE Guide 17: The participation of adult service users, including older people, in developing social care](#)
- [At a glance 17: Personalisation briefing: Implications for residential care homes](#)
- [At a glance 20: Personalisation briefing: Implications for nursing homes](#)
- [Report 20: Personalisation: a rough guide](#)
- [DH \(2007\): Commissioning for Personalisation: A Framework for Local Authority Commissioners](#)

- **SCIE Report 36: Enabling risk, ensuring safety: Self-directed support and personal budgets: Assessing risk**
- **SCIE Report 36: Enabling risk, ensuring safety: Self-directed support and personal budgets: Risk enablement panels**
- **Joseph Rowntree Foundation: Involving users in commissioning local services**
- **WHO-Paper final draft: Safeguarding vulnerable adults through better commissioning**

Protection

Key points for commissioners

Commissioners ask care homes to demonstrate that they:

- work as part of multi-agency partnerships to promote good safeguarding practice
- use a 'best interests' process to protect people who may lack the capacity to make decisions or raise concerns to protect themselves. Taking account of (and recording) all relevant circumstances including the person's past wishes, feelings and values; the views of people who know them; ways in which the person can be involved and whether the person may regain capacity at a future time
- provide access to advocacy
- understand the circumstances under which a local authority or PCT may appoint an Independent Mental Capacity Advocate
- can demonstrate robust recruitment procedures
- **have robust whistleblowing policies in place.**

There is a raft of **legislation and policy** alongside a regulatory framework to protect people at risk from abuse, neglect and harm.

Commissioners and providers should have a working knowledge of the legislative and policy framework for safeguarding. Commissioners should ensure that providers are clear about their legal responsibilities. Provider's policies, procedures and practice should be underpinned by legislation and national and local policy guidance.

It is important that commissioners take responsibility for safeguarding adults by ensuring that the care services they commission provide good quality and promote safety in the context of personalisation.

Many people living in care homes are unable to protect themselves. There should be robust systems in place to protect these individuals, underpinned by local multi-agency policy and procedures.

Identify people who may be at particular risk and develop strategies to address this

People with communication difficulties who, as a result of disability or cognitive impairment, may be unable to alert someone in the event of abuse neglect or harm:

- Provide advocacy and befriending services.

People who face language or cultural barriers:

- Develop culturally appropriate services.
- Make links with local community groups and volunteers.
- Provide interpreting services.

People from seldom-heard groups, e.g. older people who are gay who may face discrimination or may lack a voice within the community:

- Provide advocacy.
- Ensure support is available from representative groups.
- Identify discrimination and work with local partners to address it.

Self-funders:

- Provide information to ensure self-funders understand their rights and have access to local authority support such as assessment and advocacy.

People who are placed 'out-of-area':

- Ensure people have access to information and advocacy.

Resources

- **Legislation: Deprivation of Liberty Safeguards**
- **SCIE Dignity in Care Guide: Whistleblowing**
- **SCIE Report 39: Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse**

Prevention

Key points for commissioners

Commissioners:

- utilise the governance framework to promote good quality care and to gather intelligence from monitoring partners (e.g. Care Quality Commission (CQC)) to assess risk
- use information gathered during investigations and serious case reviews to inform future commissioning
- provide information to the local Safeguarding Board to assist the Board in its governance role
- identify services that are at risk of isolation from the wider community and address this - **isolation** presents a greater risk of abuse and institutionalised care as there are fewer people to notice and report it
- utilise feedback and complaints information from care homes
- give care home staff opportunities to give their views about the service to feed into the service monitoring process.

Commissioners ensure that care homes:

- incorporate safeguarding principles into **recruitment, induction and supervision**
- provide a safe environment and can demonstrate good practice on health and safety
- provide (or access) **good quality training** on quality standards and safeguarding for all care and support staff
- demonstrate good leadership and a culture of dignity and respect
- encourage staff to question poor practice, to develop learning and avoid a blame culture
- encourage connections with the wider community and access support (e.g. befriending) for people who are at risk of social isolation
- actively promote empowerment, providing education about risks and enabling residents to protect themselves
- properly support and monitor residents who may present a risk to others
- can demonstrate how they learn from mistakes
- can demonstrate good practice in administration of medication, falls prevention, pressure sore care, nutritional care and financial safeguarding.

Introduction

There are many approaches to the prevention of abuse, neglect and harm in care homes. These include the empowerment of residents, promotion of quality services, good leadership, training and support for staff. SCIE has explored these issues in **SCIE Adult Safeguarding: Prevention**

The local authority has lead responsibility for safeguarding in its area. Safeguarding issues are more likely to arise in services that offer poor quality care. Commissioners should therefore take an active interest in the quality of **all** care service provision in their area, including the integration of health and social care, whether or not it is commissioned by them and whatever the method of funding.

The Association of Directors of Adult Services (ADASS) assert that ‘it is important not to rely only on single means of quality assurance but to be able to triangulate information from different sources to be able to evaluate effectiveness, both of partner organisations as well as the partnerships’ (ADASS, 2011).

Providers should not be overburdened by additional requirements to those relating to registration and regulation. It is therefore important that commissioners work to ensure that all monitoring activity is aligned as much as possible. Commissioners should gather information from all the stages of the commissioning process and all the activities carried out by stakeholders to inform their work.

What others are doing - ideas you could use

Set up a team of Safeguarding Adults Practice Officers

Durham County Council and **County Durham Primary Care Trust** have set up a team of Safeguarding Adults Practice Officers, consisting of two nurses and two social workers. The team works with residential and nursing homes to respond to safeguarding incidents that have occurred in care homes and to work proactively with providers to reduce the number of safeguarding incidents. The team works collaboratively with providers to share best practice, promote Dignity in Care principles, and to ensure care practices within care homes in County Durham are of the highest quality (**The National Mental Health Development Unit**).

Resources

- **SCIE Adult Safeguarding: Prevention**

The governance framework

The mechanisms in place for defining services, setting standards and quality assurance should all consider safeguarding as core business. Commissioners should effectively utilise and coordinate the many strands of monitoring and quality assurance activity in order to assure quality of service and good safeguarding practice.

Joint strategic needs assessment

'Joint strategic needs assessments must take into account the outcomes from people's person-centred plans and how these affect all support and services across and commissioned by the local authority/PCT.'

(IDeA 2006)

Joint Strategic Needs Assessment (JSNA) is a requirement under the Local Government and Public Involvement in Health Act (2007) and underpins the processes for health and local authority commissioning.

The JSNA assesses local need with regard to health and wellbeing, which includes safeguarding. Local Area Agreements are developed to address the needs identified in the JSNA. The Health and Social Care Bill places greater emphasis on the JSNA with Local authority and GP consortia carrying out JSNA as part of the Health and Wellbeing Board; commissioners need to be central to this process. The Bill will introduce an obligation for health and social care commissioners to have regard to the JSNA in exercising their relevant commissioning functions (DH, 2010a).

The Public Services Bill aims to encourage commissioners to engage with social enterprise when planning public services. It proposes a requirement for local authorities to give greater consideration to economic, social or environmental wellbeing during the pre-procurement stage.

Local people should be part of the JSNA process to ensure that services are personalised, and that group and individual safeguarding concerns are addressed. Commissioners need to consider how to stimulate the local market to meet identified need. The assessment should consider the type and level of local need, for example some areas may have a high population of older people and may need to plan for the expansion of provision for dementia. The risks to local vulnerable people should be based on intelligence from the community and all local partners. There may be particular issues of crime and abuse locally that require specific responses and resource allocation. For example, there may be rogue traders targeting older people in the area or, with regard to care homes, there may be a spate of abuse allegations or complaints stemming from one home.

It is important, when analysing data, not to confuse an increase in safeguarding referrals with an increase in abuse. Such changes could be due to increased awareness or inappropriate referrals due to poor training. Data should always be analysed to ensure that judgements that inform commissioning decisions are transparent and have a sound evidence base.

What others are doing – ideas you could use

Map and analyse safeguarding referrals to help target resources

Haringey Council has recently carried out extensive mapping of safeguarding referrals. This has enabled it to analyse what the risks are and to target resources accordingly

Local Area Agreements

Areas of need and priority identified in the Joint Strategic Needs Assessment should form Local Area Agreements (LAA). Under the Local Government and Public Involvement in Health Act (2007) local named partners must cooperate to develop the agreement and agree local improvement targets. Commissioners, along with local safeguarding leads, should ensure that local safeguarding issues are considered in the LAA and targets are agreed to address those issues.

Service specification

'Clear and agreed outcomes for the individual ... provide a strong tool for contract monitoring; it is essential they are made clear at an early stage in the tendering process.'

(IDEA, 2006)

The service specification sets out the specific requirements of the service, in this case, the care home. Specifications are underpinned by the CQC Essential Standards of Quality and Safety but they should also take account of the needs and desired outcomes of individuals and address their safeguarding needs. The specification should form part of the contract between the commissioner and the service provider and should set out the methodology for service monitoring.

In addition to the needs of the individual, commissioners should consider including service requirements in the service specification. For example:

- adherence to local safeguarding procedures
- appointing a specified safeguarding lead
- having service-specific safeguarding procedures in place to fit with the local procedures
- ensuring residents and relatives know how to recognise and report abuse
- training all staff in safeguarding to an agreed standard
- having a whistleblowing policy.

The Improvement and Development Agency (now Local Government Improvement and Development) recommend that service specifications are linked to individual outcomes and priorities and that commissioners work with - and learn from - providers about what makes a clear and understandable service specification (IDEA, 2006).

What others are doing – ideas you could use

Appoint an independent chair to help you review cases

The Care Management Group (CMG) has a Safeguarding Board with an independent Chair. The Chair reviews every safeguarding case across the organisation to identify any lessons that need to be learned to improve practice and keep people safe.

CMG also does a lot of work to encourage people to express their views and grow in confidence so that they feel empowered to speak out if abuse is happening.

Local safeguarding adults boards

Multi-agency safeguarding boards are responsible for overseeing safeguarding activity in a local authority area. The board should ensure that safeguarding is integral to local health and social care provision ensuring policy and procedures are in place and providing training and information. The local authority takes the lead for the board but may appoint an independent chair. The board should be linked to other strategic partnerships and, in the future, health and wellbeing boards.

Membership should include:

- people who use services and carers
- the police
- health partners
- local providers
- voluntary organisations
- housing.

'Members from partner organisations should have a lead role in their organisation with regard to safeguarding adults and be of sufficient seniority that they can represent their organisation with authority, make multi-agency agreements and take issues back for action' (SCIE, 2010). Intelligence from all sources on local service provision should be available to safeguarding boards. The ADASS advice note to directors recommends that safeguarding boards carry out annual reviews of 'practice, impact, outcomes and how policies and protocols support good safeguarding practice' (ADASS, 2011).

The Law Commission review of adult social care (2011) (PDF) recommends that adult safeguarding boards are placed on a statutory footing and outlines the functions in part 9, Recommendation 44 (p136 137).

The Government have since announced that Safeguarding Boards will be made compulsory for councils and put on a statutory footing.

Health and wellbeing boards

'The core purpose of the new health and wellbeing boards is to join up commissioning across the NHS, social care, public health and other services that the board agrees are directly related to health and wellbeing, in order to secure better health and wellbeing outcomes for their whole population, better quality of care for all their patients and care users, and better value for the taxpayer.'

(DH 2010a)

The Health and Social Care Bill (2010), proposes the establishment of health and wellbeing boards on a statutory basis. Some local authorities have already set up such boards to bring together local authority, NHS, voluntary sector and user representatives to work in partnership to improve the health and well-being of the local population and encourage active, healthy living.

Safeguarding concerns should be prioritised by health and wellbeing boards and communication with the local safeguarding board should be established to ensure joined-up commissioning decisions between the parties involved.

Overview and scrutiny

'Ward councillors play a central role in the life of a local authority, as a conduit for discussion between the council and its residents and as a champion for local concerns.'

(IDEA and the Centre for Public Scrutiny, 2009)

Local Government and Public Involvement in Health Act (2007) gives powers to Overview and Scrutiny Committees to review and scrutinise local public service providers including care homes.

Scrutiny serves a number of functions:

- ensuring that decision making processes are clear and accessible to the public
- holding executives and local authority cabinets to account for their decisions
- promoting evidence-based policy making
- improving quality in public services
- ensuring stakeholders are able to influence policy.

Overview and scrutiny committees are made up of elected local authority councillors and they are responsible for holding local NHS and social care services to account. Methods of scrutiny differ between localities: as well as gathering information from police, safeguarding leads and other sources, councillors may visit people in care homes and talk to their relatives and care home staff.

The function of scrutiny is getting wider. Community-led scrutiny will involve increasing numbers of stakeholders. With increasing responsibilities for local authorities to ensure public health and wellbeing, the scrutiny function is uniquely placed to examine the effectiveness of local partnership working to ensure good practice in safeguarding.

What others are doing – ideas you could use

Ask your local scrutiny committee to carry out scrutiny under the theme of safeguarding in care homes.

Hertfordshire County Council has carried out intensive scrutiny on safeguarding. [See their report here](#) (PDF).

HealthWatch

‘A new independent consumer champion.’

(DH 2010)

The Health and Social Care Bill (2010) sets out plans to establish HealthWatch within the Care Quality Commission. Local Involvement Networks are already established and will become the local branches of HealthWatch.

HealthWatch, at a local level, will provide feedback from people that is vital to the commissioning process across health and social care. Ensuring that people receive the support they need to make choices and to complain when things are not right should improve outcomes. HealthWatch England will have powers to propose CQC investigations of poor services. It is important that commissioners are working with HealthWatch and CQC to ensure local concerns about poor services and safeguarding are addressed and inform future commissioning decisions.

More information about HealthWatch.

Quality assurance and monitoring

‘Commissioners should ensure good quality care. Service users and carers should not have to battle constantly for it!’

(service user)

Local authority and NHS commissioners are responsible for monitoring the standard of care in the services they commission. Commissioners, along with other regulatory functions, will need to move away from assessments of quality based on inputs and expenditure to develop outcomes-focused judgements about the value and quality of service provision. Commissioners should seek to develop good communication and share information with other authorities purchasing residential or nursing care in their area, the people placed in their area by other authorities and self-funders.

People who use services, their carers and representatives should be involved in monitoring. Commissioners should ensure people using services and carers have access to advocacy and support services to enable this to happen, in addition to the statutory requirement for local authorities to provide Independent Mental Capacity Advocate services.

Carers have a key role to play in the care and safeguarding of their loved ones who live in residential care. It is important that providers work in partnership with carers, relatives and close friends and that their expertise is recognised: they may be the first to notice when something is wrong. The perspective of people coming into the home from outside will be different and may be invaluable in the improvement of care standards.

Whilst keeping records on the number of safeguarding alerts and complaints may provide useful data, it is essential that monitoring activity focuses on outcomes - what people using the service want and value - and that the data is analysed rather than simply counted. Measuring outcomes remains a significant challenge and, as Bowman (2010) points out, compared with NHS outcomes measurement, 'care typically addresses long term multiple and diverse user profiles with widely varying outcome expectations and complex interdependencies that present a higher order of complexity.'

It is important that within local authorities there are clear lines of communication between those commissioning services at macro- and micro-levels and that intelligence from the CQC is used to inform decisions locally. Equally, local professionals should provide service quality information to CQC. Good communication between all parties with a responsibility for adult safeguarding should ensure that concerns about service quality and potential safeguarding issues are identified and addressed at the earliest opportunity. Commissioners should develop a strategy and links with different social work and health professionals, councillors, complaints officers, the Local Authority Deputy and CQC to coordinate monitoring activity. The aim should be to:

- align activities as far as possible
- minimise the burden on providers
- eliminate repetition in terms of contact with residents and relatives
- ensure intelligence data is shared and utilised efficiently.

What others are doing – ideas you could use

Identify key people or teams to monitor care home quality

In Northamptonshire, quality monitoring nurses have been appointed to monitor and develop care homes. Each nurse has 20 registered nursing homes they link with. The role is performance monitoring and service improvement. The nurses do a full monitoring visit at least once a year where, amongst other things, they meet residents and families and review care plans. They provide guidance and training and advise on best practice. The nurses are also supported by some specialist services e.g. care homes infection control advisor; pharmacy advisors; tissue viability nurses and dieticians. They liaise with a range of services including the local GP to identify any emerging concerns. They use a quality monitoring tool to identify where areas of improvement are needed in a particular care home or where there is a need across a number of providers.

Where there are higher levels of concern, they work intensively with the care home, local authority safeguarding and CQC to specify improvements. They work with residents and their families to ensure they are able to make informed choices. The PCT works very closely with the local authority and the Care Quality Commission to share concerns about poor quality homes.

This escalation plan identifies the roles of the various parties according to the level of concern.

AP D care home escalation structure

Resources

SCIE: [Defining excellence in adult social care services](#) (PDF)

Social Return on Investment

Social Return on Investment (SROI) is a method of assessing value to include aspects that are valued by stakeholders. SROI provides a means to:

- map the full range of outcomes of a service and consider other relevant outcomes
- value these outcomes in order to make a comprehensive and informed assessment about value for money
- frame the discussion on where these outcomes are relevant and how they may be included in commissioning.

Commissioners can use the principles of SROI to:

- improve services and their outcomes

- unlock potential in their supply base
- reconfigure services or change commissioning practice to better meet people's needs
- support or evidence links to policy objectives and avoid unintended consequences
- save money.

(Cabinet Office, 2009)

What others are doing – ideas you could use

Develop a local quality assurance framework to align monitoring activity and reduce the burden on providers

Slough Borough Council have developed a **Combined Quality Assurance Framework** (QAF) (Excel spreadsheet) to reduce duplication in monitoring activity

The **London Borough of Sutton** is implementing a Quality Assurance Framework for all commissioned services, based on that developed for Supporting People. It is based on a menu of eight core standards, three of which are applicable to care homes. The idea is not to duplicate CQC standards, but to complement them. CQC standards are considered to be a minimum requirement. The QAF is based on three levels (A-C), with providers self-assessing and providing supporting evidence, followed up by a validation visit from contracts officers. The QAF was successfully piloted with domiciliary care providers and further work aims to reduce the burden for both providers and commissioners.

Establishing a stakeholder group to review services as part of multi-agency quality auditing.

Resources

SCIE Knowledge Review: **Outcomes-focused services for older people** (PDF)

The SROI Network

A guide to Social Return on Investment (PDF)

Social work reviews

Some social workers and health professionals are responsible for supporting individuals to choose a residential placement. Their responsibility includes assessing the suitability of the placement and its ability to meet the needs of the individual and reviewing this at least once a year. The consideration of safeguarding issues should be central to the process.

A feedback loop on service quality, including any safeguarding concerns, should be established between social workers and commissioners. This should form part of the wider communication networks to share such information.

Complaints and feedback

'Service providers are required by CQC to have an effective complaints system in place for identifying, receiving, handling and responding appropriately to complaints and comments made by service users, or persons acting on their behalf, in relation to the carrying on of the regulated activity.'

(CQC 2009)

Complaints should be viewed as a positive mechanism for service improvement and part of the safeguarding process. Commissioners can use complaints information and outcomes to inform commissioning decisions.

Commissioners should be aware that residents and relatives, for a number of reasons, may be fearful of complaining or providing negative feedback and that they may have very low expectations of the service.

For more information and resources about complaints see [SCIE Guide 15](#).

What others are doing – ideas you could use

Use advocacy and volunteers to promote safeguarding and service quality, and reduce social isolation in care homes

Advocacy in Barnet 'ADVANCE' project is a local scheme where volunteers visit people in care homes who have no family to talk to them and listen to their concerns. They aim to place a volunteer advocate in each of the 120 care homes and day centres used by older people in Barnet.

Resources on prevention

- [SCIE: Adult Safeguarding - Prevention](#)
- [Department of Health JSNA Guidance](#)
- [The Centre for Public Scrutiny](#) promotes the value of scrutiny and accountability in modern and effective government and supports non-executives in their scrutiny role.
- [IDeA: Councillors briefing on safeguarding adults](#)
- [IDeA: Adult safeguarding scrutiny guide](#)
- [IDeA: The role of district councils in safeguarding adults](#)
- [SCIE: Defining excellence in adult social care services](#)

Proportionate responses

Key points for commissioners

Commissioners work with local safeguarding leads to ensure that multi-agency policy and procedures:

- support proportionate responses to abuse alerts
- promote agreed understanding of good safeguarding practice among all partners
- are clear about when it is, and is not, appropriate for a provider to lead an investigation.

Commissioners work with local safeguarding leads to ensure care homes can demonstrate that:

- they are following multi-agency procedures
- responses to alerts are based on good decision making and proportionality and that the process is transparent
- they understand what constitutes a 'complaint' and what should be treated as a 'safeguarding alert'
- they are clear about what is poor, acceptable and best practice in safeguarding based on the **Essential Standards of Quality and Safety**.

Commissioners work with local safeguarding leads to ensure:

- that care homes cannot evict people as a result of them complaining about the service
- the quality of internal investigations and outcomes is monitored
- that data from investigations is utilised to improve safeguarding responses.

It is important that the response to a safeguarding alert is in proportion to the alleged incident. For example, an allegation that one resident has stolen £5 from another would not warrant the same level of response as an allegation of rape. Many authorities have provided some guidance by way of 'response levels' within their multi-agency procedures. Commissioners, with support from their safeguarding lead, should ensure that providers are consistently making good decisions that are person-centred and proportionate.

Overzealous responses could result in reluctance to raise concerns for residents and staff. Multi-agency procedures should make clear when providers should raise an alert and what information should be shared between the commissioner, the provider and CQC. Risk assessment processes should be integral to this process.

The person who is at risk of or experiencing abuse should be at the centre of the decision making process in safeguarding procedures and should understand the

reasons for decisions they do not agree with. If a person lacks the capacity to make decisions about their safety, their family or close friends should be included in decisions about their best interests. If there are no family or friends, an Independent Mental Capacity Advocate should be appointed.

Responding to allegations of abuse, neglect and harm

Leading the investigation

In most cases following the referral, the provider should be in a position to carry out an investigation into alleged abuse, neglect or harm. There may be cases where it is better for an external investigator to be appointed: for example, this may be the case for a family-run business where institutional abuse is alleged, or where the manager or owner of the service is implicated. The circumstances where an external investigator would be required should be set out in the local multi-agency procedures. All investigators should have received appropriate training.

Following local guidance

In the event that abuse, neglect or harm happens or is suspected, providers should be bound by contractual agreements to follow the safeguarding policy and procedures of the local authority in which they are situated. If there are cross-border complications regarding responsibilities, reference should be made to the [ADASS cross boundary protocol](#) (PDF).

Staff suspension

The cost of paying staff who are suspended for long periods of time due to protracted police and local authority investigations can be an issue for providers, especially small providers with limited resources. Such situations are often outside the provider's control. It may therefore be helpful to discuss in advance, and include in the contract if appropriate, when it may be reasonable for the commissioner to share a proportion of this financial burden.

Dealing with malicious alerts

Malicious alerts by disgruntled staff members, residents or their relatives can cause significant problems for providers and can impact significantly on employees who are wrongfully accused. Employees can be affected both professionally and personally. They can become isolated from colleagues and friends at work and there may be long-term impacts such as depression, loss of self esteem and impact on career progression.

There should be a prompt response to all allegations, not least to minimise the effect on the organisation and the individuals involved. Clear processes for dealing with allegations as set out in local multi-agency procedures, as well as thorough scrutiny of evidence, will help to identify those that are malicious. Investigators should be aware when considering witness statements that there may also be malicious intent on the part of witnesses.

If it is decided that there is no case to answer and there is suspicion that the allegation is malicious, this should be stated and the reasons recorded. If it can be evidenced that

their intent was malicious, the person making the allegation should be subject to appropriate disciplinary procedures. Attempts to discredit the organisation with false information could be deemed gross misconduct under the terms of their contract.

Dealing with multiple alerts

Where numerous concerns are raised about a service in a short period of time, it is important that there is a prompt, well coordinated and efficient response from the safeguarding team and commissioners in partnership with CQC. Contracts should include an agreed framework for dealing with multiple alerts. The priority must be the safety of residents in the home.

Institutional abuse may be the underlying cause of multiple alerts. 'Institutional abuse occurs when the routines, systems and regimes of an institution result in poor or inadequate standards of care and poor practice which affects the whole setting and denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults at risk' (SCIE, 2010). Institutional abuse has been identified by stakeholders as one of the **most commonly occurring safeguarding issues** in residential care.

In order to ensure that environments that may bring about institutional abuse are not tolerated, commissioners should ensure that staff are well trained, supervised and supported. Quality assurance processes should assess the quality of management and ensure there are adequate staffing levels and person-centred practice.

Organisational culture is often responsible for institutional abuse, neglect and harm. Commissioners should ensure that employees have information about whistleblowing and the external support available from **Public Concern at Work** and other organisations such as unions.

Commissioners must work to prevent institutionalised practice in the first place and, if it is identified, they should in the first instance address it and identify how it has developed to inform future commissioning practice. A knee-jerk response to place an embargo on admissions should be avoided as this can have a negative impact on the wellbeing of existing residents. An embargo can bring about financial difficulties for the home, in some cases threatening closure. This could force people to move when they do not want to and could lead to a shortage of provision in the area. Bowman (2010) argues that 'safeguarding referrals are being used as a regulatory lever' and highlights that 'the consequent diminished income may jeopardise investment in service development.' Commissioners should make every effort to work with the provider to address the issues in the first instance.

Embargo on placements

In cases where standards in a home are of grave concern and quality is consistently poor despite help and support, it may be necessary for commissioners to stop placing people in the home until it improves. In certain circumstances where providers are failing to meet essential standards, CQC may also put restrictions on placements to a home.

An embargo should only be considered as a last resort where there are serious and ongoing concerns about the safety of residents which cannot be addressed by any other means. Commissioners should have offered all possible support and assistance to the

organisation to help them improve prior to taking such serious action. The safety of existing residents should be prioritised by all concerned.

Decisions not to make further placements in a home should be clear and transparent for the service provider and for the purposes of scrutiny. A silent embargo, where a decision not to make further placements is not communicated to the provider, is not acceptable practice. The policy for placing an embargo should be agreed as part of the contract and this should include a policy for information sharing with residents and relatives and other authorities funding places in the home. The reputation of a care home should not be based on hearsay or opinion. Only facts should be shared in an open transparent way.

Commissioners need to recognise the impact an embargo will have on a home's business and potential ongoing viability. They must be clear about the objectives of issuing the embargo and the conditions under which it will be lifted: there should be a clear plan of action for the short term and for long-term monitoring once it is lifted.

In exceptional circumstances, and where all other avenues have been exhausted, there may be a need to decommission services. In such circumstances, the needs of people using the service should be paramount. To some residents, the risks related to moving may be high. Older people in particular may not cope well with being moved without proper preparation and every effort should be made to ensure individuals remain in control and have choice about what happens to them. Best Interests meetings, including the relevant family members or friends (and in their absence an Independent Mental Capacity Advocate) and professionals, should be held for those unable to make decisions about moving as the consequence of a home closure.

What others are doing – ideas you could use

Develop a tool to help staff determine the seriousness of safeguarding alerts

Hampshire County Council has developed a **multi agency level of seriousness tool**.

Resources

- **SCIE: Short-notice care home closures: a guide for local authority commissioners**
- **Yorkshire and the Humber Joint Improvement Partnership: Decommissioning and reconfiguring services: a good practice guide for commissioners of adult social care(PDF)**
- **ADASS: Safeguarding Adults: A National Framework of Standards for good practice and outcomes in adult protection work (PDF)**
- **ADASS cross boundary protocol**
- **Short-notice care home closures: a guide for local authority commissioners**

Partnership

Key points for commissioners

Commissioners:

- work with residents, carers and the local community to develop services that offer quality and choice
- work in partnership with providers to improve service quality and reduce risk
- hold regular provider forums to discuss current issues and share concerns and good practice
- support providers with common challenges e.g. understanding the Deprivation of Liberty Safeguards
- actively promote contact with small providers and those providing for self-funders. Where there is resistance to partnership working, commissioners work jointly with CQC to encourage it
- identify gaps in the local market and work with local providers to develop services in line with local need
- ensure that the local authority planning department alerts commissioners to new providers planning to offer services in the area so that partnership arrangements can be established
- ensure that care homes that are not online are supported to '**Get Connected**'.
For further information
- maintain regular communication and a feedback loop with out-of-area providers
- ensure small scale and user-led providers are offered support with safeguarding training.

Serious Case Reviews frequently find that agencies failed to work in partnership, to communicate well and to share the right information at the right time. Partnership working is essential to good safeguarding practice. It will involve clear lines of communication and accountability between the commissioner and:

- people using services and their carers
- providers - managers and frontline staff
- CQC
- the NHS
- safeguarding teams and social work staff
- police.

Partnership working with providers

'The primary key is the growth of a culture of trust across the commissioner-provider boundary, and an understanding that our dialogue about these matters must always include those people who are most affected – local people who need support.'

(Tyson, 2007)

Good safeguarding practice in commissioning is dependent on good working relationships between commissioners and providers, including partnership working, trust and respect. Poor relationships between care providers and commissioners are all too common and can lead to poor outcomes for people using the service. There is, however, evidence that such relationships are improving (Matosevic et al, 2008) with most local authorities having a dialogue with providers and involving them with the improvement and development of services (Hughes et al, 2009). Every effort should be made to develop positive communication and to address differences and concerns, including those relating to resources that potentially affect service quality. Local authorities are no longer the main providers of residential care and expertise has developed in the independent and voluntary sectors - commissioners should acknowledge this shift in expertise.

Partnerships should also include providers of nursing care and joint commissioning arrangements with NHS commissioners. Partnerships should ensure a continued focus on outcomes. As the Audit Commission (2009) found: 'Organisations can usually describe how they now work better together but often not how they have jointly improved user experience.'

See '[Key points for commissioners](#)' above

What others are doing – ideas you could use

Hold regular forums with service providers

The [London Borough of Sutton](#) holds regular forums for all local providers including those where placements are purchased 'out of borough'. Providers are invited to set the agenda for future forums, ensuring topics are relevant and providers are fully involved. Safeguarding and training are standing items on the agenda. Sutton holds an annual Safeguarding Vulnerable Adults conference that is well attended by commissioners, social workers, providers and third sector organisations.

Develop a strategy for managing the performance of service providers
Caerphilly Area Adult Protection Committee has developed a [Provider Performance Monitoring Protocol](#) (MS Word)

Resources

- **SCIE Dignity in Care Guide: Complaints**
- **IDeA: Early messages from peer reviews**
- **Social Care TV - Safeguarding adults: preventing abuse through community cohesion, communication and good practice**
- **Social Care TV - Safeguarding adults: lessons from the murder of Steven Hoskin**
- **In Control Commissioners and Providers Together: the Citizen at the Centre**
- **Department of Health (2007) Commissioning framework for health and well-being**

Supporting the workforce

'The failure of care delivery by low paid staff is often through a combination of poor leadership (including that of commissioners as well as service management) and ignorance, rather than malicious intent by care [workers].'

(Bowman, 2010)

Frontline staff, in this case residential care workers and support staff including drivers, cooks and domestic staff, are vital to good safeguarding practice. They must be well trained and aware of safeguarding issues if they are to protect vulnerable people in their care.

Commissioners and providers have a responsibility to ensure that social care and support staff are enabled to do their job well. Workers that are treated well are likely to provide better outcomes for residents. Studies into care work for people with learning disabilities (Thomas and Rose 2009; Bromley and Emerson, 1995; Gilbert and Osborne, 1989) have shown a direct correlation between staff behaviour (resulting from stress and low morale) and the quality of service provided. Furthermore, a positive working environment with an open and honest culture that avoids blame is likely to be safer for people using the service. The relatively high turnover of care staff as a result of these problems can be very costly. Retention of care work staff is critical to the quality of care provision.

What others are doing – ideas you could use

Provide free or subsidised safeguarding training for providers in your area

Have a protocol in place for dealing with multiple alerts and allegations of institutional abuse.

Reading Borough Council has developed a **Protocol for Management of Institutional Safeguarding Adults Investigations**

The **London Borough of Sutton** offers safeguarding training free to all providers at three levels:

- Level 1: online training for providers (can be completed at council offices if they are not online)
- Level 2: a one-day course
- Level 3: a two-day course specifically designed for managers and deputies, covering investigation procedures. This is the same training that local authority staff undertake.

Resources

- **Bournemouth University and Learn to Care National Competence Framework for Safeguarding Adults**
- **SCIE elearning resource: Managing risk, minimising restraint: Challenges, dilemmas and positive approaches for working with older people in care homes**

Developing the market

People want good quality local services - they do not want to have to accept poor quality service provision because there is nothing else available. Having no choice or control or having to accept poor quality services can be experienced as abusive. It is therefore important for commissioners to ensure the local market offers a range of flexible and diverse services. Evidence suggests that progress in this regard is limited (Hughes et al, 2009).

To achieve this, and to meet needs identified in the Joint Strategic Needs Assessment, commissioners will need to work with citizens, local partners and user-led organisations to set up services and support new innovations responsive to identified and diverse needs. Commissioners will need to develop the skills and tools to assess the potential of new, unconventional service responses.

Evidence suggests that small providers and user-led organisations are vulnerable to being squeezed out by large corporate ones (Hughes et al, 2009), resulting in an impoverished rather than diversified selection of care provision for the 'consumer'. Commissioners need to actively ensure that smaller, flexible and user-focused services

can survive such threats. Some authorities have sought to address these issues through market management (Drake and Davies, 2006).

What others are doing – ideas you could use

Explore ways to move away from block purchasing

Hartlepool has taken a proactive approach to developing the market. They offered a development loan to an organisation that provided a day centre for people with Alzheimer's that had previously been block purchased. The organisation was given funds to develop the service to meet individualised needs with an agreement to pay the council back from individual contracts over time (Dittrich, 2008).

Resources

- **SCIE Guide 36: A commissioner's guide to developing and sustaining user-led organisations**
- **SCIE At a glance 25: Commissioning to develop and sustain user-led organisations**

Accountability

Key points for commissioners

Commissioners work with safeguarding leads to ensure:

- there is clarity about safeguarding responsibilities with all partners
- roles and responsibilities for all agencies for responding to alerts are clearly set out in local multi-agency safeguarding procedures
- all local partners participate in the local Adult Safeguarding Board
- coordination of intelligence from all partners including the CQC, police and health professionals on commissioned services for quality and risk assessment.

Commissioners ask care homes to demonstrate:

- that they are compliant with contracts and CQC quality standards
- that they provide strong leadership and effective staff supervision
- that staff are well trained and competent
- that staff understand safeguarding procedures and know what action to take in the event of a safeguarding alert
- that staff understand their responsibility to raise concerns about poor practice, abuse, neglect and harm.

It is often said that adult safeguarding is everybody's business and that increased awareness will reduce the risk to those vulnerable to abuse. The Human Rights Act (1998) places a duty on public agencies to intervene proportionately to protect the rights of citizens (ADASS, 2005). Everyone from the commissioner to the front line worker has a responsibility for ensuring service quality and safety. However, it is important that lines of accountability are clear.

Serious Case Reviews

In the event of a death or serious harm, a serious case review should be held to ensure retrospective learning, accountability and transparency by examining what went wrong and addressing identified systems failures. Commissioners and providers must participate in case reviews concerning a death or significant harm in residential care.

Definitions

What is commissioning?

'Working together with citizens and providers to support individuals to translate their aspirations into timely and quality services which meet their needs; enable choice and control; are cost effective; and support the whole community.' (CSIP 2008)

The commissioning landscape is changing rapidly with renewed emphasis on personalisation, diversification of provision and better outcomes. The role for commissioners is rooted in a set of principles around enabling and empowering citizens and includes '... ensuring mechanisms are in place to protect people from abuse and undue risk' (CSIP 2008). Commissioning takes place at strategic, operational and individual levels. The underlying principles, however, remain the same. Whether a commissioner is making strategic decisions about local need or a social worker is working with an individual to find the right place for them to live, the point is that the service needs to meet the individual needs of the person -that includes enabling them to have choice and control **and** keeping them safe.

The Government has made radical proposals that will impact directly on health and social care commissioning. The Health and Social Care Bill proposes the abolition of PCTs and introduces GP commissioning through consortia. Health improvement functions will transfer to local authorities.

The Green Paper '**Modernising Commissioning**' (Cabinet Office, 2010) (PDF) makes proposals to increase the drive to further diversify health and social care markets through new models of public service ownership. The aim is to promote shared ownership through employee and user-owned organisations and move away from large scale contract delivery. Chanan and Miller (2011) however have pointed out that the proposals confuse the running of public services with the aim of strengthening communities. Competition in social care markets may work against the need to ensure safeguarding as competing providers may be reluctant to develop communication and work in partnership. User-led organisations are likely to be more willing to facilitate risk taking than traditional services. Commissioners will need to be supportive of this whilst maintaining good safeguarding practice.

Commissioners need to ensure that safeguarding is not compromised by further fragmentation of social care provision and instability resulting from such sweeping changes. Responsibility for safeguarding is shared across agencies. Commissioners and providers need to ensure there is a shared understanding of responsibilities and good partnership working with **the new consortia**, the police, providers and other local partners through the local adult safeguarding board and in day-to-day practice.

Resources

- [DH Safeguarding Adults: The Role of Health Service Practitioners](#)
- [Handout 1 - The IPC Commissioning Approach](#)

- **A Framework for Local Authority Commissioners** was developed as part of the Putting People First agenda of the previous government and the drive to implement personalisation (DH, 2007). The framework offers a progressive approach to commissioning within the context of personalisation.
- The NHS information Centre offers another variation in the **Commissioning Cycle**.

Types of commissioning

Block contracts

A number of places are purchased from a provider. This practice can work against the personalisation agenda as individuals are encouraged to take up places that are already paid for rather than choosing their own.

The Department of Health has asked local authorities to scale down their use of block contracts and avoid entering into new ones (Dittrich, 2008). However, block contracts have powerful benefits including security of income for providers and economies of scale for purchasers. These factors continue to ensure a place for block contracts in commissioning despite the policy shift towards personalisation and individualised service provision. Recent funding cuts and potentially increased administrative costs as economies of scale shift (Dittrich, 2008) are likely to further inhibit the progression away from block purchasing arrangements. If choice and control is to become a reality for people in care homes, commissioners will need to work to reduce block contracts. In the interim, where they cannot be avoided, contracts should include specific requirements to provide flexible, person-centred services. Commissioners should ensure that the impact on stability for providers and conditions of service for staff are addressed as block contracting practices are reduced.

Spot contracts (or spot purchasing)

A single placement is purchased by or on behalf of an individual, usually with support from family member, social worker or community health professional.

Self-funders

If councils are to be able to play an effective role in shaping the local care market they need to better record their contacts with all people requesting care and support. By ensuring that customer facing staff are recording all contacts (and providing people with accessible, accurate and appropriate information and advice) councils can monitor the current self defined needs of self-funders and the nature of these contacts.)

Institute for Public Care, 2011

Self-funders are people who are not entitled to health or social care funding and who consequently pay for their own residential or nursing care. Estimated to be around 170,000 people, this group represent almost half of registered care home places in England (Institute for Public Care, 2011). Under the Human Rights Act, the local authority has the same safeguarding responsibilities towards these individuals as it has to those for whom it provides funding. All self-funders are entitled to assessment, information, advice and safeguarding services.

Self-funders may be at greater risk of abuse if they are unaware of their rights and if they lack support from family members to complain if there is a problem. It is important, therefore, that commissioners ensure that self-funders have equal access to support, information and advocacy. This should be provided by social work teams for people considering residential care and by care homes providing it. As this group may previously have no contact with the local authority these services should be promoted through other services, e.g. hospitals and GP surgeries.

Local Authorities will often have to pay for the care of self-funders when their own funding runs out. It is therefore in the interests of commissioners to ensure individuals are supported to make choices about good quality care. Self-funders represent an increasing proportion of social care consumers. Their needs, views and feedback represent a valuable resource for commissioners.

Direct payments

As yet, Direct Payments are not available to fund residential or nursing care. Despite this, commissioners should strive to ensure that individuals have a choice of care homes in the local area.

Out-of-area placements

Where a commissioner purchases care provision outside of their local area, either through individual or block contracts, there may be uncertainty about safeguarding responsibilities. The commissioner retains the responsibility to ensure that safeguarding is central to the contract and quality assurance monitoring. In the event of a safeguarding alert, however, there should be clear agreement between the commissioner, the provider and the hosting authority as to safeguarding responsibilities. In such cases the Association of Directors of Adult Social Services' [cross boundary protocol](#) should be followed.

Resources

- [Bradford and Airedale NHS Safeguarding Commissioning Policy](#)

What is safeguarding?

'Safeguarding means protecting peoples' health, wellbeing and human rights, and enabling them to live free from harm, abuse and neglect.' (CQC, 2010)

Current policy for the protection of vulnerable adults is set out in [No Secrets](#) (2000) and is currently under review. Until recently, practice known as 'adult protection' has tended to focus on responding to abuse that has occurred or is suspected. However, the concept of safeguarding shifts the focus more on prevention and enabling people to protect themselves.

The Human Rights Act (1998) places a duty on public agencies to intervene proportionately to protect the rights of citizens (ADSS, 2005). People in residential and nursing homes may be particularly vulnerable due to cognitive impairment or communication difficulties. Commissioners and providers must ensure that abuse, harm

and neglect of 'adults at risk' is actively prevented and that, should it occur, appropriate and proportionate responses are made.

Every local area must have its own multi-agency policy and procedures in place and these should outline an agreed understanding of the difference between abuse, neglect and harm and poor practice. It should be clear to providers when to report a safeguarding issue and when to address an issue through other means such as supervision, team meetings and staff training.

A multi-agency partnership approach to safeguarding is essential. All the partners, including commissioners, the police, the Care Quality Commission and local safeguarding teams, have a responsibility to work together and share information to protect people in their area. The multi-agency approach should address prevention as well as responding promptly to safeguarding alerts.

The definition of a vulnerable adult is currently set out in No Secrets (2000). The Law Commission review (2011) however has suggested the following revised definition of an 'adult at risk':

Adults at risk should be those who appear to:

- have health or social care needs, including carers (irrespective of whether or not those needs are being met by services)
- be at risk of harm
- be unable to safeguard themselves as a result of their health or social care needs.

Resources

- **Law Commission Review of social care**
- **Response level tables from Hampshire**
- **Department of Health guidance: No Secrets**
- **SCIE Report 39: Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse**

Legislative and policy framework

No Secrets

No Secrets is the current Department of Health guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse in England. It will remain as statutory guidance until at least 2013. In May 2011 the government published a **Statement of government policy on adult safeguarding**.

The statement sets out the six principles of safeguarding which have 'taken account of the responses to the public consultation on "No Secrets" in 2008/0, the implementation of the Mental Capacity Act 2005 and the drive towards increasing personalisation of services.' The government intends to legislate to make Safeguarding Adults Boards statutory.

Local authorities have the lead responsibility for developing local multi-agency safeguarding procedures and ensuring implementation with key partners including the police, health and housing. Adherence to local procedures should form part of the contractual arrangements with care home providers. Providers may also develop more detailed guidance for their staff.

Safeguarding Vulnerable Groups Act (2006)

Following the Soham murders, the Bichard Inquiry (2004) recommended the development of a central service to bar unsuitable people from working with children and/or vulnerable adults. The Safeguarding Vulnerable Groups Act was passed as a result and the **Independent Safeguarding Authority** was established.

Under the Act, employers must not knowingly employ people who are barred from working with vulnerable adults and they must refer people to the vetting and barring scheme if they have been dismissed for harming a vulnerable adult.

The Independent Safeguarding Authority

The **Independent Safeguarding Authority (ISA)** was created to implement the Safeguarding Vulnerable Groups Act 2006, to help prevent unsuitable people from working with children and vulnerable adults. It took over the functions previously under:

- the Protection of Vulnerable Adults (PoVA) list
- the Protection of Children Act (PoCA) list
- List 99 (a list of people considered unsuitable for work with children, held by the Department for Children, Schools and Families).

The coalition government is reviewing the implementation of the scheme and will make recommendations in 2011. The **Protection of Freedoms Bill** proposes to reduce the scope of the vetting and barring scheme, removing the concept of both 'a vulnerable adult' and 'a specified place'. The bill proposes that the activity being carried out

(broadly encompassing health and social care activity) will bring individuals into the scope of the scheme. It will apply to both paid workers and volunteers and will exclude family members and personal relationships. Commissioners should ensure that care homes understand their duty to refer to the ISA any person who has harmed or put at risk a vulnerable adult.

Mental Capacity Act (2005)

The Mental Capacity Act (2005) applies to everyone involved in the care, treatment and support of people aged 16 and over living in England and Wales who are unable to make some decisions for themselves.

Deprivation of Liberty Safeguards (DOLS)

'The deprivation of liberty safeguards mean that a 'managing authority' (i.e. the relevant hospital or care home) **must seek authorisation from a 'supervisory body'** in order to be able lawfully to deprive someone of their liberty.' (Ministry of Justice, 2008)

Care home managers and staff should have an understanding of the Deprivation of Liberty Safeguards. The DOLS apply to people who:

- are aged 18 or over
- are living in a care home or long term hospital
- do not have the capacity to make a decision about this aspect of their liberty and their care.

Care homes staff should be aware of the types of circumstances in which they should make an application for deprivation of liberty to be authorised. Care homes are required to notify the Care Quality Commission of any applications and the outcome of the application.

Commissioners should be alert to the possibility that they are commissioning services which may deprive an individual of their liberty. In some cases this may be in the person's best interests; in others this could be a breach of their human rights. Particular attention should be given if a person:

- is restrained, either physically or by the use of medication
- requires a minimum of 1-1 support when out
- has their contact with family or friends restricted, even if this is to protect them from abuse.

Deprivation of Liberty Code of Practice

At a glance 43: **The Deprivation of Liberty Safeguards**

Dignity in Care

The Dignity in Care campaign has sought to improve standards in the way that people are treated in care services. It promotes services that are person-centred and seeks to ensure that people are treated as individuals and with respect. Where people are respected as individuals, given choice and control the risk of abuse, neglect and harm occurring is reduced.

SCIE Guide 15: **Dignity in Care**
Join the Dignity in Care Network.

ADASS Safeguarding Adults National Framework

The Association of Directors of Adult Social Services (ADASS) published '**Safeguarding Adults: A National Framework of Standards for good practice and outcomes in adult protection work**'(PDF)

A further **Advice Note** (PDF) was published in April 2011 to support directors in their leadership role in adult safeguarding.

The Equality Act

The Equality Act simplifies and consolidates UK discrimination legislation. It applies to local authorities and service providers. Unfavourable treatment due to discrimination constitutes abuse. Equality legislation is therefore an important tool in preventing or responding to this type of abuse.

A Summary Guide for public sector organisations.

The new **public sector Equality Duty** came into force on 5 April 2011. Public authorities are required to have regard to the need to tackle discrimination and promote equal opportunities.

The Law Commission review of adult social care

In 2010 the Law Commission published a consultation paper for the review of adult social care. It has now published its recommendations. The review separates 'safeguarding' from 'adult protection':

'Whilst safeguarding relates to the prevention of abuse and has a broad focus that extends to all aspects of a person's general welfare, adult protection refers to investigation and intervention where it is suspected that abuse may have occurred.'
(Law Commission, 2011)

Part 9 (p109) of the full report focuses on adult protection. **Read the report.**

It proposes a number of measures to clarify and strengthen the legislation around safeguarding. The recommendations include that:

- local social services authorities have the lead coordinating responsibility for safeguarding
- there should be an enhanced duty to cooperate between relevant organisations in adult protection cases
- adult safeguarding boards should be placed on a statutory footing.

The Government has since announced that Safeguarding Boards will be made compulsory for councils and put on a statutory footing.

Local authority policy and procedures

All local authorities should have developed multi-agency procedures for safeguarding under the No Secrets guidance. In a number of areas, local authorities have worked to develop cross-boundary procedures. See the [London multi-agency policy and procedures](#) (PDF).

Commissioners should assess adherence to multi-agency procedures when monitoring the quality of care home provision.

The Care Quality Commission

Under the Health and Social Care Act (2008) all health and adult social care providers are required to register with the Care Quality Commission (CQC) if they provide 'regulated activities'.

Information on regulated activities

CQC [Essential Standards of Quality and Safety](#) standards are set out in **28 'outcomes'**. Providers of 'regulated activities' ([link](#)) **must** comply with these standards. In particular 'Outcome 7' covers safeguarding people who use services from abuse. However, **all** the CQC outcomes are fundamental to preventing neglect, harm and abuse.

Commissioners must ensure that providers have robust systems to assure compliance with the standards and that providers inform them of any risks of non-compliance. Commissioners should utilise all the information available from CQC on services they commission as part of their monitoring and decision making processes.

Guidance for NHS providers on how to use their Quality Risk Profiles (PDF)

The Criminal Records Bureau

The CQC requires all providers to carry out enhanced Criminal Records Bureau (CRB) checks on all employees applying to work with vulnerable adults. The [Protection of Freedoms Bill](#) proposes to make CRB checks 'portable' so that workers can change employers without having to be checked each time. However, employers will be able to

sign up to be alerted of any changes. The CRB should form part of the routine recruitment process in a care home.

Professional registration

Many professionals, including doctors, nurses and social workers, are required to register with a professional body. These organisations aim to protect the public by setting and maintaining standards within the professions, by publishing codes of practice (or conduct), registering individuals and monitoring continuous professional development. Commissioners should refer any concerns about professionals working in care homes to the professional body as well as to CQC.

SCIE Dignity in Care Guide resources (on the page, under 'Resources supporting Stand up for Dignity' click on Complaints, scroll down to professional bodies)

Office of the Public Guardian

The Office of the Public Guardian supports the Public Guardian to protect people who lack capacity to make decisions. It does this through a number of mechanisms, including managing a register for Lasting Powers of Attorney and Enduring Powers of Attorney. Such powers are awarded by the **Court of Protection** in line with the Mental Capacity Act.

Commissioners should work with the Public Authority Deputy and care home providers to ensure that any safeguarding concerns are highlighted. Concerns may be about people who need referring for support and representation, but they could also be about people who are already represented but where the 'deputy' or 'appointee' does not appear to be acting in the person's best interests.

Resources

- **SCIE resources on the Mental Capacity Act (2005)**
- **SCIE Guide 32: Practice guidance on the involvement of Independent Mental Capacity Advocates (IMCAs) in safeguarding adults**

References

- Audit Commission (2009) Means to an end: Joint financing across health and social care
- Bowman, Dr C, (2010) Quality improvement, personalisation and regulation in care homes, Journal of Care Services Management, Vol. 4 No. 4 pp302–309
- Cabinet Office (2010) **Modernising commissioning: Increasing the role of charities, social enterprises, mutuals and co-operatives in public service delivery**, (PDF) Green Paper, Dec 2010.
- Cabinet Office (2009) **Social return on investment -and commissioning, How commissioners can use SROI to achieve better results.**
- Care Quality Commission (2009) Guidance about compliance, Essential standards of quality and safety
- Care Quality Commission (July 2010), Our safeguarding protocol
- Department of Health (2006) Our Health, Our Care, Our Say
- Department of Health (2007) **Commissioning for personalisation: A framework for local authority commissioners** (PDF)
- Department of Health (2007a) **Guidance on Joint Strategic Needs Assessment** (PDF)
- Department of Health (2010) Equity and excellence: Liberating the NHS
- Department of Health (2010a) Liberating the NHS: Legislative framework and next steps
- Department of Health (2010b) A vision for adult social care, capable communities and active citizens
- Department of Health (2011) **Safeguarding adults: The role of NHS commissioners** (PDF)
- Department of Health (2011a) **Safeguarding adults: The role of health service practitioners** (PDF)
- Dittrich. R. (2008) Putting people first: Shaping your future, choosing your care, Briefing Paper 7: The care market -summary of pre-existing evidence from experts and research, Hampshire County Council
- Drake.P and Davies,B (2006) Home care outsourcing strategy, Journal of Health Organisation and Management, 20,3, 175–193
- IDEA (2006) Person-centred commissioning now -a pathway approach to commissioning learning disability support
- IDEA and the Centre for Public Scrutiny (Feb, 2009) **Councillor Call for Action: best practice guidance**, IDeA

- IPC, Institute of Public Care (2011) People who pay for care: quantitative and qualitative analysis of self-funders in the social care market, Putting People First
- Joseph Rowntree Foundation (2010) Involving users in commissioning local services
- Law Commission (2010) Consultation Paper No 192, ADULT SOCIAL CARE
- The Law Commission (2011), **Adult Social Care** (LAW COM No 326), Stationary Office (PDF)
- Hughes.J, Chester.H and Challis.D (2009) Recruitment and retention of a social care workforce for older people PSSRU
- Matosevic.T, Knapp.M and Le Grand.J (2008) Motivation and commissioning: perceived and expressed motivations of care home providers. *Social Policy and Administration*, 42(3), June 2008, pp.228–247.
- Rai, G.S (2010) Burnout among long-term care staff, *Administration in Social Work*, 34: 225–240, Taylor and Francis Group LLC.
- Sanderson, H Kennedy, J Ritchie, P Goodwin,G (1997) *People, Plans and Possibilities*, SHS Trust Scotland
- SCIE At a glance 17: **Personalisation briefing: Implications for residential care homes**
- Thomas.C, and Rose.J. (2009) 'The relationship between reciprocity and the emotional and behavioural responses of staff', *Journal of Applied Research in Intellectual Disabilities*, 2010, 23, 167–178

Additional resources

- Hull University's **Practical guide to protecting people with learning disabilities from abuse in residential services**(PDF)
- CQC leaflet for service users and their families:**What standards to expect from the regulation of your care home**

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