NHS
Lewisham
Clinical Commissioning Group

NHS Lewisham CCG

Safeguarding Through Commissioning Policy

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Contents

Executive Summary

Lewisham Clinical Commissioning Group has a duty to improve the health of the whole population which includes safeguarding and promoting the welfare of children, young people and Adults at Risk. Working with local authorities they should ensure that services for vulnerable people are actively managed.

Commissioners of health care services in Lewisham Clinical Commissioning Group are expected, as described in section 3.0 of this policy, to ensure that arrangements are in place to safeguard and promote the welfare of children, young people and Adults at Risk through contracts.

There is extensive guidance from National policy, reports, and legislation that governs the direction, to which services are provided, managed and monitored, these can be seen at Appendix A.

This policy has been revised to take into account the changes in the Working Together to Safeguard Children issued in July 2018 hither to refer in this document as WT 2018.

This policy places a focus on the process and contractual arrangements that will ensure the safeguarding of vulnerable people in the community, through proactive service provision and staff training and awareness to prevent harm, especially for children, young people and Adults at Risk.

This policy ensures that, with Lewisham there is assurance that services are coordinated and integrated where possible, so that children, young people, and adults at risk are effectively safeguarded and protected.

1. Principles and Values

1.1. Safeguarding children, young people and adults at risk is of the highest priority for NHS Lewisham Clinical Commissioning Group (the CCG).

1.2. The CCG has a core objective to commission services that are safe, effective, responsive, caring and well led. Safeguarding children, young people and adults at risk is central to achieving this objective.

1.3. The CCG's approach to safeguarding is based on six principles of safeguarding:

Empowerment: People being supported and encouraged to make their own decisions and give informed consent.

Prevention: It is better to take action before harm occurs.

Proportionality: The least intrusive response appropriate to the risk presented.

Protection: Support and representation for those in greatest need.

Partnership: Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.

Accountability: Accountability and transparency in delivering safeguarding.

1.4. The CCG expects that these six principles will inform the ways in which its own employees, its members and professionals working across the health economy and the borough of Lewisham will work with vulnerable people.

1.5. Promoting equality and addressing health inequalities are at the heart of the CCG's values. Throughout the development of this document we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.

2. Policy Statements

This policy applies to employees of Lewisham CCG and Provider Services commissioned by Lewisham CCG.

2.1. The CCG will deliver its duties for safeguarding in line with:

- The Children Act 1989 and 2004
- Working Together to Safeguard Children (HM 2018) (Statutory Guidance)
- Promoting the Health and Wellbeing of Looked After Children (2015) (Statutory Guidance)
- The Care Act 2014 and the "Care and Support" (Chapter 14 Statutory Guidance)
- The Mental Capacity Act 2005, the Mental Capacity Act Code of Practice and the Deprivation of Liberty Safeguards Code of Practice
- Intercollegiate Documents for safeguarding roles, responsibilities and competencies child safeguarding, looked after children and adult safeguarding

- "Safeguarding Vulnerable People in the NHS: Accountability and Assurance Framework" (NHS England 2015)
- The London Child Protection Procedures (2015) (5th edition and as subsequently updated)[1]
- The London Multi-Agency Adult Safeguarding Policy and Procedures (2015 and as subsequently updated)[2]

Further details in reference section

3.0 CCG Role and Responsibility

3.1 The CCG as a NHS organisation has a statutory responsibility under section 11 of the Children Act 2004 to ensure its functions are exercised with a view to safeguarding and promoting the welfare of children and young people. The Board has ultimate strategic responsibility for ensuring this statutory responsibility is carried out, and for ensuring that in discharging their functions, commissioned services have regard to the need to safeguard and promote the welfare of children

3.2 The Care Act 2014 section 6 requires CCGs to cooperate with local authorities to protect adults with needs for care and support who are at risk of abuse or neglect

3.3 The CCG should have arrangements in place to seek safeguarding assurance from provider organisations. This can include those where the CCG does not directly commission but are providing services to Lewisham residents

3.4 The CCG should employ or have in place a contractual agreement to secure the services of a Designated Nurse and Doctor for Safeguarding Children and for Looked After Children and a Designated Paediatrician for unexpected deaths in childhood

3.5 The CCG should have a Designated Adult Safeguarding Lead to include the role for the Mental Capacity Act and Prevent supported by relevant policies and training

3.6 Support the development of a positive learning culture across partnerships for safeguarding adults to ensure that organisations are not unduly risk averse

3.7 Working with the Local Authority to enable access to community resources that can reduce social and physical isolation for adults

3.8 The CCG should have in place an assurance method to ensure that local healthcare services meet their responsibilities Providing clear safeguarding standards against which healthcare providers (including independent contractors, voluntary, community and faith sector (VCFS) and other CQC registered providers) will be monitored to ensure that all service users are protected from abuse or the risk of abuse

3.9 The revised Working Together to Safeguard Children 2018 requires the CCG to be a statutory partner with the two other agencies who have a shared and equal duty to make arrangements to work together to safeguard and promote the welfare of all children in a local area (WT2018)

3.9.1 The Safeguarding partners

[1] http://www.londoncp.co.uk/

[2] http://londonadass.org.uk/wp-content/uploads/2015/02/LONDON-MULTI-AGENCY-ADULT-SAFEGUARDING-POLICY-AND-PROCEDURES.pdf

A safeguarding partner in relation to a local authority area in England is defined under the Children Act 2004 (as amended by the Children and Social Work Act, 2017) as:

(a) the local authority

(b) a clinical commissioning group for an area any part of which falls within the local authority area

(c) the chief officer of police for an area any part of which falls within the local authority area

3.9.2 Similarly, when a child dies, the responsibility for ensuring child death reviews are carried out is held by 'child death review partners,' who, in relation to a local authority area in England, are defined as the local authority for that area and any clinical commissioning groups operating in the local authority area

3.9.3 Child death review partners must make arrangements to review all deaths of children normally resident in the local area and, if they consider it appropriate, for any non-resident child who has died in their area (WT 2018). The CCG should ensure Commissioners work with the local authority to commission coordinated or integrated services for adults and children that have clear service standards in relation to safeguarding in all contracts

3.10 When service contracts are devised, reviewed, developed or considered for decommissioning, consideration should be given to the Standard NHS Contract at SC 32 detailed in appendix:

4.0 Individual CCG Responsibilities

4.1. The Governing Body Lead for Safeguarding (Clinical Director)

4.1.1 The Governing Body Lead (Clinical Director) will be the Governing Body executive for safeguarding and will be accountable to the CCG's Governing Body for providing assurance that the range of safeguarding statutory duties are discharged and all responsibilities met

4.1.2. The Governing Body Lead will be responsible for seeking assurance that the organisation from which the CCG contracts or commissions provide a safe system that safeguards children and adults at risk

4.1. 3.The Governing Body Lead will ensure that the CCG has an appropriate internal governance framework and operating arrangements that can properly implement and support robust systems and processes to monitor all safeguarding requirements, including an early warning system of a failing provider

4.2. Director of Nursing and Quality

4.2.1 The Director of Nursing and Quality is responsible for the management of the safeguarding team and for providing support to the Governing Body Lead for Safeguarding

4.2.2 The Director of Nursing and Quality is responsible for ensuring that funding is available to enable the designated and other professionals to fulfil their roles and responsibilities effectively

4.2.3 The Director of Nursing and Quality is responsible for ensuring that funding is available to contribute to the adult's and children's safeguarding boards budgets

4.2.4 The Director of Nursing and Quality delegates responsibility for ensuring that Serious Incident (SI) procedures are followed by the Associate Director of Quality in relation to safeguarding

4.2.5 The Director of Nursing and Quality is responsible for ensuring that allegations against staff of the CCG are followed up appropriately

4.2.6 The Director of Nursing and Quality is responsible for the recruitment and management of the designated professionals and ensuring that they have training and supervision in relation to safeguarding children, young people and adults. This is to ensure that:

- CCG employees, members and health care providers in Lewisham have easy access to paediatricians trained in assessing young people who may be experiencing abuse or neglect and that suitable professionals are available for undertaking forensic medical examinations.
- CCG employees, members and health care providers in Lewisham have access to specialist opinion specifically to assess adults at risk who may be experiencing abuse or neglect

Designated and other Safeguarding professionals will include:

- Designated Nurse for Safeguarding Children
- Designated Nurse Looked After Children (LAC)
- Designated Doctor for Safeguarding Children
- Designated Paediatrician for Child Deaths
- Designated Doctor for Looked After Children (LAC)
- Named General Practice Practitioner for Safeguarding Children
- Designated Consultant Nurse for Safeguarding Adults who will also perform in the function of the Named General Practitioner for Safeguarding Adults
- Care Home liaison safeguarding nurse advisor

4.2.7 The designated and named professionals are members of the NHS Lewisham CCG Health Safeguarding Assurance Group. All the designated professionals will be employed in a senior capacity to influence local thinking and practice

4.2.8 The CCG has agreed with LBL Director of Children's Services, Director of Adults Services and the Chair of the LSAB that:

- The CCG will be represented in the Child Safeguarding Partnership arrangements by the Designated Nurse for Safeguarding Children, the Designated Doctor for Safeguarding Children, and the Governing Body Lead for Safeguarding
- The CCG will be represented at the LSAB by the Designated Consultant Nurse for Safeguarding Adults and the Governing Body Lead. The Director of Nursing and Quality will deputise for the Governing Body Lead for Safeguarding
- Any learning and recommendations from the Safeguarding Partners and LSAB will be reported to the CCG's Health Safeguarding Assurance Group

4.3. Commissioning Director and Head of Joint Commissioning

4.3.1 The Commissioning Director and Head of Joint Commissioning (and all other CCG commissioners) are responsible for ensuring that all contracts and / or service level agreements placed by the CCG with providers includes a requirement that the provider will comply with:

- NHS Lewisham CCG Safeguarding Through Commissioning Policy (this document)

Contracts

4.3.2. Where appropriate the CCG will use a standard NHS Contract

The following clauses within the NHS Standard Contract relate specifically to Safeguarding Children:

"Clause 4A.1 of the NHS standard contract requires that the provider complies with the commissioner's policy for safeguarding and protecting the welfare of children as appended in Schedule 10

Clause 4A.2 states that following a 'reasonable written request' from the commissioner, the provider shall provide evidence within 10 working days that it is addressing any safeguarding concerns that have been raised

Clause 4A.3 makes provision for the provider to 'participate in the development of any local multi-agency safeguarding quality indicators'

The CCG will use the following wording in Schedule 10: **'***The provider is required to demonstrate strong commitment to safeguarding within all the services they provide and to comply with the commissioner's policy which is attached.*'

4.3.3 CCG Employees

• If an employee of Lewisham CCG has concerns that a child, young person or adult is at risk of harm or abuse they should notify their line manager and/or local safeguarding lead and the local Social Services Department. The person should also consider informing the local Police

• In hours the CCG safeguarding team will offer advice and additional support and the Designated Professionals will be available for advice and support

• Out of hours, staff may contact the Social Services Emergency Duty team, in the case of an emergency staff may also consider contacting the Police

• Keeping children, young people and adults at risk safe is everybody's business. Everyone has a responsibility in our private and professional lives. If you think a child or adult is at risk of harm, you must take action

4.4 Allegations against Staff

Each Local Authority has a Local Authority Designated Officer (LADO) to act on their behalf in investigating allegations; this role plays a critical part in terms of working in partnership with the NHS to manage risk and was cited at the critical relationship in the Saville investigations. The LADO should be informed of allegations, according to local safeguarding procedures.

4.5 ***What to Do If you think the child, young person or adult at risk may be in immediate danger: Call 999***

- Otherwise contact Lewisham Children's Social Care on 020 8314 6000.
- For the Children's Social Care Duty Team call 020 8314 6660.
- Out of hours call 020 8314 6000

- Adult Social Care call SCAIT on 020 8314 777 7 or Email scait@lewisham.gov.uk

5.0 Provider Safeguarding Arrangements

Before placing contracts with provider organisations, CCG commissioners will ensure that the provider organisation has comprehensive safeguarding arrangements in line with the statutory guidance and that the provider organisation has a named Senior Officer(s) responsible for the implementation and operation of safeguarding policies

The policies should demonstrate how:

- Provider staff will be trained to be competent and to be alert to potential indicators of abuse and neglect in children, young people and adults at risk and know how to act on their concerns and fulfil their responsibilities.
- Safer Recruitment and Disclosure, Vetting and Barring Procedures will be implemented
- procedures for responding to allegations against staff will be implemented
- providers will contribute to multi-agency working and child safeguarding partnership, contribute to the LSAB and comply with local multi-agency safeguarding procedures and protocols
- the provider will implement information sharing protocols including for MASCC, MASH, MARRAC, MAPPA
- staff will be provided with safeguarding supervision and support. The level of supervision provided should be in accordance with the degree and nature of contact that staff have with children, young people, and adults at risk and families. A confidential service should be provided for staff for emotional support when dealing with cases of child, young people or vulnerable adult abuse
- staff will know how to contact the Safeguarding Lead in their service
- the Serious Incident and Complaints Policies in the organisation reflect national guidance and includes escalation to the designated professionals in and out of hours
- the provider will ensure full participation in the processes which form part of Serious Case Reviews (SCRs) and multi-agency reviews (MARs). All agencies must contribute when requested by the safeguarding team of the CCG who will lead on the health components of SCRs and IMR's, and S42 Enquiries
- the provider will respond to the death of a child and the review process including providing staff with the time and resources to fully engage in the process
- the provider will support and participate in Domestic Homicide Reviews
- The provider must have arrangements to share information proportionately

Service Level Agreements

5.3 Any local service level agreement or service specification that does not conform to the NHS Standard Contract should include within it the clauses above. It is not acceptable to include just a generic reference to safeguarding, or limit safeguarding requirements to disclosure and barring service checks

Primary Care

5.3.1 The CCG will work jointly with NHS England to ensure that primary care providers have robust systems in place to fulfil their role in safeguarding, promoting the welfare of children and protecting adults at risk.

- The CCG supports the role of the Named General Practice Practitioner for Safeguarding Children

- The Medical Director or equivalent role within the Local Area team of the NHS England (London region) will be responsible for providing advice and support to the safeguarding process in relation to Independent Contractor Performance Regulation and appraisal, and for liaising with CCG executive lead and the independent contractors concerned

6. Safeguarding Assurance

6.1. The CCG will seek assurance that the providers it commissions health care services from are compliant with the relevant policies and practice at a quarterly Health Safeguarding Assurance Meeting. This is facilitated by:

- The submission of regular safeguarding performance reports that are usually presented to the provider Safeguarding Committee which should demonstrate the provider is complying with duties under statutory guidance and the expectations of the CCG and NHS England.
- The provider should ensure the CCG has sight of the safeguarding adult, children and looked after children annual reports to inform the service wide view of safeguarding in the CCG annual report
- The CCG will request quarterly performance dashboards for adult safeguarding
- The CCG will have access to the quarterly, quality and activity dashboard for child safeguarding
- Providers to ensure that the CCG is notified of CQC inspection, Ofsted inspection or any other relevant inspection
- Providers to ensure that the Designated Safeguarding Professionals are informed of allegations against staff.
- Providers should demonstrate the participation in child safeguarding practice reviews, Domestic Homicide Reviews, Safeguarding Adult Reviews and any other cases including serious incidents that require lessons to be learned. The CCG will monitor that organisations have acted on the recommendations of reviews.
- In addition other evidence could be requested by the CCG for triangulation:
- Audits such as the s11 may be requested
- Care Quality Commission reports
- Serious Incident Reports (SIR)
- Safeguarding Training reports
- Patient Experience reports
- DBS reports/Safer recruitment evidence
- Updated revised or new safeguarding policy to be presented to the CCG
- Evidence that service standards of all contracted NHS service providers must be routinely monitored against formal assurance frameworks within contract monitoring processes.

Safeguarding issues that arise from the CQRG meetings

7. Definitions Appendix A

7.1. Children and Young People

7.1a. All children and young people under 18 years of age, in particular those who are seen as vulnerable; who are referred to health and social services and assessed for risks of potential significant harm or are suffering significant harm, have the rights to protection by health and social services.

- Children 0 - 5 years old are seen as the most vulnerable group in this section; health and social care, along with parenting education is provided to support the development of these children;
- Children 5-16 years are in the developing and most formative years and it is essential that health and social care services continue to monitor development and progress in partnership with education departments.

7.1b. Children and young people with mental health or learning difficulties present additional need and therefore, through appropriate health, education and social care continue to be monitored through their development.

7.2. Abuse and Neglect

7.2a. Abuse and neglect are forms of maltreatment of a child.

7.3. Physical abuse

7.3a. Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces, illness in a child.

7.4. Emotional abuse

7.4a. Emotional abuse is the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development.

7.5. Sexual abuse

7.5a. Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet).

7.6. Neglect

7.6a. Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse.

7.7. Domestic violence

7.7a. The Home Office defines domestic violence as 'Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality'. Aged 16 years and above.

7.8. Female genital mutilation

7.8a. Female genital mutilation (FGM) is a collective term for procedures which include the removal of part or all of the external female genitalia for cultural or other non-therapeutic reasons.

7.9. Child Sexual Exploitation

7.9a. Child Sexual Exploitation (CSE) is a form of sexual abuse that involves the manipulation and/or coercion of young people under the age of 18 into sexual activity in exchange for things such as money, gifts, accommodation, affection or status.

7.10. Honour Based Abuse / Forced Marriage

7.10a. “Honour based violence" is a crime or incident, which has or may have been committed to protect or defend the honour of the family and/or community'.

8.0. Adults at Risk

8. a. The Care Act 2014 sets out a clear legal framework for how local authorities and other parts of the system should protect adults at risk of abuse or neglect.

8. b. Local authorities have new safeguarding duties. They must:

- **lead a multi-agency local adult safeguarding system** that seeks to prevent abuse and neglect and stop it quickly when it happens
- **make enquiries, or request others to make them,** when they think an adult with care and support needs may be at risk of abuse or neglect and they need to find out what action may be needed
- **establish Safeguarding Adults Boards**, including the local authority, NHS and police, which will develop, share and implement a joint safeguarding strategy
- **carry out Safeguarding Adults Reviews** when someone with care and support needs dies as a result of neglect or abuse and there is a concern that the local authority or its partners could have done more to protect them
- **arrange for an independent advocate** to represent and support a person who is the subject of a safeguarding enquiry or review, if required**. Any relevant person or organisation must provide information to Safeguarding Adults Boards as requested**.

Adults at Risk could include:

- People with learning difficulties
- People with physical disabilities
- People with sensory impairment
- People with mental health needs
- People with a long term illness
- People who misuse substances or alcohol
- People who are physically or mentally frail and/or
- People with dementia.

8.c. Carers may be regarded as Adults at Risk in some situations.

8.d. Abuse is the violation of an individual’s human and civil rights by any other person or persons. Types of abuse defined in the Care Act 2014.

8.1. Physical abuse

8.1a. This may be defined as 'the use of force, or any action, or inaction which results in pain or injury or a change in the person's natural physical state' or the 'non-accidental infliction of physical force that results in bodily injury, pain or impairment'. Inadvertent physical abuse arising from poor support or care e.g. bruising arising from poor moving and handling is classified as 'neglect'. Concerns about the quality of care will not be addressed under safeguarding procedures unless there is a direct impact on an individual adult.

8.2. Domestic Abuse

8.2a. In 2013, the Home Office announced changes to the definition of domestic abuse. It is defined as an:

> Incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse by someone who is or has been an intimate partner or family member regardless of gender or sexuality aged 16 years and over. (Young people up to the age of 18 years are protected by Lewisham Child Protection Procedures).

8.2b. Domestic abuse includes intimate partners and other family members including Honour Based Violence.

8.3. Sexual abuse

8.3a. Direct or indirect involvement in sexual activity without valid consent (this can include when an adult has not or cannot consent, or was pressured into consenting) including female genital mutilation.

7.4. Financial or material abuse

8.4a. Financial abuse is the main form of abuse recorded by the Office of the Public Guardian both amongst adults and children at risk. Financial abuse can occur in isolation but it is also likely to be connected to some other forms of abuse. Although this is not always the case, everyone should be aware of this possibility.

8.5. Psychological or emotional abuse

8.5.1. This includes: emotional abuse, threats of harm or abandonment, deprivation of contact with others, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber-bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.

8.6. Neglect and acts of omission

8.6.1. Neglect can take several forms and can be the result of an intentional or unintentional act(s) or omission(s).

> Note: Under the Mental Capacity Act 2005 wilful neglect and ill-treatment of a person lacking capacity is a criminal offence and can result in a fine or imprisonment.

8.6.2. The offence can be committed by anyone responsible for that adult's care and support including paid staff, family carers and those with legal authority to act on that adult's behalf (i.e. persons with power of attorney or Court-appointed deputies).

8.6.3. Ill treatment covers both deliberate acts of ill-treatment and also those acts which are reckless which results in ill treatment. Wilful neglect requires a serious departure from the required

standards of treatment and usually means that a person has deliberately failed to carry out an act that they knew they were under a duty to perform.

8.6.4. Under s20-25 Criminal Justice and Courts Act 2015 it is an offence for a care worker or care provider to ill-treat or wilfully neglect an individual in their care.

8.7. Discriminatory abuse

8.7.1. The principles of discriminatory abuse are embodied in legislation including the following:

- Human Rights Act 1998
- Equality Act 2010

8.7.2. Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies mainstream opportunities to some groups or individuals. It is the exploitation of a person's characteristics, which excludes them from opportunities in society, for example, education, health, justice, civic status and protection. It includes discrimination on the basis of age, disability, gender reassignment, marriage, civil partnership, pregnancy, maternity, race, religion or belief, sex or sexual orientation and includes hate crime incidents. Discriminatory abuse includes: forms of harassment and slurs or similar treatment because of race, gender and gender identity, age, disability, sexual orientation or religion. See also: www.gov.uk/discrimination-your-rights/types-of-discrimination. Examples of behaviour: treating a person in a way that is inappropriate to their age and / or cultural background, unequal treatment, verbal abuse, inappropriate use of language, slurs, harassment and deliberate exclusion.

8.8. Organisational abuse

8.8.1. Repeated instances of poor or inappropriate care or support may be an indication of more serious problems and this is referred to as 'organisational abuse'.

8.8.2. Organisational abuse occurs when an organisation's systems and processes, and / or management of these, fails to safeguard a number of adults leaving them at risk of, or causing them, harm. Organisational abuse can also occur when the routines, systems and norms of an organisation override the needs of those it is there to support, or fail to provide those individuals with an appropriate quality of care. This can be the product of both ineffective and / or punitive management styles, creating an environment within which abuse can take place, intentional or otherwise.

8.8.3. Organisational abuse includes: neglect and poor care practice within an institution or specific care setting such as a hospital or care home, or in relation to care provided in a person's own home. This may range from one-off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.

8.9. Restraint

8.9.1. Restraint Unlawful or inappropriate use of restraint or physical interventions and / or deprivation of liberty are physical abuse.

8.9.2. Restrictive physical interventions are only justified when they are used in the best interest of the person and / or to protect the safety of others. Where these are necessary the least restrictive approach should always be used. If the person lacks capacity regarding this, any interventions must be in line with the Mental Capacity Act and Deprivation of Liberty Safeguards Code of Practice.

8.9.3. There is a distinction between restraint, restriction and deprivation of liberty. This will depend on the particular circumstances of the case, taking into account the type of restriction, degree of intensity, duration, the effect and the manner of the implementation of the measure in question.

8.9.4. In extreme circumstances unlawful or inappropriate use of restraint may constitute a criminal offence.

8.9.5. Someone is using restraint if they use force, or threaten to use force, to make a person do something they are resisting, or where a person's freedom of movement is restricted, whether they are resisting or not.

8.9.6. Restraint covers a wide range of actions. It includes the use of active or passive means to ensure that the person concerned does something they do not want to do, or does not do something they want to do. For example, the use of key pads to prevent people from going where they want from a closed environment or one to one supervision restricting rights of freedom. Appropriate use of restraint may be justified to prevent harm to a person who lacks capacity as long as it is a proportionate response to the likelihood and seriousness of the harm.

8.9.7. Providers of health must have in place internal operational procedures covering the use of physical interventions and restraint, incorporating best practice guidance and the Mental Capacity Act, Mental Capacity Act Code of Practice and the Deprivation of Liberty Safeguards (DoLS). This should include a clear outline of how physical interventions and restraint will be implemented for individuals. For example, how adults and other relevant parties are involved in agreeing the use of physical interventions and restraint as part of the support planning and risk assessment process. This provides a safeguard for adults, relatives and other professionals. Physical interventions which are used routinely and which do not reflect the above guidelines or are not in line with the Mental Capacity Act will be considered abusive.

8.10. Modern Slavery

8.10.1. Modern slavery exists in the UK and can be perpetrated against men, women and children, UK nationals, and those from abroad. Modern slavery includes exploitation in the sex industry, forced labour, domestic servitude in the home and forced criminal activity. These types of crime are often called human trafficking. The true extent and nature of modern slavery in Lewisham is not presently known as this crime remains largely invisible to the general public. It can include victims that have been brought from overseas and vulnerable people in the UK, being forced to work illegally against their will in many different sectors, including brothels, cannabis farms, nail bars and agriculture.

8.11. Self-neglect

8.11.1. Self-neglect is 'the inability (intentional or non-intentional) to maintain a socially and culturally accepted standard of self-care with the potential for serious consequences to the health and well-being of people who self-neglect and perhaps even to their community' (Gibbons 2006).

8.11.2. An individual may be considered as self-neglecting and therefore at risk of harm where they are:

- Either unable or unwilling to provide adequate care for themselves
- Unable or unwilling to obtain necessary care to meet their needs, and/or declining essential support without which their health and safety needs cannot be met.

8.12. 'Honour'- based violence

8.12.1. Honour'-based violence may be committed when family members feel that dishonour has been brought to their family. Women are predominantly (but not exclusively) the victims and the violence is often committed with a degree of collusion from family members and / or the community. Many victims are so isolated and controlled that they are unable to contact the police or other organisations.

8.12.2. Safeguarding concerns that may indicate 'honour'-based violence include domestic abuse, concerns about forced marriage or enforced house arrest and missing person reports. If a concern is raised and there is a suspicion that the adult is the victim of 'honour'-based violence, a referral to the police should always be considered as they have the necessary expertise to manage the risk.

8.13. Forced marriage

8.13.1. Forced marriage is a term used to describe a marriage in which one or both of the parties are married without their consent or against their will. A forced marriage differs from an arranged marriage, in which both parties consent to the assistance of their parents or a third party in identifying a spouse.

8.13.2. The multi-agency practice guidelines Handling Cases of Forced Marriage (Home Office, 2009) recommend that cases involving forced marriage are best dealt with by child protection or 'adult protection' specialists. In a situation where there is concern that an adult is being forced into a marriage they do not or cannot consent to, there may be an overlap between action taken under the forced marriage provisions and the adult safeguarding process. In this case action will be co-ordinated with the police and other relevant organisations, such as The Forced Marriage Unit.

8.14. PREVENT

8.14.1. PREVENT is a key part of the Government's Counter Terrorist Strategy. Its aim is to stop people becoming terrorists or drawn into terrorism. Early intervention to divert people away from being drawn into terrorist activity is at the heart of Prevent.

8.14.2. For all specified authorities, it is expected that those in leadership positions:

- establish or use existing mechanisms for understanding the risk of radicalisation;
- ensure staff understand the risk and build the capabilities to deal with it;

8.14.3. PREVENT work depends on effective partnership. To demonstrate effective compliance with the duty, specified authorities must demonstrate evidence of productive co-operation, in particular with local PREVENT co-ordinators, the police and local authorities, and co-ordination through existing multi-agency forums, for example Community Safety Partnerships. These include those that Lewisham CCG commission.

8.14.4. Frontline staff who engage with the public should understand what radicalisation means and why people may be vulnerable to being drawn into terrorism as a consequence of it. They need to be aware of what we mean by the term "extremism" and the relationship between extremism and terrorism (see section B, above).

8.14.5. Staff need to know what measures are available to prevent people from becoming drawn into terrorism and how to challenge the extremist ideology that can be associated with it. They need to understand how to obtain support for people who may be being exploited by radicalising influences.

8.15.6. All specified authorities subject to the duty will need to ensure they provide appropriate training for staff involved in the implementation of this duty. Such training is now widely available.

8.15.7. The PREVENT programme must not involve any covert activity against people or communities. But specified authorities may need to share personal information to ensure, for example, that a person at risk of radicalisation is given appropriate support (for example on the Channel programme).

8.15.8. Information sharing must be assessed on a case-by-case basis and is governed by legislation. To ensure the rights of individuals are fully protected, it is important that information sharing agreements are in place at a local level. When considering sharing personal information, the specified authority should take account of the following:

• Necessity and proportionality: personal information should only be shared where it is strictly necessary to the intended outcome and proportionate to it. Key to determining the necessity and proportionality of sharing information will be the professional judgement of the risks to an individual or the public;

• consent: wherever possible the consent of the person concerned should be obtained before sharing any information about them;

• power to share: the sharing of data by public sector bodies requires the existence of a power to do so, in addition to satisfying the requirements of the Data Protection Act 1998 and the Human Rights Act 1998;

• Data Protection Act and the Common Law Duty of Confidentiality: in engaging with non-public bodies, the specified authority should ensure that they are aware of their own responsibilities under the Data Protection Act and any confidentiality obligations that exist.

8.15.9. There may be some circumstances where specified authorities, in the course of PREVENT related work; identify someone who may already be engaged in illegal terrorist-related activity. People suspected of being involved in such activity must be referred to the police.

8.15.10. Safeguarding adults from radicalisation is no different from safeguarding them from other forms of harm. Indicators for vulnerability to radicalisation include:

8.15.11. Family tensions, isolation, migration, distance from cultural heritage, experiences of racial discrimination, and feelings of failure.

8.15.12. Indicators that someone might be engaged with an extremist group, cause or ideology includes:

- Spending time in the company of suspected extremists, changing style of dress or personal appearance to accord with the group.
- Day-to-day behaviour becoming increasingly centred on an extremist ideology, group or cause.
- Loss of interest in other friends and activities not associated with the extremist ideology, group or cause.
- Possession of material or symbols associated with an extremist cause (e.g. the swastika for far-right groups).
- Attempts to recruit others to the ideology, group or cause. Communication with others that suggests identification with an ideology, group or cause.

- Excessive use of the internet access to extremist propaganda.

8.15.13. Channel is the name of the process of identifying and referring a person for early intervention and support. It uses existing collaboration between local authorities, statutory partners, the police and the local community to Identify people at risk of being drawn into terrorism. It is also used to assess the nature and extent of that risk and develop the most appropriate support plan for the individuals concerned. For further information see: https://www.gov.uk/government/policies/protecting-the-uk-against-terrorism/supporting-pages/prevent

Appendix B

Legislative Framework and Guidance

Responsibilities for safeguarding are enshrined in legislation. Some duties apply only to children, some apply only to adults, and some apply to both. This section deals with each in turn.

There are fundamental differences between the legislative framework for safeguarding for children, and for adults, which stem from who can make decisions.

Adults have a legal right to make their own decisions, even if they are unwise, as long as they have capacity to make that decision and are free from coercion or undue influence. However decision-making power relating to children lies with those who have parental responsibility for the child. As a child grows in maturity and understanding, the law gives the child a greater say in decisions. Once a child understands fully the choice to be made and its consequences, the child's view prevails[2] , at least as regards consent, though on occasions the courts have been prepared to override a capable child's refusal of life-saving treatment.

The Mental Capacity Act covers and empowers children aged 16 and 17. Once 18, the young person is an adult. When issues about a child's upbringing, or their money or property, are considered by a court, statute makes it clear that "the child's welfare shall be the court's paramount consideration" Known widely as the "Paramount Principle", this has a far-reaching effect on children's social care practice, emphasising to all what a court would need to see in order to approve arrangements.

While many key statutory provisions apply directly to a broad range of public bodies, including the NHS and the Police, some key provisions of legislation impose duties directly on local authorities only. The duties are not placed directly on any other agencies. However the NHS, as well as other agencies, is covered by these duties indirectly, because it has statutory duties to co-operate with local authorities over safeguarding.

Children and young people

The legislation and guidance relevant to safeguarding and promoting the welfare of children includes the following:

- London child protection procedures www.londonscb.gov.uk
- Children Act 1989
- The Children Act 2004 HM Government

Internet link: http://www.legislation.gov.uk/ukpga/2004/31/contents

- Working Together to Safeguard Children 2018: A guide to inter-agency working to safeguard and promote the welfare of children
- Safeguarding Vulnerable Groups Act 2006

Internet link: http://www.legislation.gov.uk/ukpga/2006/47/contents

- Recruiting safely - Safer recruitment guidance helping to keep children and young people safe

Internet link
http://www.cwdcouncil.org.uk/assets/0000/7158/safer_recruitment_guidance_Nov09.pdf

- Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers 2015
- Safeguarding Children and Young people: roles and competences for healthcare staff ('the intercollegiate document') 2014
- Looked After Children knowledge, skills and competence of health care staff - Intercollegiate Role Framework (2015)
- The Care Quality Commission (Registration) Regulations 2009

Internet link: http://www.legislation.gov.uk/uksi/2009/3112/contents/made

- Statutory Guidance on Promoting the Health and Well-being of Looked After Children 2015

A full exposition of statutory provisions relating to children's safeguarding can be found in appendix B of the statutory guidance document *Working Together to Safeguard Children 2018*.There are some broad, fundamental safeguarding duties, namely; There is a duty on local authorities to "safeguard and promote the welfare of children within their area who are in need" . The concept of "need" is defined very broadly, covering any child whose health or development will be impaired without support, or who has a disability

Local authorities also have a further duty to "take reasonable steps…to prevent children within their area suffering ill-treatment or neglect".

All public sector agencies providing services to children, including local authorities and all NHS bodies, "must make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children".

A child-centred approach is required. As far as reasonably possible, local authorities must ascertain the child's wishes and feelings, and devise their support in consideration of those wishes and feelings. Local authorities do not have to provide the support themselves.

A local authority must enquire whether it needs to take safeguarding action if it has reasonable cause to suspect a child in its area is suffering, or is at risk of, significant harm. This duty also covers any child in police protection, or under an emergency protection order.

It is essential practice that all agencies recognise that safeguarding is everyone's business. No individual agency can assume that safeguarding issues will be picked up by others. To confirm and illustrate this, there are the following duties on inter-agency co-operation:

If, in discharging its safeguarding duties, a local authority asks certain specified agencies for help, those agencies must help as long as it is compatible with their own duties, and does not hamper the discharge of their own functions. These agencies include NHS England, CCGs, and all NHS trusts.

Local authorities are under a duty to make arrangements to promote co-operation with other agencies, including NHS England and all CCGs, in order to promote the well-being of children in general, and to protect them from harm and neglect in particular. Those other agencies are under an express reciprocal duty to cooperate with the local authority.

Chapter 3 of the revised WT2018 revokes the responsibility of the LSCB, this is now the duty of three safeguarding partners. The partners have shared and equal duty to make arrangements to work together to safeguard and promote the welfare of children in a local area. The CCG is a named partner, with the Local Authority and the Chief Officer of Police.

The three safeguarding partners should agree on ways to co-ordinate their safeguarding services; act as a strategic leadership group in supporting and engaging others; and implement local and national learning including from serious child safeguarding incidents.

To fulfil this role, the three safeguarding partners must set out how they will work together and with any relevant agencies. Relevant agencies are those organisations and agencies whose involvement the safeguarding partners consider may be required to safeguard and promote the welfare of children with regard to local need. Relevant agencies can include all those organisations charged with a duty under s11 of Children Act 2004.

Adults at risk of harm or abuse

The legislation and guidance relevant to safeguarding adults at risk of harm or abuse includes the following:

Care Act 2014

Care and Support Statutory Guidance (Chapter 14 – Safeguarding)

Further practice materials to support implementation of the Care Act have been commissioned and will be found on the LGA website as they are published. There are some broad and fundamental safeguarding duties covering adult services, namely:

Local authorities must promote the adult's "well-being". Within this broad concept, the authority must "have regard to the need to protect people from abuse and neglect".

If a local authority has reasonable cause to suspect an adult in its area is suffering or is at risk of abuse and neglect, and has needs which leave him or her unable to protect himself or herself, then it must ensure enquiries are made in order to decide what action (if any) should be taken, and by whom (the "duty to enquire"). Enquiries should be made by the most appropriate professional, and in some circumstances that will be a health professional. In discharging these duties, there are express reciprocal duties to co-operate on local authorities and their "relevant partners", and that category includes NHS England, and all CCGs and health trusts in the local authority's area.

Where the safeguarding action requires assessing an adult's needs, or the preparation or revision of care plans, or care and support plans, the local authority is under a duty to consider if the adult needs an independent advocate. The trigger is when the adult would experience substantial difficulty in understanding or retaining relevant information, or weighing that information as part of the decision-making process, or communicating their views.

Each local authority must establish a Safeguarding Adults Board (SAB) in its area. Its main objective is to help and protect those adults in its area. CCGs, working with the health system, should ensure appropriate representation on the SAB. The local authority may include any other body it considers appropriate following consultation with other members.

A LSAB can arrange a safeguarding adult review whenever it chooses. However it must arrange one where an adult has died from or experienced serious abuse or neglect, and there is reasonable cause for concern about how those agencies and service providers involved worked together to safeguard the adult. Core partners are required to contribute to such reviews when requested.

Good information sharing practice is at the heart of good safeguarding practice.

The area is covered by legislation, principally the Data Protection Act 1998, and by court decisions on issues of confidentiality and privacy.

At its heart is the principle that information should be shared if that helps to protect children or adults, or to prevent a crime. In addition, there are some specific statutory provisions (for example relating to the operation of LSCBs, and 21 Section 44 Care Act 2014 SABs, relating to the statutory scheme for vetting and barring) and information sharing.

- **Safeguarding Adults: The Role of Commissioners (DH 2011)**
- **Safeguarding adults - Roles and responsibilities in health and care services (2014)**

Vetting and barring

There is a statutory scheme for vetting people working with children and adults vulnerable to abuse or neglect. It is administered by the Disclosure and Barring Service. The system provides checks on people entering the workforce, and maintains lists of individuals who are barred from undertaking regulated activity with either children or adults at risk of harm or abuse.

Domestic Violence, Crime and Victims Act 2004

Statutory guidance places a duty on Community Safety Partnerships to make arrangements for Domestic Homicide Reviews. Health bodies are required to participate in these as requested.

Fit and proper persons test

There are new legal requirements that board level appointments of NHS trusts, foundation trusts and special health authorities are “fit and proper persons”. This excludes individuals who have been involved in “any serious misconduct or mismanagement”. Clearly safeguarding falls within that definition.

Duty of candour

Good safeguarding practice requires openness, transparency and trust. There is a legal “duty of candour” on health service bodies. This duty is to inform people (both in person and in writing) about mistakes or other incidents which have not produced the desired outcome, apologise where appropriate, and advise on any action taken as a result.

NHS England as a commissioning organisation

As a commissioning organisation NHS England is required to ensure that all health providers from which it commissions services (both public and independent sector) have comprehensive single and multi-agency policies and procedures in place to Safeguard and promote the welfare of children and young people and to protect vulnerable at risk of harm or abuse; that health providers are linked into the Local Safeguarding Children and Safeguarding Adults Boards and that health workers contribute to multi-agency working.

Appendix C NHS Contract

SC32 Safeguarding, Mental Capacity and Prevent

32.1 The Provider must ensure that Service Users are protected from abuse and improper treatment in accordance with the Law, and must take appropriate action to respond to any allegation of abuse.
32.2 The Provider must nominate:

32.2.1 A Safeguarding Lead and a named professional for safeguarding children, in accordance with Safeguarding Guidance;

32.2.2 A Child Sexual Exploitation Lead;

32.2.3 A Mental Capacity and Deprivation of Liberty Lead; and

32.2.4 A Prevent Lead, and must ensure that the Co-ordinating Commissioner is kept informed at all times of the identity of the persons holding those positions.

32.3 The Provider must comply with the requirements and principles in relation to the safeguarding of children and adults, including in relation to deprivation of liberty safeguards and child sexual exploitation, set out or referred to in:

32.3.1 The 2014 Act and associated Guidance;

32.3.2 The 2014 Regulations;

32.3.3 The Children Act 1989 and the Children Act 2004 and associated Guidance;

32.3.4 The 2005 Act and associated Guidance;

32.3.5 Safeguarding Guidance; and

32.3.6 Child Sexual Exploitation Guidance.

32.4 The Provider has adopted and must comply with the Safeguarding Policies and MCA Policies. The Provider has ensured and must at all times ensure that the Safeguarding Policies and MCA Policies reflect and comply with:

32.4.1 The Law and Guidance referred to in SC32.3;

32.4.2 The local multi-agency policies and any Commissioner safeguarding

32.5 The Provider must implement comprehensive programmes for safeguarding (including in relation to child sexual exploitation) and MCA training for all relevant Staff and must have regard to Safeguarding Training Guidance. The Provider must undertake an annual audit of its conduct and completion of those training programmes and of its compliance with the requirements of SC32.1 to SC32.4.

32.6 At the reasonable written request of the Co-ordinating Commissioner, and by no later than 10 Operational Days following receipt of that request, the Provider must provide evidence to the Co-ordinating Commissioner that it is addressing any safeguarding concerns raised through the relevant multi-agency reporting systems.

32.7 If requested by the Co-ordinating Commissioner, the Provider must participate in the development of any local multi-agency safeguarding quality indicators and/or plan.

32.8 The Provider must co-operate fully and liaise appropriately with third party providers of social care services in relation to, and must itself take all reasonable steps towards, the implementation of the Child Protection Information Sharing Project.

32.9 The Provider must:

32.9.1 Include in its policies and procedures, and comply with, the principles contained in the Government Prevent Strategy and the Prevent Guidance and Toolkit; and

32.9.2 include in relevant policies and procedures a programme to raise awareness of the Government Prevent Strategy among Staff and volunteers in line with the NHS England Prevent Training and Competencies Framework; and

32.9.3 Include in relevant policies and procedures a WRAP delivery plan that is sufficient resourced with WRAP facilitators.

Appendix D

NHS Lewisham CCG Health Safeguarding Assurance Group Terms of Reference

1. PURPOSE

The purpose of the Group is to:

- Ensure that health organisations in Lewisham fulfil their duty to have arrangements for safeguarding children, young people and adults at risk receiving services from health providers within Lewisham.
- Gain assurance from Lewisham health services and other NHS commissioned services that those systems and processes are effective.
- Gain assurance that health organisations fulfil their duty of partnership and contribute fully to the Lewisham whole system Safeguarding framework for children, young people and adults at risk.

2. DUTIES

- To gain assurance that systems and processes are in place to safeguard children, young people and adults at risk.
- To ensure clear lines of accountability within Lewisham health providers relating to safeguarding including working with local partners, health commissioners and other health providers.
- To gain assurance that there are adequate safeguarding resources to fulfil safeguarding responsibilities across the health economy.
- To monitor safeguarding performance.
- To ensure appropriate policies, procedures and guidance are in place, disseminated and adhered to and are updated regularly to reflect regional and national guidance.
- To gain assurance on the completion of all recommendations from serious case reviews and internal management reviews, ensuring learning is disseminated.
- To act as a forum for sharing good practice.
- To scrutinise public declarations on safeguarding arrangements.
- To inform the Governing Body of any risks and key issues relating to safeguarding.
- To produce regular reports to the Quality and Safety Committee and the Governing Body including an annual report.
- To gain assurance that our providers who are member of the Lewisham Safeguarding Children Board (LSCB) and the Multi-agency Adult Safeguarding Board attend and contribute.

3. ACCOUNTABILITY

The Group is accountable to the Integrated Governance Committee who has responsibility from the Governing Body for the quality and safety of health services serving the population of Lewisham,

***4.* MEMBERSHIP & ATTENDANCE**

Governing Body lead

Director of Nursing and Quality

Designated Doctor for Safeguarding Children

Designated Nurse for Safeguarding Children

Designated Nurse Looked After Children (LAC)

Designated Doctor for Looked After Children (LAC)

LCCG Designated Consultant Nurse for Safeguarding Adults

LCCG Safeguarding Nurse Advisor

Adult Safeguarding Manager Lewisham and Greenwich Trust

Safeguarding Adult and Prevent Lead

Adult Safeguarding Lead from other providers

Named Nurse for Safeguarding Children LGT

Named Doctor for Safeguarding Children LGT

Named Nurse for Safeguarding Children SLAM

Named Nurse for Safeguarding Children CAMHS

Designated Doctor for Child Deaths

Named GP Safeguarding Children

5. REQUIRED FREQUENCY OF ATTENDANCE

Attendance from core membership required at each meeting or a deputy

7. Quorum

Governing Body lead

Director of Nursing and Quality

Designated Nurse / Doctor Child Safeguarding

Designated Nurse / Doctor LAC

Designated Nurse Adult Safeguarding

Provider Safeguarding Leads x 2

8. Frequency of meetings

Quarterly

9. Support

Lewisham CCG Safeguarding Administrator.

CCG Agendas and papers distributed to members 5 working days in advance of the meeting.

Minutes of the meetings will be produced and distributed to members within 7 working days of the meeting.

10. Review

Annual review of Terms of Reference