

# Safeguarding Adults Policy and Procedures

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# 1. Policy and Procedures Statement and Aims

## 1.1 Introduction

EMD UK is the national governing body for group exercise activities, funded and supported by Sport England. Our key priorities are to get more people participating regularly in group exercise and to train more teachers and instructors to deliver high quality sessions and programmes.

EMD UK wants everyone to have a positive, safe and enjoyable experience when taking part in any group exercise activities. We also strive to ensure that all staff, teachers, instructors and volunteers are clear on what is expected of them when engaging with adults at risk and that best practice is central to all activities.

EMD UK has developed this policy so that all involved know what processes and procedures to follow and who they can contact for help if they have any safeguarding concerns.

This policy and procedures covers the safeguarding of adults at risk. Safeguarding of children and young people is the focus of a separate EMD UK policy.

EMD UK is committed to creating and maintaining a safe and positive environment for all adults and accepts our specific responsibility to have procedures in place to protect adults at risk of harm or abuse.

The organisation aims to ensure that practice reflects statutory safeguarding responsibilities, government guidance, and safe recruitment requirements, and complies with best practice.

All adults, regardless of age, ability or disability, gender, race, religion, ethnic origin, sexual orientation, marital or gender status have the right to be safeguarded from abuse and poor practice and to participate in an enjoyable and safe environment. The rights, dignity and worth of all adults will always be respected.

EMD UK will seek to ensure that our activities are inclusive and make reasonable adjustments for any ability, disability or impairment, we will also commit to continuous development, monitoring and review.

EMD UK recognises that the need for care and support, ability and disability can change over time and that some adults may be additionally vulnerable to abuse, for example those who have a dependency on others or have different communication needs.

We all have a shared responsibility to ensure the safety and well-being of all adults and will act appropriately and report concerns whether these concerns arise within EMD UK, for example inappropriate behaviour of an instructor, or in the wider community. All suspicions and allegations of abuse or poor practice will be taken seriously and EMD UK will respond swiftly and appropriately to them in accordance with current Safeguarding, Complaints and Disciplinary Procedures.

In addition, EMD UK recognises the role and responsibilities of the statutory agencies in safeguarding adults and is committed to complying with the policy and procedures of Local Safeguarding Adults Boards.

- 1.2 This policy and procedures document sets out a framework that aims to ensure that safe environments are created, that all practical steps have been taken to safeguard adults, particularly those who are most at risk of harm, and to help adults protect themselves from harm, discrimination or degrading treatment.

The policy and procedures apply to all organisations, teachers, instructors, volunteers, helpers, participants, parents/carers and staff involved in EMD UK, whether or not they are members. All these people have a duty of care to safeguard the welfare of adults and prevent their abuse.

EMD UK **licensed (Founder)** organisations use the EMD UK policy and procedures in their entirety and EMD UK fulfils the lead safeguarding functions for these organisations. Other EMD UK **member** organisations can adopt the full policy and procedures OR provide evidence that their own policies are up to the required standards outlined in this document.

Other relevant organisations, groups or individual teachers are welcome to refer to and utilise any relevant and useful information that will assist them in raising standards and adopting safe practice across the group exercise sector.

- 1.3 This policy needs to be read in conjunction with other EMD UK policies including:

- Disciplinary and Grievance
- Data Protection
- Recruitment and Selection
- Safeguarding children and young people
- Complaints procedure
- Whistleblowing
- Non-harassment, Bullying and Victimisation Policy
- Equality, Diversity and Inclusion Policy

These policies are all available from [www.emduk.org](http://www.emduk.org) or the EMD UK office on 01 403 266000 or emailing [info@emduk.org](mailto:info@emduk.org)

## 2. Safeguarding Principles

The safeguarding adults' guidance given in this policy and procedures is based on the following principles set out in the Care Act 2014:

The six principles of adult safeguarding:

**Empowerment** — People being supported and encouraged to make their own decisions and informed consent.

"I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens."

**Prevention** — It is better to act before harm occurs.

"I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help."

**Proportionality** — The least intrusive response appropriate to the risk presented. "I am sure that the professionals will work in my interest and they will only get involved as much as needed."

**Protection** — Support and representation for those in greatest need.

"I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want."

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

"I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me."

**Accountability** — Accountability and transparency in delivering safeguarding. "I understand the role of everyone involved in my life and so do they."

## 3. Legal framework

3.1 The Care Act 2014 puts the safeguarding of adults at risk onto a statutory footing. It also outlines the way in which local authorities should carry out carer's assessments and needs assessments; how local authorities should determine who is eligible for support; the new obligations on local authorities; and how local authorities should charge for both residential care and community care. EMD UK uses the Act as its framework for developing a safer organisation for all adults and particularly those who are most at risk of harm. A key concept that is threaded throughout the Care Act and key to adult safeguarding is 'promoting an individual's wellbeing'. Wellbeing' is a broad concept. It is described as relating to the following areas in particular:

- personal dignity (including treatment of the individual with respect)
- physical and mental health and emotional wellbeing
- protection from abuse and neglect
- control by the individual over their day-to-day life (including over care and support provided and the way they are provided)

- participation in work, education, training or recreation
- social and economic wellbeing
- domestic, family and personal domains
- suitability of the individual's living accommodation
- the individual's contribution to society.

There is no hierarchy in the areas of wellbeing listed above – all are equally important. There is also no single definition of wellbeing, and how this is interpreted will depend on the individual, their circumstances and their priorities.

- 3.2 The Human Rights Act 1998 gives legal effect in the UK to the fundamental rights and freedoms contained in the European Convention on Human Rights (ECHR).
- 3.3 The Mental Capacity Act 2005, covering England and Wales, provides a statutory framework for people who lack capacity to make decisions for themselves, or who have capacity and want to prepare for a time when they may lack capacity in the future. It sets out who can take decisions, in which situations, and how they must go about this.
- 3.4 The Public Interest Disclosure Act 1998 (PIDA) created a framework for whistle blowing across the private, public and voluntary sectors. The Act provides almost every individual in the workplace with protection from victimisation where they raise genuine concerns about malpractice in accordance with the Act's provisions.
- 3.5 The Data Protection Act 2018 defines UK law on the processing of data on identifiable living people. It is the main piece of legislation that governs the protection of personal data in the UK.
- 3.6 The General Data Protection Regulation (GDPR) is a legal framework that sets guidelines for the collection and processing of personal information from individuals who live in the
- 3.7 Safeguarding Vulnerable Groups Act 2006 established the legal basis for the Independent Safeguarding Authority who manage the two lists of people barred from working with children and/or vulnerable adults replacing the former barred lists. The Act also places a statutory duty on all those working with vulnerable groups to register and undergo an advanced vetting process with criminal sanctions for non-compliance.
- 3.8 Freedom of Information Act 2000 creates a public "right of access" to information held by public authorities.
- 3.9 The Deprivation of Liberty Safeguards code of practice 2008 provides a framework for approving the deprivation of liberty for people who lack the capacity to consent to treatment or care in either a hospital or care home that, in their own best interests, can only be provided in circumstances that amount to a deprivation of liberty. The safeguards legislation contains detailed requirements about when and how deprivation of liberty may be authorised.

- 3.10 Protection of Freedom Act 2012 is legislation primarily designed to protect the rights of individuals. The Act includes changes to freedom of information, rights to data and criminal history checks (Vetting and Barring – DBS checks) amongst other civil liberty issues.
- 3.11 The Sexual Offences Act 2003 makes it an offence for those engaged in providing care, assistance or services to someone with a learning disability or mental illness to engage in sexual activity with that person whether or not that person has the capacity to consent.
- 3.12 The Domestic Violence, Crime and Victims Act 2004 is concerned with criminal justice and concentrates upon legal protection and assistance to victims of crime, particularly domestic violence. It also expands the provision for trials without a jury, brings in new rules for trials for causing the death of a child or vulnerable adult, and permits bailiffs to use force to enter homes.
- 3.13 The Equality Act 2010 is the law which bans unfair treatment and helps achieve equal opportunities in the workplace and in wider society.

## 4. Definitions

- 4.1 **Adult at Risk** - An adult at risk is defined in the Care Act 2014 as a person aged 18 or over who:
- Has needs for care and support (whether or not the local authority is meeting any of those needs) and;
  - Is experiencing, or at risk of, abuse or neglect, and;
  - As a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.
- 4.2 **Abuse** is a violation of an individual's human and civil rights by another person or persons. See section 5 for further explanation.
- 4.3 **Adult** is anyone aged 18 or over.
- 4.4 **Adult safeguarding** is protecting a person's right to live in safety, free from abuse and neglect.
- 4.5 **Adult with care and support needs** 'Care and support' is the term used in the Care Act to describe the help some adults need to live as well as possible with any illness or disability they may have. It can include help with things like: getting out of bed; washing; dressing; getting to work; cooking meals; eating; seeing friends; caring for families; being part of the community. It might also include emotional support at a time of difficulty and stress, helping people who are caring for an adult family

member or friend or even giving others a lift to a social event. Care and support includes the help given by family and friends, as well as professionals.

- 4.6 **Capacity** refers to the ability to make decisions at a particular time, for example when under considerable stress. The starting assumption must always be that a person has the capacity to make decisions unless it can be established that they lack capacity (MCA 2005).

## 5. Types of Abuse

- 5.1 Abuse may consist of a single act or repeated acts. It may be physical, verbal or psychological, it may be an act of neglect or an omission to act, or it may occur when a person is persuaded to enter a financial or sexual transaction to which he or she has not consented, or cannot consent.
- 5.2 Abuse can occur in any relationship and it may result in significant harm to, or exploitation of, the person subjected to it. Abuse can take place in any context and by all manner of perpetrator. Abuse may be inflicted by anyone in an organisation that a participant encounters. Or people within an organisation may suspect that an adult taking part in an activity is being abused or neglected outside of the organisational setting, for example at home.
- 5.3 Types of Abuse and Neglect - Definitions from the Care Act 2014
- 5.3.1 **Physical abuse** — including hitting, slapping, pushing, kicking, misuse of medication, restraint, or inappropriate sanctions.
- 5.3.2 **Sexual abuse** — including rape and sexual assault or sexual acts to which the vulnerable adult has not consented, or could not consent or was pressured into consenting.
- 5.3.3 **Emotional or psychological abuse** — including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.
- 5.3.4 **Financial or material abuse** — including theft, fraud, internet scamming, exploitation, and pressure relating to wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- 5.3.5 **Neglect and acts of omission** — including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating.
- 5.3.6 **Discriminatory abuse** — abuse which centres on a difference or perceived difference particularly with respect to race, gender or disability or any of the protected characteristics of the Equality Act.



- 5.3.7 **Organisational Abuse** — including neglect and poor care practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one's own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice because of the structure, policies, processes and practices within an organisation.
- 5.3.8 **Domestic Abuse** — including psychological, physical, sexual, financial and emotional abuse and coercion. It also includes so called 'honour' based violence.
- 5.3.9 **Self-neglect** — this covers a wide range of behaviour: neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding.
- 5.3.10 **Modern Slavery** — encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.
- 5.4 Not included in the Care Act 2014 but also relevant:
- 5.4.1 **Bullying** — Bullying and harassment occurs where repeated deliberate actions by one or more people cause hurt to an individual or group and where it is difficult for the bullied person(s) to prevent or deal with this person's actions. The damage inflicted by bullying can frequently be underestimated. It can cause considerable distress, to the extent that it affects their health and development or, at the extreme, causes them significant harm (including self-harm).
- 5.4.2 **Cyber Bullying** — cyberbullying occurs when someone repeatedly makes fun of another person online or repeatedly picks on another person through emails or text messages, or uses online forums with the intention of harming, damaging, humiliating or isolating another person. It can be used to carry out many different types of bullying (such as racist bullying, homophobic bullying, or bullying related to special educational needs and disabilities) but instead of the perpetrator carrying out the bullying face-to-face, they use technology to do it.
- 5.4.3 **Forced marriage** — is a term used to describe a marriage in which one or both 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 a third party in identifying a spouse. The Anti-Social Behaviour, Crime and Policing Act 2014 make it a criminal offence to force someone to marry.
- 5.4.4 **Mate Crime** — A 'mate crime' as defined by the Safety Net Project is 'when vulnerable people are befriended by members of the community who go on to exploit and take advantage of them. It may not be an illegal act but still has a negative effect on the individual.' Mate Crime is carried out by someone the adult knows and often happens in private. In recent years, there have been several Serious Case Reviews relating to people with a learning disability who were murdered or seriously harmed by people who purported to be their friend.

- 5.4.5 **Radicalisation** — The aim of radicalisation is to attract people to their reasoning, inspire new recruits and embed their extreme views and persuade vulnerable individuals of the legitimacy of their cause. This may be direct through a relationship, or through social media.
- 5.4.6 **County Lines** - Is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”. They are likely to exploit children and vulnerable adults to move [and store] the drugs and money and they will often use coercion, intimidation, violence (including sexual violence) and weapons.
- 5.4.7 **Cuckooing** - Is when professional criminals target the homes of vulnerable adults so they can use the property for drug-dealing and other criminal activities.

## 6. Indicators of Abuse

- 6.1 An adult may disclose a concern or describe what may be an abusive act. In addition:
- Another person may raise concerns about the well-being of an adult
  - There may be unexplained or concerning injuries such as burns, cuts, and bruises and particularly when situated in areas of the adult's body which are not normally prone to injury
  - Physical injury may be present where the explanation given is inconsistent
  - Unexplained changes in behaviour may be noticed such as an adult becoming withdrawn, quiet or aggressive/verbally violent
  - An adult may display inappropriate sexual awareness and be behaving in a sexualised manner that is out of character
  - Excessive weight loss or weight gain for no obvious reason is noticed
  - Physical appearance has become unkempt
  - The adult is withdrawn and has isolated themselves from the group and seems unable to make friends.

**This is not an exhaustive list of indicators and alone cannot be seen to be definitive proof an adult is being abused but it is everyone's responsibility to act upon their concerns and report any incident immediately.**

## 7. Poor Practice

- 7.1 Poor Practice can be split into several groupings. These include: -

Practices that may be on the fringe of abuse and/or if repeated, would amount to abuse, e.g.

- Name-calling
- Constant criticism of participants
- Exerting excessive pressure
  
- Forcing a participant to do something against their will
- Use of inappropriate language
- Harassment.

Breaches of EMD UK's Safeguarding Adults Policy, e.g.

- Inadequate safeguarding arrangements
- Providing inadequate supervision and/or care
- Failure to respond appropriately to concerns
- Inappropriate use of photographic equipment or materials.

Breaches of recognised best practice in teaching or instructing, e.g.

- Employing practices that are inappropriate for the stage of psychological and physical development of the individual
- Excessive training or competition
- Inappropriate/excessive supporting or stretching.

Adults with care and support needs may be more vulnerable to harm. Practices that may be carried out with the best intentions but that fall into a category of behaviours that are used by people to 'groom' their victim, e.g.

- Offering to give an adult a lift home alone
- Giving gifts to an adult with care and support needs
- Having unnecessary physical contact with an adult e.g. excessive handling/supporting, cuddling, kissing, 'friendly' taps etc.
- Socialising/having friendships with adults at risk outside training.

Practises that are known to be significant risk factors in cases of abuse and can never to be condoned, e.g.

- Taking adults with care and support needs to your home or other place unaccompanied by others
- Engaging in rough, physical or sexually provocative games
- Sharing a room with an adult with care and support needs
- Allowing or engaging in any form of inappropriate touching
- Making sexually suggestive remarks
- Reducing an adult to tears as a form of control
- Allowing allegations made by an adult with care and support needs to go unchallenged, unrecorded or not acted upon

- Carrying out personal care for an adult that they cannot provide
- Departing from the premises without first supervising the safe dispersal of the adults at risk
- Abusing a privileged position of power or trust
- Resorting to bullying tactics, or verbal abuse
- Causing a participant to lose self-esteem by embarrassing, humiliating or undermining the individual
- Spending excessive amounts of time alone with an adult at risk away from other adults.

**It is essential that everyone challenges poor practice, even when there is a belief that the motives of an individual are well meaning. Failure to challenge poor practice can lead to an environment where abuse is more likely to remain unnoticed.**

## 8. Safe and Inclusive Code of Conduct

8.1 Prioritise the well-being of all adults at all times:

- Act with integrity
- Help to create a safe and inclusive environment
- Value and celebrate diversity and make all reasonable efforts to meet individual needs
- Keep clear boundaries between your professional and personal life, including on social media
- Check you have the relevant consent from adults before taking or using photos and videos
- Ensure your own roles and responsibilities, and those of everyone you are responsible for, are clearly outlined and everyone has the information, training and support to carry them out
- Do not abuse, neglect, harm or discriminate against anyone; or act in a way that may be interpreted as such
- Doing nothing is NOT an option: report all concerns and disclosures as soon as possible, following the reporting procedure. If someone is in immediate danger, call the police (999)
- Keep up to date with your activity knowledge and technical skills
- Do not exceed the level of your qualifications
- Create a safe and enjoyable environment for all
- It is illegal to have a relationship with someone who is under 18 years old if you are in a position of trust; it is illegal to have a sexual relationship with anyone under the age of 16 whether they give consent or not.

**The Code of Conduct should be interpreted in a spirit of integrity, transparency and common sense, with the best interests of adults at risk as the primary consideration.**

## **9. Procedure in the Event of a Safeguarding Concern**

- 9.1 It is important that adults at risk are protected from abuse. All complaints, allegations or suspicions must be taken seriously.
- 9.2 This procedure must be followed whenever an allegation of abuse is made or when there is a suspicion that an adult at risk has been abused.
- 9.3 Any suspicion, allegation or incident of abuse must be reported to one of the organisation's safeguarding officers within 24 hours
- 9.4 If it does not increase the risk to the individual, you should explain to them that it is your duty to share your concern with a safeguarding officer. Promises of confidentiality must not be given as this may conflict with the need to ensure the safety and welfare of the individual.
- 9.5 If the adult is in immediate danger, call the police (999).
- 9.6 A full record should be made immediately or as soon as possible of the nature of the allegation and any other relevant information.
- 9.7 This must include information in relation to the date, the time, the place where the alleged abuse happened, your name and the names of others present, the name of the complainant and, where different, the name of the adult who has allegedly been abused, the nature of the alleged abuse, a description of any injuries observed, the account which has been given of the allegation. Wherever possible include the views of the adult concerned on what they want to happen next.
- 9.8 The organisation's safeguarding officers will then consider the situation and plan the actions that need to be taken, in conjunction with the adult concerned and in line with the organisation's policy and procedures and local safeguarding adults board policy and procedures. Advice can be sought from the Local Authority Safeguarding Adults Team.
- 9.9 If an adult may be at risk of significant harm, the concern must be reported to the Adult Social Care Services local to the adult concerned, or the Police without delay. Consent from the adult should be sought wherever possible. The organisation's Safeguarding officers should telephone and report the matter to the appropriate local adult social services duty social worker. A written record of the date and time of the report shall be made and the report must include the name and position of the person to whom the matter is reported. The telephone report must be confirmed in writing to the relevant local authority adult social services department within 24 hours.

- 9.10 The EMD UK designated safeguarding officer should be informed at the earliest opportunity if there are any safeguarding concerns within a partner or member organisation. If requested, the EMD UK safeguarding officers could also make the referral on the behalf of the concerned organisation.
- 9.11 EMD UK's primary responsibility is to ensure that allegations relating to possible abuse together with any relevant information are dealt with appropriately and when necessary passed to Adult Social Care Services and/or the Police without delay. It is vital that individuals within an organisation are aware of what action is required and ensure that any concerns are referred correctly.
- 9.12 For all concerns, allegations or complaints use the attached Safeguarding reporting form to write an objective account (Appendix 1)
- 9.13 Handling a concern/disclosure can be emotionally difficult. If you would like to talk to someone after making a concern/disclosure, contact the EMD UK safeguarding officers for information on support services (01403 266000).
- 9.14 If there is any uncertainty as to whether a referral is appropriate, the EMD UK safeguarding officers will be able to offer advice on what action should be taken (info@emduk.org or 01403 266000).

## 10. Responding Appropriately to an Allegation of Abuse

10.1 In the event of an incident or disclosure:

### DO

- ✓ Make sure the individual is safe
- ✓ Assess whether emergency services are required and if needed call them
- ✓ Listen
- ✓ Offer support and reassurance
- ✓ Ascertain and establish the basic facts
- ✓ Ensure notation of dates, time and persons present are correct and agreed
- ✓ Take all necessary precautions to preserve forensic evidence
- ✓ Follow correct procedure
- ✓ Take notes — Completion a report form (Appendix 1)
- ✓ Explain areas of confidentiality; immediately speak to the lead Safeguarding officer or your manager for support and guidance
- ✓ Explain the procedure to the individual making the allegation
- ✓ Remember the need for ongoing support
- ✓ Stay calm.

To ensure that your wellbeing is not hindered during a safeguarding issue please be aware that there are support mechanisms for you to access. Speak to your line manager or EMD UK's Safeguarding officers for advice.

Always reassure the individual that he/she is not to blame and that they were right to raise awareness of this issue.

Follow confidentiality procedures, this includes telling the individual that you may have to inform others to help.

### **DON'T**

- ✗ Confront the alleged abuser
- ✗ Be judgmental or voice your own opinion
- ✗ Be dismissive of the concern
- ✗ Investigate or interview beyond that which is necessary to establish the basic facts
- ✗ Disturb or destroy possible forensic evidence
- ✗ Consult with persons not directly involved with the situation
- ✗ Ask leading questions
- ✗ Assume Information
- ✗ Make promises
- ✗ Ignore the allegation
- ✗ Elaborate in your notes
- ✗ Panic
- ✗ Take sole responsibility – consult, refer and hand on appropriately.

**It is important to remember that the person who first encounters a case of alleged abuse is not responsible for deciding whether abuse has occurred. This is a task for the professional adult protection agencies, following a referral from the designated Safeguarding officer.**

## **11. Capacity**

11.1 It is not for you as an individual to decide if an adult lacks capacity, but it is useful for professionals to have an overview or understanding of the 'notion' of capacity.

11.2 Assessing capacity:

- A person's capacity must be assessed at the point at which a decision is needed, considering relevant and immediate circumstances as well as possible long-term issues.

- Does the person have an impairment of the mind or brain, or is there some sort of disturbance affecting the way their mind or brain works? (It does not matter if the impairment/disturbance is temporary or permanent).
- If so, does that impairment or disturbance mean that the person is unable to make the decision in question at the time it needs to be made?

### 11.3 Assessing ability to make a decision

- Does the person have a general understanding of the decision they need to make and why they need to make it?
- Does the person have a general understanding of the likely consequences of making, or not making the decision?
- Is the person able to understand, retain, use and weigh up the information relevant to this decision?
- Can the person communicate their decision (by talking, using sign language or any other means)? Would the services of a professional (such as a speech and language therapist) be helpful?

### 11.4 Assessing capacity to make more complex or serious decisions

- In most instances, a doctor or other professional expert will have assessed the adult's capacity. Where background information such as this is available, for example, from a partner agency, the information should be stored confidentially.
- In most localities, an Independent Mental Capacity Advocate (IMCA) is appointed to assist a person who is judged to lack capacity.

### 11.5 Statutory Principles – The Mental Capacity Act 2005

- A person must be assumed to have capacity unless it is established that they lack capacity.
- A person is not to be treated as unable to make a decision unless all practical steps to help him/her to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because he/she makes an unwise decision.
- An act carried out or decision made, for or on behalf of a person who lacks capacity must be undertaken, or made, in their best interests.
- Before the act is carried out, or the decision is made, regard must be paid to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.



## 12. Confidentiality

- 12.1 Adult protection raises issues of confidentiality which must be clearly understood by all.
- 12.2 Sharing information, with the right people, is central to good practice in safeguarding adults. However, information sharing must only ever be with those with a 'need to know'. This does NOT automatically include the persons spouse, partner, adult, child, unpaid or paid carer. Information should only be shared with family and friends and/or carers with the consent of the adult or if the adult does not have capacity to make that decision and family/ friends/ carers need to know in order to help keep the person safe.
- 12.3 Staff and volunteers have a professional responsibility to share relevant information about the protection of adults with other professionals, particularly investigative agencies and adult social services.
- 12.4 Clear boundaries of confidentiality will be communicated to all.
- 12.5 All personal information regarding an adult will be kept confidential. All written records will be kept in a secure area for a specific time as identified in data protection guidelines.
- 12.6 Data Protection legislation is not to prevent information sharing but to ensure personal information is only shared appropriately. Data protection legislation allows information sharing within an organisation. For example:
- Anyone who has a concern about harm can make a report to an appropriate person within the same organisation
  - Case management meetings can take place to agree to co-ordinate actions by the organisation.
- 12.6 If an adult confides in a member of staff or volunteer and requests that the information is kept secret, it is important that they tell the adult sensitively that he or she has a responsibility to share their concern with their safeguarding lead or welfare officer.
- 12.7 Within that context, the adult must, however, be assured that the matter will be disclosed only to people who need to know about it.
- 12.8 Where possible, consent must be obtained from the adult before sharing personal information with third parties. In some circumstances obtaining consent may be neither possible nor desirable as the safety and welfare of the vulnerable adult is the priority. If you are in doubt as to whether to share information seek legal advice and/or contact the Local Authority and explain the situation without giving personal details about the person at risk or the person causing harm.

- 12.9 The circumstances when we need to share information without the adult's consent include those where:
- it is not safe to contact the adult to gain their consent – i.e. it might put them or the person making contact at further risk.
  - you believe they or someone else is at risk, including children.
  - you believe the adult is being coerced or is under duress.
  - it is necessary to contact the police to prevent a crime, or to report that a serious crime has been committed.
  - the adult does not have mental capacity to consent to information being shared about them.
  - the person causing harm has care and support needs.
  - the concerns are about an adult at risk living in Wales or Northern Ireland (where there is a duty to report to the Local Authority).
- 12.10 Where a disclosure has been made, staff and volunteers must let the adult know the position regarding their role and what action they will have to take as a result.
- 12.11 Making Safeguarding Personal - Staff and volunteers must take a person-centred approach and assure the adult that they will keep them informed of any action to be taken and why. The adults' involvement in the process of sharing information must be fully considered and their wishes and feelings considered.

### 13. Safe Recruitment

- 13.1 Safe recruitment requires safeguarding issues to be considered at every stage of the recruitment process. It is vital that all reasonable steps are taken to ensure that any unsuitable people or people who may abuse adults with care and support needs are prevented from working with them.
- 13.2 When recruiting for a position working with adults with support and care needs, safeguarding should feature strongly in any advertising. The recruiting organisation should prepare a safeguarding statement that should feature in any publicity about the role. Prior to the interview references should be sought and where appropriate, relevant qualifications or previous experience should be confirmed.
- 13.3 The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevents unsuitable people from working with vulnerable groups, including children. It has replaced the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

DBS is responsible for:

- Processing requests for criminal records checks
- Deciding whether it is appropriate for a person to be placed on or removed from a barred list

- Placing or removing people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland. (NB in Scotland this service is provided by Disclosure Scotland <https://www.mygov.scot/aboutdisclosure-scotland/>)

13.4 Although an individual may have an opportunity to encounter adults with care and support needs, this is not sufficient to be entitled to a DBS check. Eligibility to apply for a DBS check depends on the specific role a person will perform whilst conducting their duties within an organisation. This is known as 'Regulated Activity'. The eligibility for Regulated Activity (and therefore DBS checks) with adults is broadly broken down into six categories.

### 1. **Providing Health Care**

- This includes health care work undertaken by (or under supervision from) a regulated Health Care Professional e.g. regulated by GMC or HPC.
- Health care includes all forms of health care relating to physical or mental health, including palliative care.

### 2. **Providing Personal Care**

- Includes providing an adult with physical assistance with eating, drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin because of the adult's age, illness or disability (this includes someone who prompts and then supervises an adult to undertake the above actions as they are unable to make the decision for themselves)
- Anyone who trains, instructs or provides guidance to an adult on the above actions because of their age, illness or disability is in Regulated Activity.

### 3. **Providing Social Work**

- The activities of a regulated Social Worker in relation to adults who are clients or potential clients are a Regulated Activity. This includes assessing the need for health or social care services and providing ongoing support to clients.

### 4. **Assistance with General Household Matters**

- Anyone who provides day-to-day assistance to an adult because of their age, illness or disability, where that assistance includes at least one of the following, is in a regulated activity.
  1. managing the person's cash
  2. paying the person's bills, or
  3. shopping on their behalf

### 5. **Assistance in the Conduct of a Person's Own Affairs**

Regulated Activity includes anyone who provides assistance in the conduct of an adult's own affairs by virtue of:

- Lasting power of attorney under the Mental Capacity Act 2005
- Enduring power of attorney under the Mental Capacity Act 2005
- Being appointed as the adult's deputy under the Mental Capacity Act 2005
- Being an Independent Mental Health Advocate
- Being an Independent Mental Capacity Advocate
- Providing independent advocacy services under the National Health Services Act 2006 or National Health Service (Wales) Act 2006
- Receiving payments on behalf of that person under the Social Security Administration Act 1992

#### 6. Conveying

- This includes any drivers or assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving health care, relevant personal care or relevant social work (as above). Hospital Porters, Patient Transport Service drivers and assistants are also included in this group.
- This does not include licensed taxi drivers or licensed private hire drivers unless they are undertaking trips taken for the above listed purposes.

Excluded from this list of roles is any activity carried out in the course of family relationships, and personal, non-commercial relationships, for example a family friend driving a friend to their hospital appointment for petrol money. In the guidance provided an Adult is classed as anyone 18 years old or older.

Management functions – A person whose role includes the day to day management or supervision of any person who is engaging in Regulated Activity with adults, is also in Regulated Activity.

The above activities only need to be done once by an employee, to be classed as Regulated Activity with adults.

**Group Exercise Teachers and Instructors do not fully meet the criteria for regulated activity with adults. They are eligible for an Enhanced DBS check without a barred list check. For more information see <https://www.gov.uk/find-out-dbs-check>**

All specific enquiries regarding DBS checks of staff and volunteers should be directed through to the Disclosure and Barring Service. Advice can also be sought from the EMD UK safeguarding officer.

## 14. Whistleblowing

- 14.1 Safeguarding adults requires everyone to be committed to the highest possible standards of openness, integrity and accountability. EMD UK supports an environment where people feel free to raise their concerns with the knowledge that all concerns will be taken seriously. The whistleblowing policy can be found at [www.emduk.org/safeguarding](http://www.emduk.org/safeguarding)
- 14.2 The term 'whistle blowing' is often used in such circumstances to describe the raising of a concern about practices, procedures or conduct of an individual. Concerns should be raised without delay and the earlier concerns are reported, the easier it will be to act.
- 14.3 Anyone reporting a concern should provide as much information and detail as possible.
- 14.4 EMD UK understands that whistle-blowers are often very reluctant to report concerns and recognises that whistle-blowers may wish to raise concerns in confidence.
- 14.5 EMD UK will not tolerate harassment or victimisation and will act to protect anyone who has raised a concern in good faith. Anyone who is found to have victimised or harassed a whistle-blower will face disciplinary action. Anyone who raises concerns known to be untrue may also be subject to disciplinary action.

## 15. Roles and Responsibilities of EMD UK

EMD UK is committed to having the following in place:

- 15.1 A Designated Safeguarding officer and Deputy to produce and disseminate guidance and resources to support the policy and procedures.
- 15.2 A clear line of accountability within the organisation for work promoting the welfare of all adults.
- 15.3 Procedures for dealing with allegations of abuse or poor practice against members of staff and volunteers.
- 15.4 A Steering Group or Case Management or Case Referral Group that effectively deals with issues, manages concerns and refers to a disciplinary panel where necessary, i.e. where concerns arise about the behaviour of someone within EMD UK.
- 15.5 A Disciplinary Panel will be formed as required for a given incident, if appropriate and should a threshold be met.
- 15.6 Arrangements are in place to work effectively with other organisations to safeguard and promote the welfare of adults, including arrangements for sharing information.
- 15.7 Appropriate whistle blowing procedures and an open and inclusive culture that enables safeguarding and equality and diversity issues to be addressed.

- 15.8 Training will be provided, as appropriate, to ensure that staff are aware of these procedures. Specialist training will be provided for the member of staff with adult at risk protection responsibilities.

## 16. Organisational Roles

- 16.1 The role of the EMD UK Designated Safeguarding Lead is to deal with all instances involving safeguarding adults that arise within the organisation. They will respond to all safeguarding and protection concerns and enquiries.
- 16.2 The Designated Safeguarding Lead for EMD UK is Shelley Meyern. Should you have any suspicions or concerns relating to Adult Protection, contact Shelley at shelley@emduk.org or 01403 266000.
- 16.3 Within all EMD UK member organisations, a Safeguarding Lead should be designated to ensure the correct procedures are followed and the appropriate support is given.
- 16.4 The Safeguarding Lead must ensure that all staff within their team are familiar with the organisation's safeguarding adults procedures and ensure that all staff undertake training, where appropriate.

## 17. The Role of Key Individual Agencies

### 17.1 Local Authority Adult Social Care

- 17.1.1 The Care Act 2014 requires that the Local Authority takes the lead in developing a local framework within which all responsible agencies work together to ensure a coherent policy for the protection of adults at risk of abuse.
- 17.1.2 All local authorities have a Safeguarding Adults Board, which oversees multiagency work aimed at protecting and safeguarding vulnerable adults. It is normal practice for the board to comprise of people from partner organisations who can influence decision making and resource allocation within their organisation.
- 17.1.3 Local Authorities will have a Safeguarding Adults Team or Service Multi Agency Safeguarding Hub (MASH) that can be contacted for information and advice – and that will be responsible for receiving and responding to safeguarding adult referrals.

### 17.2 The Police

- 17.2.1 The Police play a vital role in Safeguarding Adults with cases involving alleged criminal acts. It becomes the responsibility of the police to investigate allegations of crime by preserving and gathering evidence. Where a crime is identified, the police will be the lead agency and they will direct investigations in line with legal and other procedural protocols.

## 18. Policy Review Arrangements

- 18.1 This policy, related policies and the Safeguarding Adults Procedures are reviewed no less than on a three-yearly basis and whenever there are changes in relevant legislation and/or government guidance as required by the Local Safeguarding Adults Board, or as a result of any other significant change or event.

## 19. Contact Information

### 19.1 Ann Craft Trust (ACT)

0115 9515 400 <http://www.anncrafttrust.org>

ACT is a national organisation working with staff in the statutory, independent and voluntary sectors in the interests of people with learning disabilities who may be at risk from abuse.

### 19.2 Respond

0808 808 0700 <http://www.respond.org.uk>

Respond provides a range of services to victims and perpetrators of sexual abuse who have learning disabilities, and training and support to those working with them.

### 19.3 Action on Elder Abuse

020 8835 9280 <http://www.elderabuse.org.uk>

A national organisation based in London. It aims to prevent the abuse of older people by raising awareness, encouraging education, promoting research and collecting and disseminating information.

### 19.4 Care Quality Commission is the health and social care regulator for England.

[www.cqc.org.uk](http://www.cqc.org.uk)

It looks at the joined-up picture of health and social care.

### 19.5 Public Concern at Work is an independent organisation which provides guidance and training to employers on whistleblowing and offers free confidential advice to employees unsure whether or how to raise a concern about workplace wrongdoing.

020 7404 6609 [www.pcaaw.co.uk](http://www.pcaaw.co.uk)

## 20. Acknowledgements

With thanks to the Ann Craft Trust for its guidance in creating and updating this policy.