

Mace Housing Co-operative's Vulnerable Adults Protection Policy

Code of Practice

The interest and the wishes of the vulnerable adult are central to this policy.

Any action taken to protect a vulnerable adult from abuse using this policy should ensure the participation of the vulnerable person throughout the process.

Where appropriate the services committee will be informed of any action taken or recommended in relation to the protection of vulnerable adults.

The Policy respects an adult's right to live free from abuse in accordance with the principles of respect, dignity, autonomy, privacy, beliefs and equality. Services will be provided in a manner, which does not discriminate on grounds of racial or ethnic origin, religion or belief, disability, gender, age or sexual orientation.

Mace upholds the following principles:

Stadium individuals who are involved with vulnerable adults have a duty to protect them from abuse.

Mace will;

recognise the complexity of the work in the protection of vulnerable adults and the benefits to be gained from good multi-disciplinary and inter-agency working.

actively work on the prevention, identification, investigation and treatment of alleged, suspected or confirmed abuse.

where an investigation is indicated, managers will co-operate to co-ordinate their response and will decide which agency should investigate.

respond to actual or suspected cases of abuse with prompt, timely and appropriate action in line with Procedures.

respect the right of the vulnerable adult who is able to make informed choices, to make their own decisions regarding their present and future circumstances, including remaining in situations perceived by professionals or others to be risky or dangerous. In such cases, the vulnerable adult should be given information about the options available to them that could protect them from abuse. **However, an individual's wishes cannot undermine Mace's responsibility to act.**

in circumstances where the vulnerable adult does not have the mental capacity to be able to make an informed choice, any decisions and actions will be taken by those conducting the investigation and planning their protection. This will be based on judgement of what is in the best interests of the vulnerable adult, informed, where appropriate, by discussion with relatives and carers. Any action taken will respect the right of the vulnerable adult. Action taken will be proportionate to the assessed level of risk.

ensure any investigation or action should be carried out in a setting and manner appropriate to the levels of understanding, degree of disability and cultural background of the person or persons involved.

ensure that provision is made where the vulnerable adult has a need for an interpreter, communication aids or other facilitation, including meeting the communication needs of deaf/blind people or where there are communication problems due to difficulties in understanding e.g. the person has a learning disability or dementia.

ensure that a person's physical access needs must be addressed if this would prevent them attending meetings.

ensure that vulnerable adults have equal rights to protection under the law and access to legal advice including support to pursue prosecution of criminal offences.

ensure the safety of vulnerable adults by integrating strategies, policies and services relevant to prevention and protection from abuse within the framework of:

The NHS and Community Care Act 1990

The Mental Health Act 1983

The Care Programme Approach

The Public Interest and Disclosure Act 1998

The Care Standards Act 2000

The Youth Justice and Criminal Evidence Act 1999

The Human Rights Act 1998

The National Care Standards for Older People

The National Standards for Domiciliary Care Agencies

Local strategies arising from the National Services Frameworks for Mental Health (1999) and Older People (2000) and the aims set out in Valuing People, for People with Learning Disabilities (2000).

ensure that all staff and volunteers know about the Policy and Supporting Procedures and must have access to appropriate training and support.

ensure information is available to service users and carers that explains what abuse is and how and to whom to express concern and make a complaint.

ensure that vulnerable adults are enabled to access and independent advocate or appoint another person to represent their interests.

Definitions

For the purpose of this policy, the follow definitions apply.

A Vulnerable Adult

Is a person aged 18 years or over

“who is or may be in need of community care services by reason of mental or other disability, age or illness;
and
who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation”.

Ref Who Decides Lord Chancellors Department (1997)

Thus a vulnerable adult **may** be a person who:

- Is elderly and frail
- Has a mental disorder including dementia or a personality disorder
- Has a physical or sensory disability
- Has a learning disability
- Has a severe physical illness
- Is an unpaid carer
- Is homeless

The presence of a disability or age alone does not signify that an adult is necessarily vulnerable i.e. unable to take care of themselves or unable to protect themselves from abuse or exploitation.

Abuse

The term abuse can be subject to wide interpretation. For the purpose of the policies the following definition is used:

“Abuse is a violation of an individual’s human and civil rights by any other person or persons.” No Secrets DoH (March 2000)

In giving substance to this definition consideration needs to be given to a number of factors. Abuse may:

- Consist of a single act or repeated acts
- Be physical, verbal, psychological or emotional
- Be an act of neglect or an omission to act
- Occur when a vulnerable adult is persuaded to enter into a financial arrangement or sexual relationship to which they have not, or could not have consented.

The main different forms of abuse are

- Physical
- Sexual
- Psychological/Emotional
- Financial or Material
- Neglect and acts of omission
- Discriminatory
- Institutional

Any or all of these categories of abuse may be perpetrated as a result of deliberate intent, negligence or ignorance.

Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.

It may consist of isolated incidents or pervasive ill treatment or gross misconduct.

It can sometimes be difficult to decide whether a particular act or omission is abusive. In particular it can be difficult deciding between what could be described as neglect and poor professional practice and adult abuse.

Incidents of abuse may be, and often are, multiple. They can be either to one person in a continuing relationship or service context, or to more than one person in a continuing relationship.

It is important to look beyond the single incident or breach in standards to underlying dynamics and patterns of harm.

Significant Harm

In determining what degree of seriousness or extent of abuse justifies intervention, a useful starting point is consideration of the concept of “significant harm”. This is described as including:

“not only ill treatment (including sexual abuse and forms of ill treatment which are not physical), but also the impairment of, or an avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social or behavioural development”.

Who is covered

Vulnerable adults who are/have;
Homeless
Learning difficulties
Teenage Parents
Mental Health disorders housed by and supported by Mace Housing.

In terms of managing agents they will be expected to adopt this policy and provide the relevant staff training or produce on their own Policy accordance with their own Supporting People Contracts.

Differences between adult protection and protection of children

Autonomy, capacity and the ability to consent are key components in working with vulnerable adults. All adults, including vulnerable adults, have a fundamental human right to choose how and with whom they live, even if to outsiders this appears to involve degrees of risk. The only occasion when the right can be overridden is in situations where there are over-riding public interest considerations, such as where other people are also at risk or where the adult is mentally incapacitated and decisions need to be taken on the basis of the best interests of the adult.

The Children Act 1989 provides the legislative framework for agencies to take decisions on behalf of children and take action to protect them from abuse and neglect. At the present time there is no such Act applicable to adults and the current range of legislation does not offer adequate protection and is often only used when abuse has already occurred or suspected.

In addition there is no coherent legal framework for making decisions on behalf of an adult who lacks mental capacity other than in the situations covered by Section 47 of the National Assistance Act 1948 or the Mental Health Act 1983, Part IV (treatment without consent) and Part VII (management of Financial affairs).

The Police or the Crown Prosecution Service (CPS) will make a decision whether to prosecute in situations where the abuse is also a criminal offence.

See procedure and form on reporting child protection issues and borough advice on child protection guidelines.

Recognition of limitations to action

Mace has a duty of care to protect vulnerable adults from abuse and to recognise and take action.

Within the present legal framework, there will be occasions where vulnerable adults may choose to remain at risk in dangerous situations. Professional staff may find they have no statutory powers in cases where the adult is judged to have **sufficient capacity** to make his or her own choices and refuses the help or treatment which staff and/or careers feel is needed and where public interest considerations do not apply.

In these cases, the decisions of the vulnerable adult should be respected. An accurate record should be made of the situation at the time including:

The decision of the vulnerable adult

The advice of information they were given

Where indicated, a date at which the decision is to be reviewed with the vulnerable adult.

They could change their decision at some point in the future and should be given information about how to contact appropriate services.

There may be circumstances where the legal powers contained in the Mental Health Act 1983 or the National Assistance Act 1948 are not applicable so that powers to intervene to gain access to a particular adult, remove the adult or the alleged perpetrator from a risk situation, or investigate the financial affairs of a vulnerable adult, are limited.

Mace will take every effort to ensure it supports staff in handling cases of vulnerable adults who remain in high risk situations provided:

There is evidence that the Policy and Procedures have been properly followed, including addressing any criminal act.

Every effort is made, in collaboration with other agencies, to intervene positively to protect the vulnerable adult.

Legal advice has been obtained.

Decisions about capacity and the ability of the vulnerable adult to give *informed* consent are a matter of medical judgement and multi-disciplinary assessment. An option about the vulnerable adult's ability to make choices based on an understanding of all factors involved, free of undue influence or duress, must be reached.

There should be no abandonment of the duty to care under the guise of "choice".

Confidentiality and information sharing protocol

Underlying principles

Staff within Mace owe a duty of confidentiality to vulnerable adults. A vulnerable adult has a right to expect that information about them and held on them in whatever form, will be treated with due regard to the principle of confidentiality.

These principles are applicable to information sharing both within and between agencies with who Mace works.

The vulnerable adult should be made aware that information will be shared within Mace in order to provide the service.

An individual employee cannot give a personal assurance of confidentiality to a vulnerable adult and should explain this to the vulnerable adult at the outset.

Staff have a clear duty to report any concerns they have relating to the abuse, or suspected abuse of a vulnerable adult to their line manager at the earliest opportunity.

Staff **must** refer to codes of practice professional as well as internal operational policies that set out specific safeguards in relation to the handling of confidential information in all forms.

The duty of confidentiality owed to individuals is not affected by their vulnerability, but by their level of capacity and their wishes should be respected. See below 6.3 for circumstances in which their wishes can be overridden.

Informed consent should be obtained before the sharing of information about a vulnerable adult. It should not be assumed that consent to the sharing of information regarding one particular set of circumstances gives consent to share information about another, different set of circumstances.

Where the vulnerable adult does not have the mental capacity to give informed consent, a decision to share information should be made on the basis of their interests and a record made of that decision.

Difficulties in working with the principles of maintaining the confidentiality of the vulnerable adult should not lead to a failure to take action to protect that adult from abuse. Confidentiality must not be confused with secrecy.

Confidentiality must not be confused with secrecy (i.e. the need to protect the management interests of an organisation should not over-ride the need to protect a vulnerable adult).

Circumstances where it may be necessary to share information without consent

The views and wishes of the vulnerable adult will normally be respected when sharing the information they have given. Agencies cannot guarantee a fully confidential service. There will be circumstances when the wider public interest will outweigh the responsibility to any one individual e.g. in situations where other vulnerable people may be at risk.

Underlying principles for sharing of information are set out in the Caldicott Committee *Report Review of Patient – Identifiable Information*. December 1997.

Confidential information may need to be disclosed in the best interests of the vulnerable adult, if the person lacks mental capacity. However, if a mentally competent person made it previously known that they do not want information shared, their wishes should be respected. A decision to share information contrary to their wishes should only be made if other considerations apply e.g. on public interest grounds, as in situations where there is a risk of serious harm to a third party.

Information will only be shared on a need to know basis.

A decision to determine circumstances where information may be disclosed *can only* be made on the following basis:

When it is the best interest of the service user who lacks mental capacity. Informed consent should be obtained but, if this is not possible and other vulnerable adults are at risk, it may be necessary to over-ride the requirement; and it is inappropriate for agencies to give assurance of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other vulnerable people may be at risk.

Examples of exceptional circumstances in which confidential information can be justifiably shared:

These include:

Immediate risk of, or actual occurrence of significant harm to, or exploitation of the service user or another person. But see 6.2.3 above.

A statutory responsibility e.g. under the Mental Health Act 1983, the Children Act 1989 etc.

Another organisation requires the information in order for them to discharge their statutory functions e.g. the Police require information for prevention or detection of a

crime. The judgement would be whether the duty of confidentiality is outweighed by the public duty to prevent a crime.

There is a **duty** to report in order to protect others, **even if the vulnerable adult does not wish it**, in circumstances involving concerns of mal-practice, abuse or poor professional practice by:

An employee of Mace

A local authority or

A health employee

A paid carer

An employee of a private care agency, or

An employee of another organisation or contracted agency providing care to the vulnerable adult.

A volunteer

Information shared should be the minimum necessary to meet the requirements of the situation and the reasons for disclosure recorded.

Whatever possible, the vulnerable adult should be informed beforehand that a decision has been made to share information contrary to their wishes. Reasons should be given and they should be given the opportunity to reconsider their decision and to consent. They should be informed about what information is being shared and with whom it is being shared. This should be fully documented in the records.

6.4 Sharing of information with the police

The Community Safety Units (CSU) of the Metropolitan Police have a lead role in relation to the protection of vulnerable.

Early consultation can take place with the police based in the Community Safety Units, without divulging the name of the vulnerable adult, in order to gain advice on how to proceed in situations that give rise to a concern that the suspected or actual abuse may involve a criminal offence. The name of the vulnerable adult must not be disclosed unless they have given their permission.

The police will not proceed with any action against the wishes of the vulnerable adult unless there are over-riding reasons to do so in the public interests.

Managing confidential information in documentation and minutes of meetings

Service users have a right of access their support plans and files.

The handling of files, documents, records and data entered onto a computer system and processing personal data by any means, including by fax or e-mail, in connection with the adult protection procedures must comply with agencies' policy and procedures for the handling of personal data. It must also comply with the principles of good practice as defined in the Data Protection Act 1998

See procedure on data protection.

In certain circumstances, it will be necessary to exchange or disclose personal information. Such exchange will need to be in accordance with the Data Protection Act.

Anonymous information

Requests for anonymity, will in general, be respected. However if information regarding possible abuse is received from a member of the public or other third party, it is important to clarify at the out-set whether the person is willing to be identified. It may be necessary to discuss with the informant the effect of their remaining anonymous and the implications of them not being prepared to come forward as a witness. It may not be possible to guarantee anonymity where legal proceedings are involved.

Information given by someone who insists on remaining anonymous will not be disregarded and will be recorded and acted upon in line with the Policy and Procedures.

Where there are suspicions or concerns that a crime has been committed, it is important that a record is made as this can lead to identifying a pattern of offending.

CATEGORIES OF ABUSE

Physical Abuse

The use of force 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.

Sexual Abuse

The involvement of the vulnerable adult in sexual activity or relationships which:

They do not want or have not consented to

They cannot understand and lack the capacity to give consent to

They have been coerced into because the other person is in a position of trust, power or authority – such as within a care giving situation, a family or other power relationship including trusted friends, a neighbour, a volunteer or paid carer

Are against the law

NB Sexual relationships or inappropriate sexual behaviour between a member of staff and service user are always abusive and will lead to disciplinary proceedings and possible criminal charges.

Psychological or Emotional Abuse

Behaviour that has a harmful effect on the vulnerable adult's emotional health and development or any other form of mental cruelty, that results in:

Mental distress

The denial of basic human and civil rights such as self expression, privacy and dignity
The negation of the vulnerable adults choices, independent wishes and self esteem
Behaviour that causes isolation or over dependence and has a harmful effect on an adult's emotional health, development or well being

Financial or Material Abuse

The use of vulnerable person's property, assets, income funds or any resources without their informed consent or authorisation.

Financial or material abuse occurs where an individual's funds or resources are being used inappropriately by a third person. It can include the withholding of money, to the unsanctioned use of a person's money or property. It could also include the entry of the vulnerable adult into contracts or transactions which they do not understand and are to their disadvantage and which have been as a result of duress, undue influence or pressure of some kind.

NB Financial abuse is often seen as a less serious form of abuse but it is very often associated with other forms of abuse.

Neglect and Acts of Omission

The repeated deprivation of assistance that the vulnerable adult needs for important activities of daily living, including the failure to intervene in behaviour which is dangerous to the vulnerable adult or to others.

NB This form of abuse may arise in cases where the carer is also a vulnerable adult. It is then important to respond in such a way to ensure that the carer's needs are addressed, consideration given to their right to an assessment and to access to an independent advocate.

Discriminatory Abuse

Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunity to some groups or individuals.

It is the exploitation of a person's vulnerability, resulting in repeated or pervasive treatment of an individual, which excludes them from opportunities in society e.g. education, health, justice, civic status and access to services and protection.

The principles limiting and preventing discriminatory abuse are embodied in legislation including the Race Relations Act 1976, the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 1995, the Sex Discrimination Act 1975,

and the Human Rights Act 1998 and give rise to a criminal offence or grounds for action under civil law. The European Equal Treatment Directive (Article 13) specifically outlaws both direct and indirect discrimination. Incitement to discriminate is also treated as equivalent to actual discrimination.

Discriminatory Abuse links to all other forms of abuse. It includes discrimination on the basis of race, religion or belief, gender, age, sexuality, disability, language or culture.

Institutional Abuse

Institutional abuse is the mistreatment or abuse of a vulnerable adult by a regime or individuals within an institution. It can be through repeated acts of poor or inadequate care and neglect or poor professional practice.

Institutional abuse occurs when the routines, systems and norms of an institutional compel individuals to sacrifice their own preferred lifestyle and cultural diversity to the needs of the institution.

Adults who are placed in any kind of residential, nursing home or day care establishment are always open to the potential for abuse and exploitation.

Any of the preceding categories of abuse may be perpetrated on a vulnerable adult who is being cared for within any setting including a residential, nursing home or day care resource or a hospital.

Research has shown that the culture of an institution is a powerful indicator of the practice and attitudes of those working within it. Institutions, which have a closed “culture” where there can be lack of accountability, have been shown to foster poor practice.

7.7.1 What causes abuse in institutions?

Research has shown that the risk of abuse is likely to be greater if the staff:

- Receive little support from the management
- Lack training
- Receive inadequate guidance
- Have low self esteem
- Have poor personal standards
- Work in isolation

Risk of abuse is also greater in institutions with:

- Poor management
- Too few staff
- Little direction from the outside
- Poor communication with the world outside
- A closed culture

Stevenson (1999); Stanley *et al* (1999)

It is not uncommon to find that in many situations several different categories of abuse are present. For example, where a vulnerable adult is the subject of financial abuse, they may also be being neglected or subject to psychological or emotional abuse.

8 When the abuse constitutes a crime

Many of the above categories of abuse are actions that may constitute criminal offences. Such actions include:

- Assault whether physical or psychological
- Sexual assault and rape
- Theft
- Fraud or other forms of financial exploitation
- Discrimination on grounds of race, gender or disability
- False imprisonment

When complaints about alleged abuse suggest that a criminal offence may have been committed, it is imperative that reference should be made to the police as a matter of urgency in line with agencies' own internal operational policies.

In situations where the abuse may constitute a criminal offence, vulnerable adults are entitled to the protection of the law in the same ways as any other member of the public.

In cases where a crime has been committed and a criminal investigation is being conducted, all other investigations will be conducted in consultation with the police.

The Youth Justice and Criminal Evidence Act 1999 introduces new provisions for the protection of vulnerable witnesses.

Domestic Violence

There can be some overlap between adult protection and domestic violence. Where one or both adults involved can be defined as vulnerable, then the Policy and Procedures may apply.

Domestic violence is defined 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”. (Metropolitan Police Racial and Violent Crimes Task Force).

Domestic violence involves the misuse of power and the exercise of control by one adult over another adult person. Most frequently, but not exclusively, the woman is the victim.

Action would not be taken under this document if vulnerability as defined in the Policy does not apply. If the person agrees, reference should be made to the police and information provided about other sources of help and support.

See Procedure on Domestic Violence and tenants handbook for further details on assistance that Mace may be able to provide.

Child protection procedures

In cases where abuse of a vulnerable adult is occurring and a child may also be involved and at risk, reference should be made to the Local Child Protection Committee Inter-Agency Guidelines and internal protocols dealing with cross boundary working.

Referral should also be made to the responsible children and families social work team.

See - *Child Protection reporting form and guidelines*
- *Incident reporting form*

Who is the Abuser?

Vulnerable adults may be abused by a wide range of people including:

- Professional staff
- Paid care workers
- Volunteers
- Other service users
- Relatives and family members
- Neighbours
- Friends and associates
- People who deliberately exploit vulnerable people
- Strangers

Abuse of trust

There is often particular concern when abuse is perpetrated by someone who is in a position of power or authority and who uses his or her position to detriment of the health, safety, welfare and general well-being of a vulnerable person.

Where the alleged abuser is in a relationship of trust with the vulnerable adult, the vulnerable adult may be deterred from making a complaint or of taking action out of a sense of loyalty, fear of abandonment or fear of repercussions.

Abuse by Strangers

Abuse by strangers will warrant a different kind of response from that appropriate to abuse in an ongoing support relationship.

Responsibility of agencies to perpetrators

Mace not only has a responsibility to all vulnerable adults who have been abused but also have responsibilities in relation to some perpetrators of abuse.

The roles, powers and duties of the various agencies in relation to the perpetrator will vary depending whether the latter is:

A member of staff, proprietor or service manager

A member of a recognised group

A volunteer or member of a community group e.g. a place of worship or social club

Another service user

A spouse, relative or member of a person's social network

A carer, i.e. someone who is eligible for an assessment under the Carers (Recognition and services) Act 1996 or the Carers and Disabled Children Act 2000

A neighbour, member of the public or stranger

A person who deliberately targets vulnerable people in order to exploit them.

Circumstances in which abuse may occur

Abuse can take place in any context

Abuse may occur when a vulnerable person is:

Within residential care or Supported Housing Schemes

In hospital

In a custodial situation

Receiving support services in their own homes

In other places assumed as being safe

In public places

Living alone or with a relative

Interventions

Will partly be determined by the context in which the abuse occurred. Nursing, residential homes and domiciliary care services are subject to regulatory controls set out in legislation and relevant guidance.

Particular vigilance is needed, where Support staff work in situations where there is little scrutiny or supervision or in non-regulated environments, such as sheltered accommodation and schemes.

Careful and regular monitoring and reviews as well as detailed contract specifications are important where services are not subject to formal regulation.

Personal and family relationships within domestic locations may be equally complex, making it difficult to assess and intervene. Action seen as necessary to protect a vulnerable adult may be limited in situations where the vulnerable adult is unwilling to jeopardise a relationship judged by others to be abusive.

Vulnerable adults themselves may be misusing power and abusing those who care for them. In circumstances where the carer themselves is a vulnerable adult incapable of making his or her own decisions.

It may be important for the vulnerable adult to be away from the sphere of influence of the abusive person or the setting in order to be able to make a free choice about how to proceed.

A vulnerable adult who has rejected help at the outset should be given the opportunity to change their mind. Their decision should be recorded and they should be given information about who to contact should they wish to do so.

Patterns of abuse/abusing

Patterns of abuse and abusing vary and reflect very different dynamics. These include:

Serial abusing in which the perpetrator seeks out and “grooms” vulnerable individuals. Sexual abuse usually falls into this pattern as do some forms of financial abuse.

Long term abuse in the context of an ongoing family relationship, such as domestic violence between spouses or generations.

Opportunistic abuse, such as theft occurring because money has been left around.

Situational abuse which arises because pressures have built up and/or because of difficult or challenging behaviour.

Neglect of a person’s needs because those around him or her are not able to be responsible for their care, e.g. if the carer has difficulties, attributable to such issues as debt, alcohol or mental health problems.

Institutional abuse which features poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and insufficient knowledge base within the service

Unacceptable treatments or programmes which include sanctions or punishments, which include withholding food and drink, seclusion, unnecessary use of control and restraint (physical interventions) or over medication.

Failure of agencies to ensure staff receive appropriate guidance on anti-racist and anti-discriminatory practice.

A “closed” culture existing within an organisation.

Failure to access key services such as health care, dentistry and prosthetics.

Misappropriation of benefits and/or use of the person’s money by other members of the household.

Fraud or intimidation in connection with wills, property or other assets.

Predisposing factors which may lead to adult abuse

Age or disability alone is **not** a criterion for a person being vulnerable. Vulnerability is determined by the presence of mental or physical incapacity, physical or mental frailty, physical or mental illness. (McCreadie 2001)

“There is a difference between being vulnerable and being at risk.....It is not right to assume that all vulnerable people are at risk” [Better Regulation Task Force 2000].

The Better Regulation Task Force argues that all people in institutions are vulnerable by virtue of living in an institution.

Research has swept away any simple explanations as to why abuse occurs. The characteristics of both victims and abusers are equally diverse. However, it is agreed that the following factors may be present in abusive or potentially abusive situations. (McCreadie 2001).

An unequal power relationship, whether physical, emotional or financial, generally exists between the abused and the abuser.

The psychopathology or dependency of the abuser may be more significant than the characteristics of the victim, particularly in situations where the abuser is dependent emotionally, financially or for housing upon the victim.

Carer stress

Research has shown that stress alone is not a causative factor and there needs to be some additional factor present either arising from the characteristics of the carer or the vulnerable adult e.g. behavioural difficulties. Practitioners need to be alert to the legal rights of carers to assessment and be pro-active in offering assessment and support Adults with learning disabilities, mental health problems, or chronic progressive disabling illness that create caring needs which exceed the carer's ability to meet them The emotional or social isolation of the carer and vulnerable adult

Minimal or no communication between the dependent person and the carer either through choice, incapacity or poor relationship

Carers not in receipt of any practical and/or emotional support from other family members or professionals

Financial difficulties leading to substandard living conditions

A personal or family history of violent behaviour, alcoholism, substance misuse or mental illness

What degree of abuse justifies intervention?

Decisions about whether to intervene should be made in consultation with a line manager and other involved professionals.

In deciding whether the particular act of neglect or omission constitutes abuse, consideration should be given to the definition of abuse outlined in this document.

See Policy: 2.2: Abuse (page 4)

19.2 Reference should also be made to the definition of significant harm.

See Policy: 2.4: Significant harm (page 5)

An assessment of seriousness needs to take into consideration

The **vulnerability** of the individual

The **nature and extent** of the abuse

The **length of time** it has been occurring

The **impact** on the individual

The **risk of repeated or increasingly** serious acts involving this or other vulnerable adults

The **risk that serious harm** could result if no action is taken

The **illegality** of the act or acts.

An evaluation will need to make to ascertain whether:

The person is suffering harm or exploitation.

The intervention in the best interests of the vulnerable adult and/or in the public interests?

The assessment takes account of the depth and the conviction of the feelings of the person alleging the abuse.

Acting in the best interests of the vulnerable adult

In some situations, where the vulnerable adult lacks mental capacity, in order to protect them or other vulnerable adults from abuse or possible abuse decisions on their behalf. A multi-disciplinary assessment of the mental capacity of the vulnerable adult is essential before a decision to act in best interests is taken. Re F [1990] 2 AC 1, R v Bournemouth Community & Mental Health Trust ex parte L (1998).

In taking a decision to act in the best interests of a vulnerable adult who lacks capacity, and with due regard to the duty of care, the person making the decision will:

Act in a way that is necessary to promote the health or well-being or prevent deterioration in the quality of life of the mentally incapacitated adult.

Ensure that while the intervention maintains the safety of the vulnerable person, it is as limited as possible and is in a manner that is least restrictive of the person's freedom of action.

Ensure that any decision is made with due regard for the process of law.

Ascertain the past and present wishes and feelings of the person concerned and the factors the person would consider if they were able to do so.

Permit and enable the person to participate as fully as possible in anything done for or any decision affecting him or her.

Actively seek the views of other people whom it is appropriate and practical to consult about the person's wishes and feelings and what would be in his or her best interests.

In addition the following factors should be taken into account:

Whether there is a reasonable expectation of the person recovering capacity to make the decision in the reasonable foreseeable future.

The need to be satisfied that the wishes of the person without capacity were not the result of undue influence.

Ref. Making Decisions, The Government's proposal for making decisions on behalf of incapacitated adults. A report issued in the light of the responses to the consultation paper *Who Decides?* Lord Chancellor's Department (October 1999)

Reporting wrong doing and raising staff concerns at work whistle blowing

“Whistle blowing” is the term that is sometimes given to the situation where a member of staff or a volunteer reports a concern about something that is happening in their work place. This may be with regard to fraud, health and safety issues, abuse or standards of care.

The Public Interest Disclosure Act 1998 set out requirements for organisations to have procedures under which staff can raise, in confidence, any serious concerns they have and do not feel they can raise in another way.

The Act provides for the protection of individuals who make certain disclosures of information in the public interest; to allow such individuals to bring action in respect of victimisation if this results from their whistle blowing.

See Whistle Blowing Procedures

Prevention

Mace will;

ensure that staff have an awareness of the possibility of abuse and that they receive training. Procedures should be in place to deal with any disclosure of abuse by the vulnerable adult and these procedures should be compatible with the Multi-agency Policy and Procedures.

ensure that the identification of vulnerability and an assessment of risk of abuse is integrated into assessment practice and in risk assessment protocols.

encourage good communication between staff and managers and between service users, relatives and other professionals and foster an “open culture” in the organisation.

ensure that staff know about the requirements to make accurate, factual records at the time of the concern.

ensure that staff understand their duty to report concerns to their line manager and know about the protocol for sharing of information.

ensure that adult protection should be included in induction and training at a level that is commensurate with staff members' roles in the adult protection process.

ensure agencies should have a set of internal guidelines which relate clearly to the Multi-Agency Policy and Procedures and which set out the responsibilities of all staff to operate within it.

ensure that staff receive regular and recorded supervision.

Mace either has or is working towards guidelines, i.e. Codes of Conduct and Service Standards to enable staff to:

- Identify vulnerable adults who are particularly at risk from abuse;
- Recognise risks from different sources and in different situations;
- Recognise abusive behaviour in other service users, colleagues and family members;
- Know about the routes for making a referral and channels of communication within and beyond the agency;
- Be assured about the protection for whistle blowers;
- Work within best practice as specified in contracts;
- Work within and co-operated with regulatory mechanisms;
- Work within agreed operational guidelines to maintain best practice in relation to:
 - Challenging behaviour
 - Personal and intimate care
 - Physical interventions (formerly control and restraint) in line with new codes of practice
 - Sexuality and relationships
 - Medication
 - Handling service users' money
 - Risk assessment and management
 - Racial harassment

Mace will:

ensure Codes of Conduct are in place for all staff that set out clear standards of conduct especially in relation to personal and sexual relationships between people in a position of trust and vulnerable adults.

See Section 12: Abuse of trust (Page 20)

ensure internal operational policies available include: rights of staff, responsibilities of employers and policies to respond to violence and abuse directed towards staff.

ensure internal guidance is available on responding to racial abuse/harassment: between service users, between staff and between service users and staff.

ensure that it has rigorous recruitment practices for both paid staff and, where used, for volunteers and that police checks are made and references are routinely sought and checked.

23 Training for staff and volunteers

There is a strong commitment among partner agencies to underpinning good practice through development, training and learning opportunities for all staff at all levels.

Mace provides training for staff and volunteers on the policy, procedures and professional practices that are in place locally, commensurate with their responsibilities in the adult protection process. This includes:

Basic induction training in awareness that abuse can take place and duty to report. More detailed awareness training, including training on recognition of abuse and responsibilities with respect to procedures

Training should take place at all levels in an organisation and within specified timescales. To ensure that procedures are carried out consistently, no staff group should be excluded. Training should include issues relating to staff safety within a health and safety framework. Training is a continuing responsibility and should be provided as a rolling programme.

Where appropriate agencies should integrate training on adult protection and on the policy and procedures with other areas of training being undertaken e.g. risk training, CPA training, training on assessment and care planning.

Training on adult abuse will need to be integrated into any induction training and the NVQ training for staff.

See Staff-Handbook

See Training and development section for advice.

Reviewed: 07 November 2015