

Suffolk Mind

**Safeguarding Children and
Adults at risk
Policy and Procedure**

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Authority to Alter :	Sue Gray
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1 Introduction

1.1. Suffolk Mind believes that it is always unacceptable for a child or vulnerable person to experience abuse or harm of any kind and recognises its responsibility to safeguard and promote the welfare of all children, young people and Adults at risk by a commitment to a practice that protects them.

1.2. Suffolk Mind is committed to safeguarding children and Adults at risk and protecting them from abuse when they are engaged in services organised and provided by, or on behalf of, Suffolk Mind.

1.3. Suffolk Mind will ensure through its Recruitment and Selection policy that suitable people are selected for working with children and Adults at risk.

1.4. Suffolk Mind will take any concern about a child or vulnerable adult seriously and sensitively.

1.5. Referrals made by an employee, volunteer or contracted service provider cannot be anonymous and should be made in the knowledge that, during the course of enquiries, individuals may be required as prosecution witnesses.

1.6. Suffolk Mind will not tolerate harassment of any employee, volunteer, contractor, child or service user who raises concerns of abuse. Please also refer to the Suffolk Mind Policies on **Whistleblowing; Harassment and Bullying and Complaints.**

1.7. Suffolk Mind will work in cooperation with relevant local authorities and will comply with the relevant local Safeguarding Adults and Local Safeguarding Children Boards, Inter-Agency procedures and will respond positively to any recommendations regarding the improvement of its safeguarding policies and procedures.

1.8. The principal laws and Government guidelines covering safeguarding issues are:

- Care Act 2014
- The Safeguarding Vulnerable Groups Act 2006 (SVGA)
- The Children Acts 1989 and 2004
- Mental Capacity Act 2005
- Dignity in Care campaign 2007

1.9. This policy (Safeguarding Policy) applies to all staff and volunteers working with Suffolk Mind.

2 Principles

2.1 The principles are:

- The welfare of children and Adults at risk is paramount;
- All children and Adults at risk (whatever their background and culture, maternity or pregnancy status, age, disability, gender, racial origin, religious belief, sexual orientation and/or gender identity) have the right to participate in society in an environment which is safe and free from violence, fear, abuse, bullying and discrimination ;

- All children and Adults at risk have the right to be protected from harm, exploitation and abuse and to be provided with safe environments in which to live;
- Working in partnership with children, their parents, carers and Adults at risk and other agencies is essential in promoting children and vulnerable people's welfare;
- Suffolk Mind has a duty to promote the well-being of its service users and to cooperate with relevant local authorities in delivering its safeguarding duties;
- Suffolk Mind is responsible for establishing appropriate policies and procedures to ensure that its activities promote the safety and wellbeing of children and Adults at risk, e.g. safe recruitment policies, safe working practice.

2.2. Suffolk County Council have identified six key principles which underpin Safeguarding Adults work:

- **Empowerment-** People are supported and encouraged to make their own decisions and informed consent
- **Prevention-** It is better to take action before harm occurs
- **Proportionality-** The least intrusive response appropriate to the risk presented
- **Protection-** Support and representation to those in greatest need
- **Partnership-**Local solutions through services working with their communities
- **Accountability –**Accountability and transparency in delivering safeguarding.

Safeguarding is everyone's business

Remember it is not up to you to decide if abuse has taken place, but it is your legal duty to report any concerns raised about the safety of a child or adult even if those concerns don't involve our staff and volunteers or services

3 Aims and Purposes

3.1 This policy demonstrates how Suffolk Mind will meet its legal obligations and reassure service users, members of the public, stakeholders, employees, volunteers, trustees and people working on behalf of Suffolk Mind:

- What they can expect Suffolk Mind to do to protect and safeguard children and Adults at risk;
- To provide staff and volunteers with guidance on the procedures that they should adopt in the event that they suspect a child or vulnerable adult may be experiencing, or be at risk of harm;
- To voice any concerns they may have through an established procedure;
- To be assured that there is an effective recording and monitoring system in place;
- That employees, volunteers and contracted service providers receive the appropriate level of awareness and training;
- To respect the rights, wishes, feelings and privacy of children and Adults at risk by listening to them and minimising risks that may affect them;

- To ensure that contracted services have safeguarding policies and procedures commensurate with the level of involvement they have with children and Adults at risk;
- **To make safeguarding personal-** Safeguarding should be person-led and outcome focused, engaging the adult at risk in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety

3.2 To achieve these aims, we will:

- ✓ Give training to all staff and volunteers appropriate to the level of involvement with children and Adults at risk;
- ✓ Respond appropriately to concerns reported;
- ✓ Implement and maintain effective procedures for recording and responding to incidents and accidents; Please also refer to the Suffolk Mind Health and Safety Policy
- ✓ Implement and maintain effective procedures for recording and reporting to the local safeguarding boards, any allegations or suspicions of harm or abuse;
- ✓ Promote the welfare and wellbeing of children and Adults at risk during contact with Suffolk Mind services, including in the planning of services;
- ✓ Support and empower our service users to keep themselves safe by enabling them to be assertive in managing their boundaries as far as they are able through appropriate skills and awareness training;
- ✓ Maintain a good level of safe working practice at all times to minimise risk to children and Adults at risk that come into contact with employees, volunteers and contractors.

4 Some definitions

4.1 Safeguarding children means

- Protecting children from maltreatment
- Preventing impairment of children's health or development
- Ensuring that children grow up in circumstances consistent with the provision of safe and effective care
- Enabling those children to have optimum life chances and enter adulthood successfully

4.2 When the term 'children' is used in this document, this also includes 'young people' and 'young persons'.

4.3. The phrase 'children or, young people) refers to:

- Anyone under the age of 18 years. The fact that a child has reached 16 years of age, is living independently or is in further education, is a member of the armed forces, or is in hospital, or in custody in the secure estate, does not change his/her status or entitlements to services and protection. The local authority also has a continued duty of care to children leaving care up until the age of 21.

4.4. The phrase 'Adult at Risk' is now defined under Section 42 of the Care Act 2014. Safeguarding duties apply to an adult who meets the following three stage test:

- 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 and neglect.

4.5 This may be because they:

- have a mental health problem
- have a disability
- have a sensory impairment
- are elderly and frail
- have some form of illness

4.6. **Abuse is defined as:**

The violation of an individual's human and civil rights by any other person or persons, and could include:

- **Physical abuse** such as hitting, inappropriate moving/handling techniques, or inappropriate use of physical restraint, misuse of medication
- **Sexual abuse** such as rape, indecent exposure, or touching an individual in intimate areas, unwanted teasing or innuendo, pornographic photography
- **Financial abuse** such as theft, or the writing of wills to benefit staff and volunteers, withholding of money or the inappropriate or unsanctioned use of a person's money or property.
- **Psychological abuse** such as bullying, use of inappropriate terms of address towards individuals, demeaning treatment of individuals, threats and bribes to negate an adult at risk's choices, independent wishes and self-esteem
- **Neglect /acts of omission** such as a failure to provide care to an individual, failure to keep an adult at risk clean, warm and promote optimum health or provide adequate nutrition, medication being prevented from making choices, failure to report Safeguarding concerns one has witnessed
- **Discriminatory Abuse** such as harassment, being refused access to services because of gender, race etc, hate crime resulting in injury or fear for life **Domestic Abuse-** defined as any incident or patterns of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been

- intimate partners or family members. Safeguarding adult procedures only apply where the adult meets the three stage test (as defined in 4.4) May include honour based violence and forced marriage.
- **Modern Slavery**, includes human trafficking, domestic servitude and forced labour.
 - **Organisational Abuse** such as having routines that force service users to sacrifice their own needs, wishes or preferred lifestyle to the needs of the institution or service provider. Abuse may occur by an individual or group of staff embroiled in the accepted custom, subculture or practice of the institution or service
 - **Self Neglect**, does not involve a perpetrator. Self-neglect is failing to care for ones's personal hygiene, health or surroundings in such a way that causes significant physical, mental or emotional harm. Self- neglect falls into the Safeguarding Adults remit when the adult meets the requirements of the three stage test (4.4)

4.7 When the term 'parents' is used, we mean it in the broadest sense to include parents, carer(s) and guardians.

4.8 The term 'Contractors' also refers to sub-contractors and contracted service providers.

5 Vetting and Barring (Disclosure and Barring Service)

5.1 On 1 December 2012 the Criminal Records Bureau and Independent Safeguarding Authority merged to become the Disclosure and Barring Service (DBS). The DBS was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

5.2 A DBS check will be obtained for all employees and volunteers who work directly with users of Suffolk Mind Services. DBS checks and references will be taken up in writing prior to a confirmed offer of employment being made and will be subject to renewal every three years. DBS checks only confirm that the person concerned doesn't have a relevant criminal conviction up to the date that the disclosure is issued.

Please refer to the Suffolk Mind Human Resources policy on Disclosure & Barring Checking (policy No 25). Individuals may commence employment subject to a satisfactory DBS check however they must be closely supervised by a DBS checked senior member of staff. The exception to this is CQC registered services i.e. Montrose House and The Green Road, where a DBS must be obtained before employment can commence at the service.

5.3 If an individual has been DBS checked for working with Adults at risk they must be re checked should their role change to include working with children.

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5.5 Where a member of staff or volunteer is suspended from duties as a result of gross misconduct involving abuse a DBS (formerly ISA) referral will be made.

5.6 Where permission for an individual to engage in regulated activity has been withdrawn following disciplinary proceedings, e.g. they are suspended or dismissed from work and it is suspected that they have been engaged in relevant conduct, satisfied the harm test, or received a caution or conviction for a relevant offence the investigating officer has a duty to refer the individual in accordance with the DBS guidelines.

5.7 The following sequence must be observed:

- Allegation is received
- Remove individual concerned from regulated activities without prejudice pending an investigation
- Commence investigation (within a specified period) as laid out in this policy. If evidence of misconduct is found or it is believed the allegation is founded following disciplinary proceedings, refer to DBS immediately
- If no evidence found or it is believed the allegation is unfounded, reinstate the staff member/volunteer, after consultation with Service Manager and HR department. A Non prejudiced record of this having taken place is kept in the relevant HR file.

6 Procedures for reporting

6.1 A Suffolk Mind staff member or volunteer who is suspicious of abuse occurring is responsible for making his/her concerns known and to implement these policies & procedures. Every allegation is to be taken seriously and failure to do so may result in disciplinary action. Where a disclosure relates to a criminal act, the Police must be summoned immediately to investigate.

6.2 Suffolk Mind staff and volunteers are considered to be competent in recognising the signs of abuse of Adults at risk. However they are not considered experts in the area of child abuse and all concerns must be passed to the relevant authorities, for them to take action including interviewing children. This does not in any way reduce our responsibility to safeguard children and to act immediately if abuse is suspected.

6.3 In this policy, the term abuse includes physical, psychological, sexual, domestic violence, financial abuse, modern slavery, discriminatory, organizational, neglect/acts of omission and self-neglect.

6.4 Staff or volunteers who have such suspicions or who have witnessed abuse should report this immediately to their line manager or the on-call manager (housing).

6.5 If the incident involves the line manager, then it should be reported to the manager's immediate line manager. If the member of staff/volunteer is uncertain who this is, obtain this information from the HR department in confidence or a member of the senior leadership team. **(Please also refer to the Suffolk Mind whistleblowing policy)**

6.6 Service users who have reported or alleged an incident shall have details of their allegation put in writing by the senior member of staff on duty at the time. All those alleging or expressing concern about abuse should be re-assured that their concerns will be taken seriously and that they will be informed of the outcome.

6.7 All alleged incidents will be investigated by either a team leader, line or other manager. There should be no fear of recrimination or other disincentives to reporting abuse or neglect. Wherever possible, confidentiality should be upheld at all times in the investigation.

6.8 Sometimes an act between two service users may come within the scope of this policy, depending on the nature of the act and the vulnerability of the victim.

7 Procedure when dealing with suspicions or disclosure of abuse

7.1. Where the disclosure to an employee or volunteer is from an individual under 18 years of age the following procedure must be followed:

- a. **DO NOT** interview the child. However, if necessary, seek to clarify the allegation, using open questions and **without** putting words into the child's mouth, in order to be sure that they understand what the child is telling them;
- b. Reassure the child that by telling he/she has done the right thing;
- c. Inform the child that we must pass the information on but that only those that need to know about it will be told;
- d. Inform the child to whom the matter will be reported;
- e. Make a detailed note of the date, time, place, what the child said and did and the questions asked of the child.
- f. Immediately inform the line manager or on-call manager (or in their absence a member of the leadership team).
- g. The local safeguarding children's board (LSCB) must be informed immediately of any disclosure relating to the abuse of children by Suffolk Mind's Safeguarding Lead. (see **Appendix 2** for details).

7.2 Where the disclosure of an alleged abuse of a child is made by a third party to an employee or volunteer of Suffolk Mind, he/she must report the allegation to their line manager or on call manager (or in their absence a member of the leadership team) as a matter of urgency, who will advise them of the process to follow.

7.3 Where the disclosure or suspicion is by a vulnerable adult the following procedure must be followed:

a. Talk to the victim about the suspicion to gain his/her consent to take action and to protect from further risk (**Appendix 2** Practice Guidance for interviewing adults at Risk from neglect, abuse or harm)

Where consent is not given, this will need to be approached sensitively. If necessary it will need to be explained to the victim that a Safeguarding referral still needs to be made but that their objection to the referral will be conveyed to the relevant authorities. There are circumstances where an individual's right to confidentiality is overruled. The Data Protection Act 1998 allows the disclosure of sensitive data for one of two reasons:

- In order to protect the vital interest of the individual or another person, where consent cannot be given by or on behalf of the individual, or you cannot reasonably be expected to obtain the consent of the individual
Or

- In order to protect the vital interest of another person, where consent by or on the behalf of the person has been unreasonably withheld.

b. Where there is immediate danger or physical injury emergency services should be contacted immediately. In instances where there may be the need to preserve evidence, such as in the event of sexual or physical assault, staff and volunteers must attempt to preserve evidence by limiting access to the potential crime scene or place the incident took place and advising victims not to wash themselves prior to Police attending.

c. Inform line manager or on call manager immediately who will support staff in making the safeguarding referral or may advise to contact **The Suffolk Multi Agency Safeguarding Hub (MASH)** consultation line on **Tel: 0345 6061499. (Appendix 8)** [Organisational\General\SAFEGUARDING\SCC504 - MASH leaflet A5-HR.pdf](#)

d. The local safeguarding team will advise on the process to follow in regard to whom shall lead the investigation e.g. police, Social Care services, Safeguarding team practitioner or Suffolk Mind staff and volunteers.

e. Complete the incident log (**Appendix 3**) and submit to the manager to whom the incident was reported and the Suffolk Mind Safeguarding Lead (**see flow chart Appendix 4**) Where appropriate a copy must be stored securely at the service where the victim resides i.e. in a supported housing project.

f. In case of serious Safeguarding concerns the local safeguarding team will convene a Multi Agency Risk Assessment Conference (MARAC) or a Multi-Agency Safeguarding Hub (MASH) to decide on the action required, which agency has responsibility for each area of the investigation, and when the next conference should take place.

g . A daily review will be undertaken by the service manager to ensure all relevant steps are taken to maintain safety and that the client is receiving appropriate support.

Line managers in cases of alleged child abuse will:

- Review all evidence and information presented to them;**
- Make a referral to:**
 - Customer First in Suffolk 0808 800 4005 (24hrs), or**
 - Cambridgeshire contact centre 0345 045 5202 (0800-2000hrs) or Cambridgeshire Emergency Duty team 01733 234724 out of hours(or the relevant local Safeguarding Authority)**

Keep clearly written records of all the above which will be stored securely when the allegations are against a staff member or volunteer

7.4 This will be investigated in line with Suffolk Mind's confidential reporting / whistle blowing procedure.

7.5 This policy is not intended to cover the harassment of staff/volunteers by staff/ volunteers or for the abuse of staff and volunteers by service users. Please refer to Suffolk Mind policies covering Harassment and Bullying and Violence and Aggression.

7.6 This policy is also not applicable where an incident occurs outside of an established relationship (see definition of abuse) e.g. theft or assault by a total stranger which must be reported to the Police.

7.7. The responsible manager will need to balance:

- Supporting the abused person
- Supporting all the staff and volunteers
- Supporting the investigation of the event
- Being fair to the alleged staff and volunteers member

7.8 The staff/volunteer concerned must be removed from the vicinity of the alleged victim, and further contact must be prevented until an investigation has been concluded; this may require the staff/volunteer to be suspended, to ensure they are protected whilst an investigation takes place. If suspension occurs, please follow Suffolk Mind's Disciplinary policy.

7.9 The details of the allegation must not be discussed with the staff/volunteer until the assessment strategy, which may be multi agency, has been agreed. For example if the Police take a lead role, any prior disciplinary interview could contaminate evidence.

7.10 These procedures do not cover every eventuality but set out guiding principles.

8 Data protection, record retention and storage of information by Suffolk Mind

8.1 All copies of the Safeguarding Incident Reporting Form and any other relevant documents or records (e.g. telephone calls, CCTV information, etc.) relating to the incident will be securely stored on Suffolk Mind's server. This information will be retained in accordance with data protection periods and retention guidelines. Suffolk Mind's Data Protection and Data Retention Policies are available to Suffolk Mind employees and volunteers.

8.2 Information relating to an employee will be retained in his/her personal files. Access to Safeguarding incident records will be determined by the Leadership Team.

9 Confidentiality and information sharing

9.1 Confidentiality is a key issue in Safeguarding. Safeguarding children and Adults at risk is more important than the privacy of another person. Sometimes sharing information is necessary to establish the level of risk to a child or vulnerable adult. Ask yourself; is it safe for me NOT to share the information? Decisions on who needs to be informed are set out in the Local Safeguarding Procedures, Please refer to the Suffolk Mind policy on Confidentiality for Information Sharing Protocol. It is important that information is shared appropriately and sensitively with relevant agencies. This will be the decision of the appropriate manager. Always record what you have shared, with whom and why. If an allegation is made towards another member of staff or volunteer, full support will be given in line with Suffolk Mind's (Please also refer to the Suffolk Mind Whistle Blowing Policy).

10 When it is not appropriate to share concerns with parents and carers

10.1 Information obtained about individuals should usually be shared with them unless sharing the information would be likely to result in serious harm to the individual, a child or another person, or the information relates to a third party who expressly indicated the information should not be disclosed (e.g. where a parent/carer may be responsible for the abuse or not able to respond to the situation appropriately). In all cases decisions about withholding information must be made in conjunction with the appropriate manager.

10.2 Where information is obtained and recorded which should not be shared with the individual concerned for one of the above reasons, it should be noted on the record and the reasons recorded.

11 Complaints

11.1 All complaints relating to safeguarding issues will be dealt with in line with Suffolk Mind Complaints Procedure and safeguarding processes may run in parallel.

12 Implementation and monitoring

Roles and responsibilities

12.1 The CEO of Suffolk Mind is the Safeguarding lead. Suffolk Mind is signed up to the local Safeguarding Boards in all geographic areas in which it operates. They are responsible for ensuring that policy, procedures and action plan are reviewed on an annual basis to ensure compliance with Safeguarding legislation.

12.2 Suffolk Mind managers are required:

- to attend relevant training
- to act as a source of advice on all safeguarding matters
- to be familiar with the Safeguarding procedures of Suffolk Mind to ensure that systems are in place for effective record keeping
- to be the link person with the individual or organisation that have raised a concern
- to support those making referrals
- to ensure that staff and volunteers who are accountable to them are all appropriately trained and skilled in dealing with safeguarding concerns
- to consider the need for support for those involved
- to deal with enquires / information requests from other agencies in relation to safeguarding concerns
- ensure that records are kept and that they are safe and secure at all times
- Provide regular progress reports to the Leadership team.

12.3 The HR department and Line Managers must ensure that Suffolk Mind staff and volunteers are subject to DBS checks and that their staff and volunteers comply with this policy.

Training

12.4 All staff and volunteers will complete the e-learning courses on Safeguarding Adults at risk and Mental Capacity and for staff and volunteers interacting with children and young people they must complete the e-learning appropriate to this group of service users, as part of their induction training. This will be repeated on an annual basis to act as a refresher.

12.5 Attendance at Safeguarding Training for all front line staff is mandatory within their first year and thereafter every three years as refresher training. Managers will be required to attend Safeguarding for Managers training every three years. Compliance with this standard is the responsibility of the line managers.

12.6 All members of staff and volunteers, volunteers are responsible for carrying out their duties in a way that safeguards and promotes the welfare of children and Adults at risk.

Contractors or sub-contractors funded by or on behalf of Suffolk Mind

12.7 Where contractors will come into contact with children or vulnerable people in a recurrent way, DBS checks will be the responsibility of the sub-contractor to obtain and show to the relevant Suffolk Mind manager. All sub contractors must have a Safeguarding or sign up to Suffolk Mind's. For small contractors Suffolk Mind will carry out the DBS.

Safeguarding Action Plan

12.8 An annual Safeguarding Action Plan is in place, which clearly outlines actions to be taken by Suffolk Mind, and those acting on behalf of Suffolk Mind, to ensure the full implementation of this policy. This action plan is reviewed on an annual basis in line with the review of Suffolk Mind's corporate priorities.

Reporting and Monitoring

12.9 Understanding and compliance with procedures will be monitored through a range of mechanisms including: audits, one to ones, annual appraisals, employee feedback and ad-hoc checks.

12.10 Safeguarding concerns will be reported to the Leadership Team, who will provide a report to the Board of Trustees. Each Service's quarterly report will cover safeguarding concerns, activity, feedback from any serious case reviews and progress against action plan.

12.11 At services where 'Regulated Activities' are carried it is the responsibility of Registered Manager to report any Safeguarding issues to the CQC.

Communication

12.12 In order for this policy to be successfully implemented, it is essential that it be effectively communicated to all staff and volunteers

12.13 It is the responsibility of Managers to ensure that all Suffolk Mind employees and volunteers and Service Users (guidelines contained in Tenancy handbook) are familiar with the policy and procedures and the responsibility for all staff and volunteers to ensure that the policy is advocated and promoted to partner organisations, parents and children and Adults at risk.

12.14 **Communication to staff and volunteers directly employed / deployed** – this will take place through initial induction to the employing / deploying organisation and the training identified with line manager or other relevant officer. As part of the induction check list new employees read this policy and sign to confirm this.

12.15. **Communication to partner organisations** – All staff and volunteers should advocate the principles of this policy and encourage other organisations to adopt this policy or use the county safeguarding framework to check or develop their own.

12.16 **Communication with sub-contractors, self employed facilitators or other organisations funded by or on behalf of Suffolk Mind engaged in areas where workers are likely to come into regular contact with children and/or Adults at risk**-Adherence to current legislation and to the county's Safeguarding framework should be included within Service Level Agreements or as a condition of partnership funding.

13 Equality and Inclusivity

13.1 Children and Adults at risk, no matter what their circumstances or personal characteristics have, have the right to be protected from harm and abuse.

13.2 Suffolk Mind policies are all subject to Equality Impact assessment to ensure that they are inclusive and accessible to all groups and individuals.

14 Policy Review

14.1. This Safeguarding Policy will be reviewed annually or in the event of changes in legislation, or to take into account changes in working practices which may result from incidents or allegations occurring.

Important:

Remember it is not up to you to decide if abuse has taken place, but it is your legal duty to report anything that concerns you about the safety of a child or adult even if they don't involve our staff and volunteers or services.

Capacity, Consent and Decision Making

The consideration of capacity is crucial at all stages of Safeguarding Adults procedures. For example determining the ability of an adult at risk to make lifestyle choices, such as choosing to remain in a situation where they risk abuse; determining whether a particular act or transaction is abusive or consensual; or determining how much an adult at risk can be involved in making decisions in a given situation.

The key development affecting this area of work is the implementation of the Mental Capacity Act 2005, which provides a statutory framework to empower and protect adults at risk who may not be able to make their own decisions. It makes it clear who can take decisions in which situations and how they should go about this. It enables people to plan ahead for a time when they may lose capacity. It applies to anyone aged 16 years and over therefore appropriate liaison needs to occur for young people aged 16 to 18 years with Children's Services where relevant as part of Safeguarding Adults work.

The whole Act is underpinned by a set of five key principles:

- **A presumption of capacity** - every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise;
- The right for individuals to be **supported to make their own decisions** - people must be given all appropriate help before anyone concludes that they cannot make their own decisions;
- That individuals must retain the right to make what might be seen as eccentric or **unwise decisions**;
- **Best interests** - anything done for or on behalf of people without capacity must be in their best interests; and
- **Least restrictive intervention** - anything done for or on behalf of people without capacity should be the least restrictive of their basic rights and freedoms.

Mental Capacity Act 2005 sections 2 (1), Code of Practice 4.11 – 4.13

Section 2 states that a person lacks capacity in relation to a matter if at the material time s/he is unable to make a decision for himself or herself in relation to the matter because of an impairment of, or a disturbance, in the functioning of the mind or brain.

Mental Capacity Act 2005 section 3, Code of Practice 4.49 – 4.54

Section 3 states that a person is unable to make a decision if s/he is unable

- To understand the information relevant to the decision
- To retain the information
- To use or weigh that information as part of the process of making the decision
- To communicate his decision by any means.

Every assessment of capacity must be undertaken in accordance with the Act and provisions of the Code of Practice. Where there is a reasonable belief that a person lacks capacity, there is a statutory best interest checklist for people acting on behalf of others. The decision maker must work through the factors when deciding what is in the best interests of the individual.

The Act deals with two situations where a designated decision-maker can act on behalf of someone who lacks capacity

- **Lasting powers of attorney (LPAs)** - The Act allows a person to appoint an attorney to act on their behalf if they should lose capacity in the future. This allows people to let an attorney make health and welfare and / or financial decisions. The latter is similar to previously available Enduring Power of Attorney (EPA).

- **Court appointed deputies** - The Act provides for a system of court appointed deputies to replace the current system of receivership in the Court of Protection. Deputies will be able to take decisions on welfare, healthcare and financial matters as authorised by the Court but will not be able to refuse consent to life-sustaining treatment. They will only be appointed if the Court cannot make a one-off decision to resolve the issues.

The Act created two public bodies to support the statutory framework, both of which are designed around the needs of those who lack capacity.

- **A Court of Protection** - The Court has jurisdiction relating to the whole Act and will be the final arbiter for capacity matters. It has its own procedures and nominated judges.

- **Office of the Public Guardian** - The Public Guardian and his/her staff are the registering authority for Lasting Power of Attorney (LPAs) and deputies. They supervise deputies appointed by the Court and provide information to help the Court make decisions. They also work together with other agencies, such as the police and social services, to respond to any concerns raised about the way in which an attorney or deputy is operating. A Public Guardian Board scrutinises and reviews the way in which the Public Guardian discharges his/her functions. The Public Guardian is required to produce an Annual Report about the discharge of his/her functions.

The Act also includes further key provisions to protect adults at risk

- **Advance decisions to refuse treatment**

Statutory rules with clear safeguards confirm that people may make a decision in advance to refuse treatment if they should lose capacity in the future. It is made clear in the Act that an advance decision will have no application to any treatment, which a doctor considers necessary to sustain life, unless strict formalities have been complied with. These formalities are that the decision must be in writing, signed and witnessed. In addition, there must be an express statement that the decision stands 'even if life is at risk'.

- **A criminal offence**

The Act introduces two new criminal offences of 'ill treatment' or 'wilful neglect' of a person who lacks capacity. A person found guilty of such an offence may be liable to imprisonment for a term of up to five years. (Further details under types of abuse).

- **Independent Mental Capacity Advocate (IMCA)**

The purpose of the Independent Mental Capacity Advocacy Service is to help particularly adults at risk who lack the capacity to make important decisions about serious medical treatment and changes of accommodation, and who have no family or friends that it would be appropriate to

consult about those decisions. The role of the Independent Mental Capacity Advocate (IMCA) is to work with and support people who lack capacity, and represent their views to those who are working out their best interests.

The Department of Health has extended the Act through Regulations to cover circumstances where a Safeguarding Adults allegation has been made. The Regulations specify that Local Authorities and the NHS have powers to instruct an IMCA if the following requirements are met:

- Where safeguarding measures are being put in place in relation to the protection from abuse of adults at risk; and
- Where the person lacks capacity.

In these circumstances the Local Authority or NHS body may instruct an IMCA to represent the person concerned, if it is satisfied that it would be of benefit for the person to do so.

Safeguarding Adults cases access to IMCAs is not restricted to people who have no one else to support or represent them. People who lack capacity who have family and friends can still have an IMCA to support them through the safeguarding process.

The regulations equally apply to a person who may have been abused or neglected and a person who is alleged to be the source of risk.

Where the qualifying criteria are met, it would be unlawful for the Local Authority or the NHS not to consider exercising their power to instruct an IMCA for Safeguarding Adults cases. 35 Suffolk County Council Safeguarding Adults Policy And Operational Guidance

• **Restraint -**

Section 5 permits the use of restraint if the person using it reasonably believes that it is necessary to prevent harm to the person who lacks capacity and if the restraint is proportionate to the likelihood and seriousness of harm. However, where the restriction or restraint is frequent, cumulative and ongoing then consideration should be given to whether this amounts to deprivation of liberty. In April 2009 the Mental Capacity Act was amended to include provision for the deprivation of liberty for those who need to be accommodated under circumstance that deprives them of their liberty.

Deprivation of Liberty Safeguards

The Deprivation of Liberty Safeguards (DOLS) are an amendment to the Mental Capacity Act 2005. The Mental Capacity Act allows restraint and restrictions to be used – but only if they are in a person's best interests and for their own safety. Extra safeguards are needed if the restrictions and restraint used will deprive a person of their liberty. These are called the Deprivation of Liberty Safeguards.

Appendix 2

PRACTICE GUIDANCE FOR INTERVIEWING ADULTS AT RISK FROM NEGLECT, ABUSE OR HARM

This practice note gives some guidance on interviewing adults at risk and some of the common reactions to abuse. Interviewing is often a complex task requiring careful planning beforehand. In some cases a person will have limited communication and understanding. Where this is so, it is important to ensure that the adult at risk has an advocate or interpreter or signer in line with what they wish and need.

Receivers of alerts and referrals should respond by:

- Remaining calm and not showing shock or disbelief
- Listening carefully to what is being said
- Not asking detailed or probing questions
- Demonstrating a sympathetic approach by acknowledging regret and concern that what has been reported has happened
- Ensuring that emergency action needed has been taken
- Confirming that the information will be taken seriously
- Giving information about the steps that will be taken
- Informing that feedback will be given as to the results of the concerns raised and from whom
- Giving contact details so that further issues or questions may be raised

A copy of Guidance Notes to tenants on Safeguarding issues is contained within the Tenancy Handbook.

Reactions to Abuse

People who have been abused do not always react in the same way. However, some of the more common reactions are as follows:-

- Denial that anything is wrong and even an emphasis that all is extremely well.
- Acceptance or resignation of their situation as part of being a drug user.
- Withdrawal from normal activities through a continuum to a total lack of communication.
- Depression which can either happen very suddenly or gradually emerge.
- A dramatic change of behaviour/personality: this can happen very suddenly and unexpectedly and is often associated with fear. This may indicate an attempt at self-protection
- physical or verbal outbursts or displays of anger that are out of character
- Confusion: this can be characterised by a sudden onset or a marked deterioration in a previously confused person.
- Seeking help from numerous sources/people. This may be a direct request for help or attention seeking behaviour.

Appendix 3

Safeguarding of Adults at risk Log

CONFIDENTIAL

This form should be completed by the staff manager making a Safe-guarding referral. Upon completion the form should be returned immediately to the Designated Person with responsibility for Safeguarding Adults in Suffolk Mind. Please also send a copy to the relevant Service Manager/Director.

When receiving information that alleged abuse or inappropriate care of a vulnerable adult may have taken place, it is imperative that prompt and effective action is taken as soon as possible. This log is intended to prompt and record some essential details.

SECTION 1 – Information disclosed.

Full name of alleged victim(s)

Address:

DoB:

Where the alleged incident took place

When the alleged incident occurred

Alleged perpetrator of Incident

Relationship between alleged perpetrator and victim

Broad nature of concern (e.g. physical abuse, sexual abuse, neglect etc.)

What steps have been taken to ensure the alleged victims immediate safety?

Has alleged victim given consent for the investigation/referral?

Have alleged victim's wishes been granted or overridden?
If overridden give details

Have emergency services been contacted?
Details

Have senior staff been informed? (Service Manager/director)
Details

SECTION 3- Witness Details

Have witness statements been taken. Please maintain separate signed and dated statements

Name:

Contact details

Position e.g. staff, service user, visitor

Name:

Contact details

Position e.g. staff, service user, visitor

SECTION 4 -Information about the person making the referral

Name:

Address:

Contact telephone number:

Relationship of the referrer to the vulnerable adult:

Position:

Date/time reported:

Referral made: In person By telephone Other means (please delete)

If by 'other means', please specify

SECTION 5-

Date form sent to Designated Person and Service Manager/Directors:

Signed:

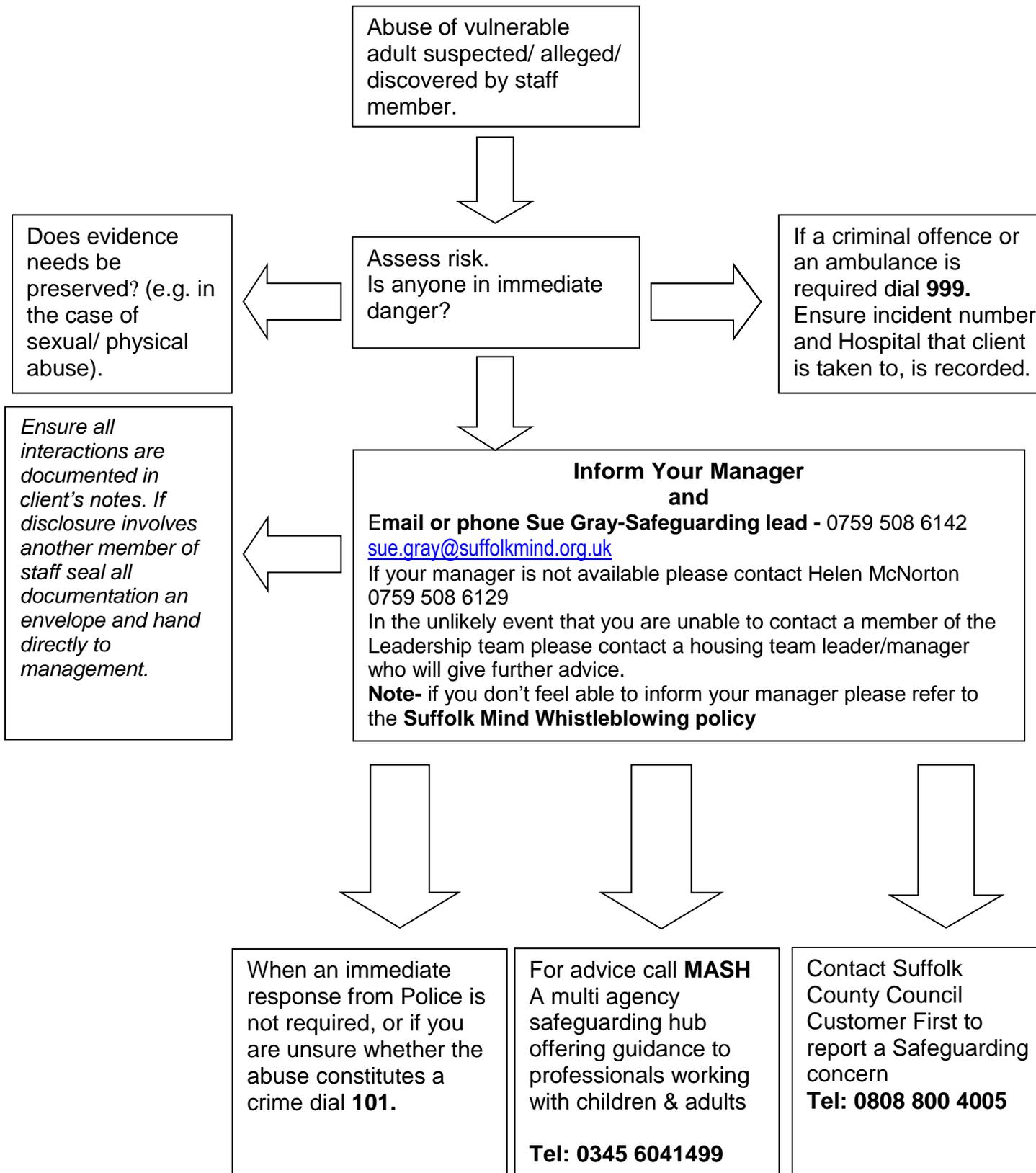
Date:

Please retain signed and dated hard copy

SECTION 6

Follow up action/contact log to be up-dated by person making the referral

Appendix 4- Example Flow chart for Staff Reporting Suspected or Actual Abuse for Suffolk



Appendix 5

Useful links

www.cambridgeshire.gov.uk/social/adultprot/

www.suffolk.gov.uk/care-and-support/safeguarding

<http://www.homeoffice.gov.uk/agencies-public-bodies/dbs>

Appendix 6

A child's legal rights Gillick competency and Fraser guidelines

When we are trying to decide whether a child is mature enough to make decisions, people often talk about whether a child is 'Gillick competent' or whether they meet the 'Fraser guidelines'.

The Gillick competency and Fraser guidelines help us all to balance children's rights and wishes with our responsibility to keep children safe from harm.

What do 'Gillick competency' and 'Fraser guidelines' refer to?

Gillick competency and Fraser guidelines refer to a legal case which looked specifically at whether doctors should be able to give contraceptive advice or treatment to under 16-year-olds without parental consent. But since then, they have been more widely used to help assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions.

In 1982 Mrs. Victoria Gillick took her local health authority (West Norfolk and Wisbech Area Health Authority) and the Department of Health and Social Security to court in an attempt to stop doctors from giving contraceptive advice or treatment to under 16-year-olds without parental consent.

The case went to the High Court in 1984 where Mr Justice Woolf dismissed Mrs. Gillick's claims. The Court of Appeal reversed this decision, but in 1985 it went to the House of Lords and the Law Lords (Lord Scarman, Lord Fraser and Lord Bridge) ruled in favour of the original judgment delivered by Mr Justice Woolf:

"...whether or not a child is capable of giving the necessary consent will depend on the child's maturity and understanding and the nature of the consent required. The child must be capable of making a reasonable assessment of the advantages and disadvantages of the treatment proposed, so the consent, if given, can be properly and fairly described as true consent." ([Gillick v West Norfolk, 1984](#))

How are the Fraser Guidelines applied?

The Fraser guidelines refer to the guidelines set out by Lord Fraser in his judgment of the Gillick case in the House of Lords (1985), which apply specifically to contraceptive advice. Lord Fraser stated that a doctor could proceed to give advice and treatment: "provided he is satisfied in the following criteria:

- 1. that the girl (although under the age of 16 years of age) will understand his advice;*
- 2. that he cannot persuade her to inform her parents or to allow him to inform the parents that she is seeking contraceptive advice;*
- 3. that she is very likely to continue having sexual intercourse with or without contraceptive treatment;*
- 4. that unless she receives contraceptive advice or treatment her physical or mental health or both are likely to suffer;*
- 5. that her best interests require him to give her contraceptive advice, treatment or both without the parental consent." ([Gillick v West Norfolk, 1985](#))*

How is Gillick competency assessed?

Lord Scarman's comments in his judgment of the Gillick case in the House of Lords ([Gillick v West Norfolk, 1985](#)) are often referred to as the test of "Gillick competency":

"...it is not enough that she should understand the nature of the advice which is being given: she must also have a sufficient maturity to understand what is involved."

He also commented more generally on parents' versus children's rights:

"parental right yields to the child's right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision."

What are the implications for child protection?

Professionals working with children need to consider how to balance children's rights and wishes with their responsibility to keep children safe from harm.

Underage sexual activity should always be seen as a possible indicator of child sexual exploitation.

Sexual activity with a child under 13 is a criminal offence and should always result in a child protection referral.

Appendix 7

Guidance for responding to disclosure of abuse from a child or young person

Receivers of alerts and referrals should respond by:

- *Remaining calm and not showing shock or disbelief*
- *Listening carefully to what is being said*
- *Not asking detailed or probing questions*
- *Not making any promises to keep the information secret/confidential*
- *Demonstrating a sympathetic approach by acknowledging regret and concern that what has been reported has happened*
- *Ensuring that emergency action needed has been taken*
- *Confirming that the information will be taken seriously*
- *Giving information about the steps that will be taken, including explaining that the person taking this information will have to share it with their Manager and Suffolk Mind's Safeguarding lead in order to help the child/young person*
- *Informing that feedback will be given as to the results of the concerns raised and from whom*
- *Giving contact details so that further issues or questions may be raised*

Reactions to abuse in children and young people:

Children and young people who have been abused do not always react in the same way. However, some of the more common reactions are as follows:-

- *Denial that anything is wrong and even an emphasis that all is extremely well.*
- *Acceptance or resignation of their situation as part of being a child/young person.*
- *Withdrawal from normal activities through a continuum to a total lack of communication.*
- *Depression which can either happen very suddenly or gradually emerge.*
- *A dramatic change of behaviour/personality: this can happen very suddenly and unexpectedly and is often associated with fear. This may indicate an attempt at self-protection*
- *Physical or verbal outbursts or displays of anger that are out of character*
- *Self harming or risky behaviour examples can include but are not limited to: substance misuse; sexual promiscuity and/or behaviours that are out of character for the individual*
- *Unexplained injuries and infections*

*It is **NOT** the responsibility of Suffolk Mind staff and/or volunteers to investigate any allegations of abuse made by a child or young person therefore it is imperative that staff and/or volunteers speak to their line manager immediately following such a disclosure. If they are unable to speak to their line manager then they must inform Suffolk Mind's Safeguarding Lead or any other member of the Senior Leadership Team.*

Appendix 8

What is the MASH?

A Professionals Consultation Line **Tel: 0345 606149**

In 2014 Suffolk County Council and partners established a Multi-Agency Safeguarding Hub (MASH) in Suffolk. The MASH is a team of professionals from a range of agencies brought together to ensure all safeguarding concerns are dealt with in the most effective way. For more information on the MASH visit www.suffolk.gov.uk/MASH

What is the MASH consultation line?

However experienced you are, there may be times where you are not sure what action you should take, or you just need support and guidance to ensure you make the most informed decision. The MASH consultation line is for you to discuss the most appropriate and effective way of providing or obtaining help and support for a child or adult you feel is at risk of abuse. Where the child may need help and protection you will be given advice and guidance about making a referral, including how to involve parents.

Where a child and family have an allocated Social Worker you will need to contact the named Social Worker directly to discuss any concerns.

What to do before you ring the consultation line

You should follow your organisations safeguarding processes before calling the consultation line. All statutory organisations should provide a way for staff to seek help and advice on individual cases. All organisations are required to have named/designated safeguarding professionals and you should make yourself familiar with their contact details. You may also take advice through your line manager or the person who offers you safeguarding supervision.

When discussing an adult

The consultation line should be used to discuss whether a referral should be made or not.

For enquiries about ongoing cases please use the Adult Protection Team Duty Line on **01449 724593**.

If you have an immediate safeguarding concern, or wish to make a referral, use this link:

www.suffolk.gov.uk/care-and-support/safeguarding/

or call Customer First on **0808 800 4005**

How does the consultation line work?

The person offering advice on the consultation line will ordinarily be a Social Worker within MASH. You will be able to choose to speak to an adult or children's Social Worker.

During consultation you should:

Be clear about your concern and what is needed from the consultation. Clearly identify what your organisation has already done about the concern and the impact of this

Seek clarification where there are any uncertainties about what is involved

The MASH will:

Record detail of the discussions and recommendations made but will not record the child's name.