



Safeguarding Policy (Adults at Risk)

Date Approved by BEF Board : 26 Feb 2020
To be reviewed on: 2023

This policy will be reviewed in 2023 unless there is a change within the BEF or to be in line with any change in relevant legislation.

This policy applies to everyone within the BEF and its Member Bodies and should be read in conjunction with all other relevant Safeguarding documents [These documents can be found on the BEF website].

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1. Introduction

The BEF (British Equestrian Federation) places the highest priority on safety and enjoyment of equestrianism, and recognises that it has a duty of care towards Adults at Risk within the horse industry. Any organisation, establishment or individual providing riding or horse management opportunities must do so with the highest possible standard of care. To ensure this, the British Equestrian Federation and its Member Bodies are committed to devising and implementing policies and procedures to ensure all those involved accept their responsibilities to safeguard Adults at Risk from harm and abuse, in accordance with legislation.

The BEF is fully committed to the principles of equality of opportunity and aims to ensure that no individual receives more or less favourable treatment on the grounds of ages, sex, gender, disability¹, race, parental or marital status, pregnancy, religion or belief, sexual orientations and gender reassignment. This includes all those involved in our sport whether they are participants, employees, coaches, owners, officials, volunteers or spectators.

In order to support Member Bodies with safeguarding Adults at Risk, the BEF coordinates a national development group, the **Safeguarding Action Team (SAT)**, to provide a forum, through full member body representation, to develop and share best practice for the purpose and benefit of safeguarding the equestrian industry.

It also facilitates the Federation wide **Case Management Group (CMG)** whose role is to:-

- Support, through advice and consultation;
- Provide Case Management Support;
- Give guidance on best practice;

In addition, the BEF, works to ensure that all those involved in equestrianism, whether a young rider, driver, vaulter, parent, riding school or centre professional/volunteer, are aware of their responsibilities to safeguard and understand what to do if they have a concern about the welfare of an Adult at Risk or young person.

2. Policy Statement

The aim of the British Equestrian Federation is to safeguard all children, young people and Adults at Risk in our sport.

This guidance aims to help professionals and volunteers understand what they need to do, and what they can expect of one another, to safeguard Adults at Risk. It focuses on core legal requirements and makes clear what individuals and organisations should do to keep those who are vulnerable safe. In doing so, it seeks to emphasise that effective safeguarding systems are those where:

- The welfare and safety of Adults at Risk is of paramount concern.
- All adults are treated as individuals and with dignity and respect.

The guidance given in this policy is based on the following principles:

- All adults, regardless of age, ability or disability, gender, race, religion, ethnic origin, sexual orientation, marital or gender status have the right to be protected from abuse and poor practice and to participate in an enjoyable and safe environment.
- The BEF and its Member Bodies will seek to ensure that our sport is inclusive and will endeavor make all reasonable adjustments for any ability, disability or impairment, we will also commit to continuous development, monitoring and review.

¹ For the purpose of this policy disability includes deaf and disabled children, young people and adults and those with any other additional need.

- The rights, dignity and worth of all adults will always be respected.
- We recognise that ability and disability can change over time, such that some adults may be additionally vulnerable to abuse, in particular those adults with care and support needs.
- Safeguarding adults is everyone's responsibility. 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 the BEF and its Member Bodies or in the wider community.
- All allegations will be taken seriously and responded to quickly in line with the BEF and its Member Bodies Safeguarding Adults Policy and Procedures.
- The BEF and its Member Bodies recognise the role and responsibilities of the statutory agencies in safeguarding adults and is committed to complying with local safeguarding procedures.
- The BEF and its Member Bodies recognise the importance of making safeguarding personal and is committed to ensure that Adult Safeguarding is person led and outcome focused.
- The concept of 'wellbeing' is threaded throughout English and Welsh legislation and is related to the personal dignity, support and inclusion of all.
- We will seek to ensure that the starting assumption is that a person has the capacity to make a decision unless it can be established that they lack capacity to make decisions.

3. Legislation

The practices and procedures within this policy are based on the principles contained within the UK legislation and Government Guidance and have been developed to complement the Safeguarding Adults Boards policy and procedures. In order to safeguard and promote the welfare of Adults at Risk, the BEF and Member Bodies will act in accordance with the UK legislation and Government Guidance.

The phrase 'adult support and protection' is used instead of 'safeguarding' in Scotland. However, for consistency across the Home Nations, the term 'safeguarding' is used for this policy in relation to adults at risk in Scotland.

4. Roles of the BEF and Member Bodies

The BEF fully accepts its legal and moral obligation to provide a duty of care, to protect all Adults at Risk and safeguard their welfare.

In pursuit of this, the BEF is committed to ensuring that:

- The welfare of all vulnerable groups is paramount, and Adults at Risk have the right to protection from abuse.
- It takes all reasonable, practical steps to protect Adults at Risk from harm, discrimination and degrading treatment and to respect their rights, wishes and feelings.
- All concerns and allegations of poor practice or abuse are taken seriously and responded to swiftly and appropriately.
- High standards of behaviour and practice are maintained through compliance with BEF and Member Body codes of conduct produced for all those involved in our sport.
- Everyone knows and accepts their responsibilities and works together: riders, personal assistants or relevant family members, coaches, proprietors, volunteers, and professional staff.

The role of the BEF is to:

- Provide a strategic overview and guidance on Adults at Risk and promote their welfare.
- Provide guidance on best practice in recruitment, training and supervision of staff, members and volunteers, parents and carers.
- Provide access to approved safeguarding education and training to staff at BEF and for Member Body Lead Safeguarding Officers.
- Respond to and support Member Bodies with the management of allegations, concerns and complaints relating to Adults at Risk and welfare, initiating Case Management systems and processes as necessary, liaising with the Case Management Group as requested by Member Bodies.

- Coordinate and update a central database (MyConcern) for all concerns/incidents shared by Member Bodies.
- Give guidance on the implementation and management of appropriate disciplinary and appeals procedures in relation to Adults at Risk, including monitoring the outcomes of any such events as requested by Member Bodies.
- Coordinate the Safeguarding Advisory Team (SAT) and the Case Management Group (CMG).
- Ensure that all incidents are correctly reported and referred out in accordance with the BEF guidelines.
- Ensure that BEF procedures for recruitment of staff and volunteers, within the BEF, are followed and all appropriate existing staff or volunteers have up to date criminal record checks if appropriate.
- Review and monitor the implementation of the policy and procedures on an annual basis.
- Ensure that all data collected by the BEF is kept securely in accordance with data protection legislation.

The role of each Member Body is:

- To ensure representation on the SAT.
- To ensure that the clubs, centres, and schools within their Member Body are aware of BEF and Member Body policies, procedures and guidelines and adopt them as appropriate.
- Play a lead role in developing and establishing the organisation's approach to safeguarding Adults at Risk.
- To implement and manage appropriate disciplinary and appeals procedures in relation to Adults at Risk ensuring that the BEF is informed.
- To respond to and manage any allegations or complaints made from within the Member Body.
- Operationally, to deal with the complaint/allegation to conclusion in line with the agreed protocols.
- To ensure that the BEF Safeguarding Officer is informed of all relevant safeguarding concerns and incidents that occur.
- To ensure there is clear communication within each Member Body with regard to Adults at Risk
- To ensure that all policies and procedures are made accessible to parents/carers.
- To ensure the effective protection and safeguarding of Adults at Risk by encouraging and supporting each club, riding school, event or competition organiser to appoint a Safeguarding Officer.
- To encourage and support each club, riding school, event or competition organiser to adopt and promote BEF and Member Body policies and procedures.
- To provide and promote education and training in safeguarding, in partnership with the BEF, to support staff, members and volunteers.
- To manage and monitor the implementation of the policy and procedures and feed back to the BEF on an annual basis.
- To ensure that Member Body procedures for recruitment of staff and volunteers are followed and all appropriate existing staff or volunteers have up to date disclosure checks in line with procedures.
- To ensure that codes of conduct are in place for club/centre staff, volunteers, coaches, young people and parents.
- Ensure safeguarding standards are met and maintained.
- To ensure confidentiality is maintained and information is only shared on a "need to know" basis.

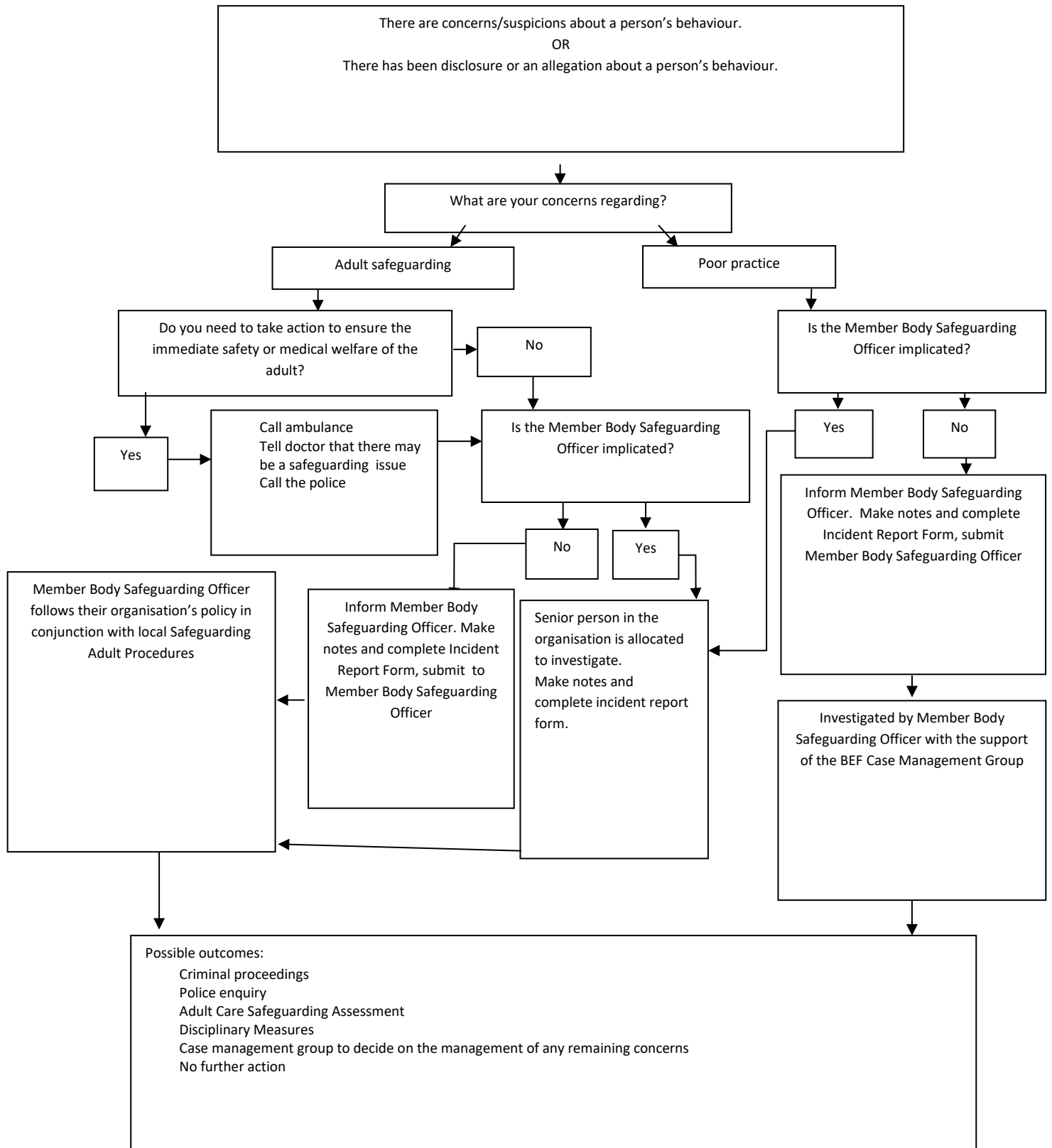
The role of each organisation's Safeguarding Officer is:

- To adopt and promote the BEF and Member Body policies and procedures.
- To promote education and training to support staff, members and volunteers.
- To manage and monitor the implementation of the policy and procedures.
- To be the first point of contact for staff and volunteers, young people and parents for any issue concerning Adults at Risk welfare, poor practice or potential/alleged abuse.
- To record and report monitoring information as required.
- To respond to any allegations or complaints by reporting to the Member Body's Lead Safeguarding Officer.
- To maintain local contact details for Adults Social Services, the Police and Member Body Lead Safeguarding Officer.
- To ensure confidentiality is maintained and information is only shared on a "need to know" basis.
- To respond to any allegations or complaints made from within the Member Body. Operationally, to deal

with the complaint/allegation to conclusion in line with agreed protocols.

5. Dealing with a safeguarding adults concern

Dealing with Concerns, Suspicions or a Disclosure



Remember to involve the adult at risk throughout the process wherever possible and gain consent for any referrals to social care if the person has capacity.

Further Information

i. Support for victims and families

It is important to acknowledge that, in matters relating to any Adults at Risk incidents; it can be distressing for all involved. It is, therefore, important to be aware of sources of support and help that may be available in this situation.

The following organisations may be able to help:-

Organisation	Contact Details
Ann Craft Trust	www.anncrafttrust.org Email: Ann-Craft-Trust@nottingham.ac.uk Telephone: 01159515400
Act Against Harm	www.actagainstharm.org
Mencap	www.mencap.org.uk Telephone: 08088081111
Care Line	www.careline.co.uk Telephone: 08001013333
Mental Health Line	www.mentalhealth.org
Mind	www.mind.org.uk Telephone: 03001233393
Carers UK	www.carersuk.org Telephone: 08088087777
Action on Elder Abuse	www.elderabuse.org.uk Telephone: 08088088141
Victim Support	www.victimsupport.org.uk Telephone: 08081689111
National Family Carers Network	www.familycarers.org.uk
Refuge	www.refuge.org.uk Telephone: 08082000247
Samaritans	www.samaritans.org Telephone: 116123 (UK) or 116123 (ROI)

Section 4 - Abuse type if know (leave blank if uncertain)

Physical	Psychological	Financial
Sexual	Discriminatory	Organisational/ institutional
Neglect	Hate incident/crime	Mate Crime
Internet abuse	Modern slavery	Female genital Mutilation (FGM)
Forced Marriage	Domestic abuse	Radicalisation
Self-Neglect		

Section 5 - Have you discussed your concerns with the adult? What are their views, what outcomes have they stated they want (if any)?

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Section 5 – Reasons for not discussing with the adult

Adult lacks capacity	
Adult unable to communicate their views	
Discussion would increase the risk	
State why the risks would increase	

Section 5B - Have you discussed your concerns with anyone else? E.g. carer/ partner/ spouse/ family member. What are their views?

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Section 6 – What action have you taken /agreed with the adult to reduce the risks?

Information passed to Safeguarding Officer, confirm details:	Referral to Social Care Confirm details:
Contact with the police Confirm details:	Referral to other agency – please confirm details:
Other – please state what	
No action agreed – state why	

Section 7 – Risk to others

Are any other adults at risk Yes/No – delete as appropriate

If yes state why and what actions have been taken to address these?

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Are any children at risk Yes/No Delete as appropriate

If yes state why and what actions have been taken to address these?

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Signed:

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Date:

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Section 8 – sharing the concerns (To be completed by Lead Safeguarding Officer)

Details of your contact with the adult at risk. Have they consented to information being shared outside of (insert name of your organisation)?

Details of contact with the Social Care Team where the adult at risk lives – advice can be still sought without giving personal details if you do not have consent for a referral

Details of any other agencies contacted

Details of the outcome of this concern

iii. Guidance on Dealing with a Safeguarding Adults Concern

What to do if you have a concern or someone raises concerns with you

It is not your responsibility to decide whether an adult has been abused. It is however everyone's responsibility to respond to and report concerns.

If you are concerned someone is in immediate danger, contact the police on 999 straight away. Where you suspect that a crime is being committed, you must involve the police.

If you have concerns and or you are told about possible or alleged abuse, poor practice or wider welfare issues you must report this to the Member Body Safeguarding officer who will share information with the BEF Safeguarding Officer, or, if the Member Body Safeguarding Officer is implicated then report to the Member Body CEO who again will share information with the BEF Safeguarding Officer.

When raising your concern with the Member Body Safeguarding Officer, remember to 'make safeguarding personal'. It is good practice to seek the adult's views on what they would like to happen next and to inform the adult of what actions you intend to take.

It is important when considering your concern that you also ensure that you keep the person informed about any decisions and action taken about them and always consider their needs and wishes.

If someone discloses abuse to you:

Do

- Stay calm and try not to show shock or disbelief
- Listen carefully to what they are saying.
- Be sympathetic ('I am sorry that this has happened to you').
- Be aware of the possibility that medical evidence might be needed.
- Tell the person that:
 - They did the right thing to tell you.
 - You are treating the information seriously.
 - It was not their fault.
 - Would like to ask permission to pass their information on to the appropriate person.
 - You / the organisation will take steps to protect and support them.
- Report to the Member Body Safeguarding Officer who will share information with the BEF Safeguarding Officer.
- Write down what was said by the person disclosing as soon as possible.

Do Not

- Press the person for more details; this will be done at a later date.
- Stop someone who is freely recalling significant events; (for example, don't say 'Hold on we'll come back to that later,' as they may not tell you again.
- Jump to conclusions.
- Do not promise to keep secrets; you cannot keep this kind of information confidential.
- Make promises you cannot keep (such as, 'this will never happen to you again').
- Contact the alleged abuser.
- Be judgmental.
- Pass on the information to anyone other than those with a legitimate 'need to know'.

When recording a disclosure:

- At the first opportunity make a note of the disclosure and date and sign your record.

- You should aim to:
 - Note what the individual actually said, using their own words and phrases.
 - Describe the circumstances in which the disclosure came about.
 - Note the setting and anyone else who was there at the time.
 - Separate out factual information from your own opinions.
 - Be clear to distinguish between fact, observations, allegation and opinion.
 - Be aware that your report may be required later as part of a legal action or disciplinary procedure.
- Under no circumstances should any individual attempt to deal with the problem alone.
- The primary responsibility of the person who first suspects or is told of abuse is to report it and to ensure that their concern is taken seriously.

Involving carers or other family members

Wherever possible, those concerned about the welfare of an Adult at Risk should work in partnership with carers or other family members. Therefore, in most situations, it would be important to talk to carers or other family members to help clarify any initial concerns (e.g. if behaviour has changed, it is important to check whether there is a reasonable explanation such as family upset or bereavement). However, this must be considered in light of the Adult at Risk's right to confidentiality and the Mental Capacity Act 2005 and ideally should be undertaken with the full consent of the Adult concerned.

However, there are circumstances in which an Adult at Risk might be placed at even greater risk if concerns are shared (e.g. where a carer or other family member may be responsible for the abuse or not able to respond to the situation appropriately). In these situations or where concerns still exist, any suspicion, allegation or incident of abuse must be reported to the Member Body Safeguarding Officer and BEF Safeguarding Officer as soon as possible.

Consent

Adults at Risk (with capacity to consent) - if concerns arise, consent must be obtained from the individual concerned before a referral is made to Adult services or the police. However, if there is genuine concern that there is risk of harm, the information should be passed to Adult Services or the police even if consent is not obtained. Information about an individual should not be given to family or carers without consent of the individual.

Adults at Risk (without capacity to consent) – if concerns arise, and the individual is unable to give consent to information being shared, a referral should be made to Adult Services and/or the police.

iv. Signs and indicators of abuse and neglect

Abuse is a violation of an individual's human and civil rights by another person or persons. There are different types and patterns of abuse and neglect and different circumstances in which they may take place. Abuse can take place in any context and by all manner of perpetrator. Abuse may be inflicted by anyone in the BEF or its Member Bodies who an adult at risk comes into contact with. Individuals may suspect that an adult is being abused or neglected outside of the BEF or its Member Body's setting. There are many signs and indicators that may suggest someone is being abused or neglected these include but are not limited to:

- Unexplained bruises or injuries – or lack of medical attention when an injury is present.
- Person has belongings or money going missing.
- Person is not attending / no longer enjoying their sessions. You may notice that a participant in a team has been missing from practice sessions and is not responding to reminders from team members or coaches.
- Someone losing or gaining weight / an unkempt appearance. This could be a person whose appearance becomes unkempt, does not wear suitable clothing for the activity they are taking part in and there is deterioration in hygiene.

- A change in the behaviour or confidence of a person. For example, a participant may be looking quiet and withdrawn when their brother comes to collect them from sessions in contrast to their personal assistant whom they greet with a smile.
- They may self-harm.
- They may have a fear of a particular group of people or individual.
- They may tell you / another person they are being abused – i.e. a disclosure.
- Harassment of a participant because they are or are perceived to have protected characteristics.
- Not meeting the needs of the participant. E.g. training without a necessary break.
- A coach intentionally striking a participant.
- A participant who sends unwanted sexually explicit text messages to an adult with learning disabilities they are training alongside.
- A participant threatening another participant with physical harm and persistently blaming them for poor performance.

v. Riders with additional vulnerabilities

There have been a number of studies which suggest young people (or adults) with disabilities or additional needs, are at increased risk of abuse. It is important to recognize that deaf or disabled children, young people and adults may be vulnerable to abuse and this may be because:

- Children, young people and adults may be socially isolated.
- They are often dependent on a number of people for care and handling, some of which can be of an intimate nature.
- They may be unable to understand the inappropriateness of the actions or communicate to others that something is wrong.
- Signs of abuse can be misinterpreted as a symptom of the disability.
- Like others, they are fearful of the consequence of disclosing abuse.
- Attitudes and assumptions that children with disabilities are not abused.
- They may be unable to resist abuse due to physical impairment or unable to communicate abuse because of speech, language and communication needs.
- Fewer outside contacts and therefore limited opportunity to disclose abuse.
- Possible failures to recognise the impact of abuse on children with disabilities.

vi. Categories of abuse/harm

- **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.
- **Modern Slavery / Human Trafficking** – 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
- **Domestic Abuse and coercive control** – including psychological, physical, sexual, financial and emotional abuse. It also includes so called 'honour' based violence. It can occur between any family members.
- **Discriminatory** – discrimination is 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.
- **Organisational / Institutional** – 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 as a result of the structure, policies, processes and practices within an organisation.
- **Physical** – including hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions.
- **Sexual** – including rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into

consenting.

- **Financial or Material** – including theft, fraud, internet scamming, coercion in relation to an adult’s financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- **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.
- **Emotional or Psychological** – this includes threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.
- **Exploitation** – is the deliberate maltreatment, manipulation or abuse of power and control over another person; to take advantage of another person or situation usually, but not always, for personal gain from using them as a commodity. It may manifest itself in many forms including slavery, servitude, forced or compulsory labour, domestic violence and abuse, sexual violence and abuse, or human trafficking.
- **Hate crime** – is any incident which constitutes a criminal offence perceived by the victim or any other person as being motivated by prejudice, discrimination or hate towards a person’s actual or perceived race, religious belief, sexual orientation, disability, political opinion or gender identity.

There are additional definitions which, whilst not included in legislation, interface with adult safeguarding:

- **Cyber Bullying** – cyber bullying 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 as a means to do it.
- **Forced Marriage** – forced marriage is a term used to describe a marriage in which one or both of the parties are married without their consent or against their will. A forced marriage differs from an arranged marriage, in which both parties consent to the assistance of a third party in identifying a spouse. The Anti-social Behaviour, Crime and Policing Act 2014 makes it a criminal offence to force someone to marry. The forced marriage of adults with learning disabilities occurs when the adult does not have the capacity to consent to the marriage.
- **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 a number of Serious Case Reviews relating to people with a learning disability who were murdered or seriously harmed by people who purported to be their friend.
- **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.

It is important to note that abuse can take place in many contexts. In equestrian sport abuse may be inflicted by someone from within the sport or in the victim’s personal life. The above is not an exhaustive list and if abuse is suspected, either within or outside of the sport, it is important that the correct reporting mechanisms are adopted.

There are different types and patterns of abuse and neglect and different circumstances in which they may take place. Each Home Country defines categories of adult abuse and harm as follows;

Categories of Abuse / Harm

<i>England (Care Act 2014)</i>	<i>Wales (Social Services and Well Being Act 2014)</i>
Physical Sexual Emotional/Psychological/Mental Neglect and acts of Omission Financial or material abuse Discriminatory Organisational / Institutional Self-neglect Domestic Abuse (including coercive control) Modern slavery	Physical Sexual Psychological Neglect Financial
<i>Scotland (Adult Support and Protection Act 2007)</i>	<i>NI (Adult Safeguarding Prevention and Protection in Partnership 2015)</i>
Physical Psychological Financial Sexual Neglect	Physical Sexual violence Psychological / emotional Financial Institutional Neglect Exploitation Domestic violence Human trafficking Hate crime

The statutory guidance for Adults at Risk highlights 6 important safeguarding principles:

- **Empowerment** - People being 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 for those in greatest need.
- **Partnership**- Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
- **Accountability**-Accountability and transparency in safeguarding practice.

vii. Making Safeguarding Personal

There has been a cultural shift towards Making Safeguarding Personal within the safeguarding process. This is a move from prioritising outcomes demanded by bureaucratic systems. The safeguarding process used to involve gathering a detailed account of what happened and determining who did what to whom. Now the outcomes are defined by the person at the centre of the safeguarding process.

The safeguarding process places a stronger emphasis on achieving satisfactory outcomes that take into account the individual choices and requirements of everyone involved.

“What good is it making someone safer if it merely makes them miserable?” – Lord Justice Mundy, “What Price Dignity?” (2010)

What this means in practice is that adults should be more involved in the safeguarding process. Their views, wishes, feelings and beliefs must be taken into account when decisions are made.

We all have different preferences, histories, circumstances and lifestyles so it is unhelpful to prescribe a process that must be followed whenever a concern is raised.

However, there are key issues that should be considered when abuse or neglect are suspected, and there should be clear guidelines regarding this.

viii. Capacity – Guidance on Making Decisions

England and Wales share the Mental Capacity Act of 2005. Scotland has the Adults With Incapacity (Scotland) Act 2000 and Ireland the Mental Capacity (Northern Ireland) Act 2016.

The Acts all apply to people over the age of 16 years.

The issue of capacity or decision making is a key one in safeguarding adults across all legislature. It is useful for organisations to have an overview of the concept of capacity.

We make many decisions every day, often without realising. We make so many decisions that it's easy to take this ability for granted. But some people are only able to make some decisions, and a small number of people cannot make any decisions. Being unable to make a decision is called “lacking capacity”.

To make a decision we need to:

- Understand information
- Remember it for long enough
- Think about the information
- Communicate our decision

The various legislation sets out the principles for working with adults who lack capacity to make decisions. A person's ability to do this may be affected by things like learning disability, dementia, mental health needs, acquired brain injury and physical ill health.

Good practice states that every individual has the right to make their own decisions and legislation provides the framework for this to happen.

The legislation is designed to ensure that people have the support they need to make as many decisions as possible. The legislation also protects people who need family, friends or paid support staff to make decisions for them because they lack capacity to make specific decisions.

Any intervention in the affairs of an adult should:

- benefit the adult
- take account of the adult's wishes, so far as these can be ascertained
- take account of the views of relevant others, as far as it is reasonable and practical to do so
- restrict the adult's freedom as little as possible while still achieving the desired benefit

Our ability to make decisions can change over the course of a day.

Here are some examples that demonstrate how the timing of a question can affect the response:

- A person with epilepsy may not be able to make a decision following a seizure.
- Someone who is anxious may not be able to make a decision at that point.
- A person may not be able to respond as quickly if they have just taken some medication that causes fatigue.

In each of these examples, it may appear as though the person cannot make a decision. But later in the day, presented with the same decision, they may be able to at least be involved or to make an informed and measured decision.

Legislation recognises that capacity is decision-specific, so no one will be labelled as entirely lacking capacity. The legislation also recognises that decisions can be about big life-changing events, such as where to live, but equally about small events, such as what to wear on a cold day.

To help you to understand better, consider the following five points:

- Assume that people are able to make decisions, unless it is shown that they are not. If you have concerns about a person's level of understanding, you should check this with them, and if applicable, with the people supporting them.
- Give people as much support as they need to make decisions. You may be involved in this – you might need to think about the way you communicate or provide information and you may be asked your opinion.
- People have the right to make unwise decisions. The important thing is that they understand the implications. If they understand the implications, consider how risks might be minimised.
- If someone is not able to make a decision, then the person helping them must only make decisions in their "best interests". This means that the decision must be what is best for the person, not for anyone else.
- If someone was making a decision on your behalf, you would want it to reflect the decision you would make if you were able to.

Find the least restrictive way of doing what needs to be done.

Remember:

You should not discriminate or make assumptions about someone's ability to make decisions, and you should not pre-empt a best interest's decision merely on the basis of a person's age, appearance, condition or behaviour.

As an organisation, when it comes to decision-making, you could be involved in a minor way, or asked to provide more detail. The way you provide information might influence a person's ultimate decision. A person may be receiving support that is not in line with the principles of the legislation, so you must be prepared to address this.

ix. Consent and Information Sharing

Although we want to make safeguarding personal there are some circumstances when we need to take action without an adult's consent.

Sometimes an adult at risk may not want you to act on your concerns or their disclosure. This may be because they are scared or fearful of the repercussions from you taking action. It may also be because they are not aware abuse is taking place or have the mental capacity to make an informed decision and understand to remain in their current situation is unsafe.

Sharing information with the right people, is central to good practice in safeguarding adults. You should not keep safeguarding concerns about adults at risk to yourself. Explain to the adult that you must pass the concern on to your Safeguarding Officer, as you have a duty of care. You should reassure the adult that they will be fully included on what happens.

It is appropriate to report concerns without an adult's consent when:

- You have reason to believe the adult's health and or wellbeing will be adversely affected by ongoing harm.

- Other people are, or may be, at risk from the person causing harm, including children.
- It is necessary to prevent a crime, or a serious crime has been committed.
- Sharing the information could prevent a crime and help to stop abuse
- The adult may be under duress or being coerced
- The alleged abuser has care and support needs and may also be at risk.

Individuals within equestrian sport should always share safeguarding concerns in line with the Member Body's Information Sharing's policy, usually with their safeguarding officer in the first instance, except in emergency situations. If it does not increase the risk to the individual, the individual should explain to them that it is their duty to share their concern with their safeguarding officer.

The safeguarding officer will then consider the situation and plan the actions that need to be taken, in conjunction with the adult at risk and in line with the organisation's policy and procedures and local safeguarding adults board policy and procedures.

To make an adult safeguarding referral you need to call the local safeguarding adults' team. This may be part of a MASH (Multi-Agency Safeguarding Hub). A conversation can be had with the safeguarding adult's team without disclosing the identity of the person in the first instance. If it is thought that a referral needs to be made to the safeguarding adult's team, consent should be sought where possible from the adult at risk.

Individuals may not give their consent to the sharing of safeguarding information with the safeguarding adult's team for a number of reasons. Reassurance, appropriate support and revisiting the issues at another time may help to change their view on whether it is best to share information.

If they still do not consent, then their wishes should usually be respected. However, there are circumstances where information can be shared without consent such as when the adult does not have the capacity to consent, it is in the public interest because it may affect other people, or a serious crime has been committed. This should always be discussed with your Safeguarding Officer and the local authority safeguarding adults' team.

If someone does not want you to share information outside of the organisation or you do not have consent to share the information, ask yourself the following questions:

- Is the adult placing themselves at further risk of harm?
- Is someone else likely to get hurt?
- Has a criminal offence occurred? This includes: theft or burglary of items, physical abuse, sexual abuse, forced to give extra money for lessons (financial abuse) or harassment.
- Is there suspicion that a crime has occurred?

If the answer to any of the questions above is 'yes' - then you can share without consent and need to share the information.

x. Adult at risk of abuse or neglect definition

Safeguarding legislation has moved away from the term 'vulnerable adult', instead uses the term 'adult at risk'. This term illustrates that it is the circumstances that people are in that causes them to be at risk of abuse or neglect.

England (Care Act 2014)	Wales (Social Services and Well Being Act 2014)
<p>An "adult at risk" is an individual aged 18 years and over who:</p> <ul style="list-style-type: none"> (a) has needs for care and support (whether or not the local authority is meeting any of those needs) (b) is experiencing, or at risk of, abuse or neglect (c) 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. 	<p>An "adult at risk" is an individual aged 18 years and over who:</p> <ul style="list-style-type: none"> (a) is experiencing or is at risk of abuse or neglect, (b) has needs for care and support (whether or not the authority is meeting any of those needs) and (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
Scotland (Adult Support and Protection Act 2007)	NI (Adult Safeguarding Prevention and Protection in Partnership 2015)
<p>An "Adult at risk" is an individual aged 16 years and over who:</p> <ul style="list-style-type: none"> (a) is unable to safeguard their own well-being, property, rights or other interests, (b) is at risk of harm, and (c) because they are affected by disability, mental disorder, illness or physical or mental infirmity, is more vulnerable to being harmed than adults who are not so affected. 	<p>An Adult at Risk of Harm is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their personal characteristics and/or life circumstances.</p> <p>Personal characteristics may include, but are not limited to age, disability, special educational needs, illness, mental or physical frailty or impairment of, or disturbance in, the functioning of the mind or brain.</p> <p>Life circumstances may include, but are not limited to, isolation, socio-economic factors and environmental living conditions.</p> <p>An 'adult in need of protection' is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:</p> <ul style="list-style-type: none"> A) personal characteristics AND/OR B) life circumstances AND C) who is unable to protect their own well-being, property, assets, rights or other interests; AND D) where the action or inaction of another person or persons is causing, or is likely to cause, him/her to be harmed. <p>In order to meet the definition of an 'adult in need of protection' either (A) or (B) must be present, in addition to both elements (C), and (D).</p>

xi. Legislation and Government Initiatives

England - Care Act 2014 – statutory guidance

<http://www.legislation.gov.uk/ukpga/2014/23/introduction/enacted>

The Care Act introduces new responsibilities for local authorities. It also has major implications for adult care and support providers, people who use services, carers and advocates. It replaces No Secrets and puts adult safeguarding on a statutory footing.

Safeguarding Adults (Care Act, 2014)

“Safeguarding means protecting an adult’s right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult’s wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances” (Care Act 2014).

Wales - Social Services and Well Being Act 2014

http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf

Reforms and integrates social services law making provisions for improving well-being outcomes for people who need care and support. Requiring coordination and partnership by public authorities to improve well-being, it replaces No Secrets and puts adult safeguarding on a statutory footing.

Scotland - Adult Support and Protection Act 2007

<https://www.legislation.gov.uk/asp/2007/10/contents>

Introduced new measures to identify and protect individuals by defining adults at risk. Placing a duty on Local Authorities to identify and prevent harm whilst requiring partnership working. It replaces No Secrets and puts adult safeguarding on a statutory footing.

Northern Ireland - Adult Safeguarding Prevention and Protection in Partnership 2015

<https://www.eani.org.uk/sites/default/files/2018-11/Adult%20Safeguarding%20-%20Prevention%20and%20Protection%20in%20Partnership.%20DHSSPS%202015.pdf>

Implemented to improve safeguarding arrangements for adults who are at risk of harm from abuse, exploitation or neglect. The framework is to provide support and effective protective interventions, placing significant emphasis on prevention and early intervention. It also seeks to ensure that access to justice is available to adults that have been harmed. It replaces No Secrets and puts adult safeguarding on a statutory footing.

Protection of Freedoms Act 2012

<http://www.legislation.gov.uk/ukpga/2012/9/contents/enacted>

Brought about a wide range of measures, regarding numerous areas of law. Notably changes to the vetting and barring system to create the Disclosure and Barring Service.

Domestic Violence, Crime and Victims (Amendment) Act 2012

<http://www.legislation.gov.uk/ukpga/2012/4/contents/enacted>

Creates an offence of causing or allowing the death or serious harm of a child or adult at risk for those within the household.

Equality Act 2010

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

The Act legally protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations.

England & Wales - Mental Capacity Act 2005

<http://www.legislation.gov.uk/ukpga/2005/9/introduction>

Its general principle is that everybody has capacity unless it is proved otherwise, that they should be supported to make their own decisions, that anything done for or on behalf of people without capacity must be in their best interests and there should be least restrictive intervention. www.dca.gov.uk

Scotland - Adults with Incapacity Act 2000

<http://www.legislation.gov.uk/asp/2000/4/contents>

Provides ways to help safeguard the welfare and finances of people who lack capacity.

Northern Ireland - Mental Capacity 2016

<http://www.legislation.gov.uk/nia/2016/18/contents/enacted>

Combines mental health and capacity within one piece of legislation. Considers the individuals capacity to independently make decisions about their health, welfare or finances, and the safeguards that must be put in place if they lack the capacity to do so.

Sexual Offences Act 1956

<https://www.legislation.gov.uk/ukpga/Eliz2/4-5/69/contents>

This Act consolidated the law relating to sexual offences committed between 1957 and 2004. It was mostly repealed by the Sexual Offences Act of 2003 below, but sections 33 to 37 still survive.

Sexual Offences Act 2003

<http://www.legislation.gov.uk/ukpga/2003/42/contents>

The Sexual Offences Act introduced a number of new offences concerning adults at risk and children. www.opsi.gov.uk

Human Rights Act 1998

<https://www.legislation.gov.uk/ukpga/1998/42/contents>

Designed to incorporate into UK law the rights contained in the European Convention on Human Rights. The Act makes a remedy for breach of a Convention right available in UK courts, without the need to go to the European Court. In particular, the Act makes it unlawful for any public body to act in a way which is incompatible with the Convention, unless the wording of any other primary legislation provides no other choice.

Data Protection Act 2018 (including General Data Protection Regulations)

2018 Act - <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

GDPR - <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

the original 1998 DPA was superseded in May 2018. The new Act supplements the General Data Protection Regulation (GDPR), which came into effect later the same month. The Act is designed to protect personal data stored on computers or on paper, regulating collection, storage, and use. The Act provides individuals with the legal rights to control information about themselves.

Safeguarding Vulnerable Groups Act 2006

<http://www.legislation.gov.uk/ukpga/2006/47/contents>

Introduced the new Vetting and Barring Scheme and the role of the Independent Safeguarding Authority. The Act 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. www.opsi.gov.uk

Deprivation of Liberty Safeguards

<https://www.gov.uk/government/collections/dh-mental-capacity-act-2005-deprivation-of-liberty-safeguards>

Introduced into the Mental Capacity Act 2005 and came into force in April 2009. Designed to provide appropriate safeguards for vulnerable people who have a mental disorder and lack the capacity to consent to the arrangements

made for their care or treatment, and who may be deprived of their liberty in their best interests in order to protect them from harm.

Disclosure & Barring Service 2013

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

Criminal record checks: guidance for employers - How employers or organisations can request criminal records checks on potential employees from the Disclosure and Barring Service (DBS). www.gov.uk/dbs-update-service

Making Safeguarding Personal Guide 2014

<http://www.local.gov.uk/documents/10180/5852661/Making+Safeguarding+Personal+-+Guide+2014/4213d016-2732-40d4-bbc0-d0d8639ef0df>

This guide is intended to support councils and their partners to develop outcomes-focused, person-centred safeguarding practice.

xii. Principles of Safeguarding Adults for each home nation.

<i>England (Care Act 2014)</i>	<i>Wales (Social Services and Well Being Act 2014)</i>
<p>The Act's principles are:</p> <ul style="list-style-type: none"> ● Empowerment - People being 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 for those in greatest need. ● Partnership – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse ● Accountability – Accountability and transparency in delivering safeguarding. 	<p>The Act's principles are:</p> <ul style="list-style-type: none"> ● Pay attention to what people want. ● Remember people's dignity. ● Think about each person. Think about their culture, beliefs and language. ● Support people to be part of decisions about their life. ● Expect adults to know what is best for themselves. ● Support adults to be as independent as possible.
<i>Scotland (Adult Support and Protection Act 2007)</i>	<i>NI (Adult Safeguarding Prevention and Protection in Partnership 2015)</i>
<p>The Act's principles are:</p> <p>The overarching principle underlying Part 1 of the Act is that any intervention in an individual's affairs should provide benefit to the individual, and should be the least restrictive option of those that are available which will meet the purpose of the intervention.</p> <p>This is supported by a set of guiding principles which, together with the overarching principle, must be taken account of when performing functions under Part 1 of the Act.</p> <p>These are:</p>	<p>The Act's principles are:</p> <ul style="list-style-type: none"> • A Rights-Based Approach – To promote and respect an adult's right to be safe and secure; to freedom from harm and coercion; to equality of treatment; to the protection of the law; to privacy; to confidentiality; and freedom from discrimination. • An Empowering Approach – To empower adults to make informed choices about their lives, to maximise their opportunities to participate in wider society, to keep themselves safe and free from harm and enabled to manage their own decisions in respect of exposure to risk.

<ul style="list-style-type: none"> • The wishes and feelings of the adult at risk (past and present); • The views of other significant individuals, such as the adult's nearest relative; their primary carer, guardian, or attorney; or any other person with an interest in the adult's well-being or property; • The importance of the adult taking an active part in the performance of the function under the Act; • Providing the adult with the relevant information and support to enable them to participate as fully as possible; • The importance of ensuring that the adult is not treated less favourably than another adult in a comparable situation; and • The adult's abilities, background and characteristics (including their age, sex, sexual orientation, religious persuasion, racial origin, ethnic group and cultural and linguistic heritage). 	<ul style="list-style-type: none"> • A Person-Centred Approach – To promote and facilitate full participation of adults in all decisions affecting their lives taking full account of their views, wishes and feelings and, where appropriate, the views of others who have an interest in his or her safety and well-being. • A Consent-Driven Approach – To make a presumption that the adult has the ability to give or withhold consent; to make informed choices; to help inform choice through the provision of information, and the identification of options and alternatives; to have particular regard to the needs of individuals who require support with communication, advocacy or who lack the capacity to consent; and intervening in the life of an adult against his or her wishes only in particular circumstances, for very specific purposes and always in accordance with the law. • A Collaborative Approach – To acknowledge that adult safeguarding will be most effective when it has the full support of the wider public and of safeguarding partners across the statutory, voluntary, community, independent and faith sectors working together and is delivered in a way where roles, responsibilities and lines of accountability are clearly defined and understood. Working in partnership and a person-centred approach will work hand-in-hand.
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Home Nations Wellbeing Principles

<p>England</p> <ul style="list-style-type: none"> • 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. 	<p>Wales</p> <ul style="list-style-type: none"> • Physical and mental health and emotional well-being • Protection from abuse and neglect • Education, training and recreation • Domestic, family and personal relationships • Contribution made to society • Securing rights and entitlements • Social and economic well-being • Suitability of living accommodation • Control over day to day life • Participation in work
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xiii. Safer Recruitment

Anyone undertaking a role that involves contact with or responsibility for Adults at Risk should be taken through a Safer Recruitment process.

It is essential that all Member Bodies have effective recruitment and selection procedures for both paid staff and volunteers.

Safer Recruitment checklist

Key parts of a Safer Recruitment procedure include:

- writing a clear job or role description (what tasks will be involved)
- writing a person specification (what experience or attributes the successful candidate needs in order to carry out the role)
- creating an advertisement for the post
- using an application form to gather relevant information about each applicant
- requiring specific written references
- interviewing the applicant
- for eligible posts, undertaking a criminal records check for adults:
 - Disclosure and Barring Service (DBS) – England and Wales
 - PVG (Disclosure Scotland) – Scotland
 - AccessNI criminal record check – Northern Ireland
- risk assessment of any concerning information
- verifying qualifications and experience
- recording recruitment decision
- induction to the role (including safeguarding policies and procedures, safeguarding training, sign up to Code of Conduct)
- probationary period

In some instances, you may feel that it is not practical to include all these steps in a recruitment process, but you are strongly recommended to incorporate in as many elements as you can.

Disclosure and Barring Service (DBS) – England and Wales

Regulated Activity with Adults

This is a key question to ask when deciding what level of Disclosure to request and whether a check of the Barred Lists should be requested, as part of the Enhanced Disclosure. The main aspects of this decision should be centred around the activities, and each organisation should assess this for themselves. The eligibility for Regulated Activity with adults is broadly broken down into 6 categories.

Please follow the link to view the full guidance provided by the [Department of Health](#). The full guidance provides illustrative examples and exceptions to the list if further information is required.

What work with adults are individuals carrying out?

1. **Providing Health Care**
2. **Providing Personal Care**
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.
- 1. **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 regulated activity.
 1. managing the person's cash
 2. paying the persons bills, or
 3. shopping on their behalf
- 2. **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
- 3. **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.

What is the different between an 'Adult Workforce' check and the Barred Lists for Adults?

Adult Workforce – this indicates to the Local Police Force(s) that the applicant will be working with vulnerable adults to ensure that they release any 'Approved Additional Information' relating to this group. This information will be checked at Stage 4 of the application process and the Local Police Force are given further guidance about the information they should include when responding to an 'adult workforce' check. [To view the full DBS guidance please click here.](#)

Vulnerable Adults Barred List – this includes the above information plus a check of the relevant Vetting and Barring Lists controlled and maintained by the DBS. These lists contain the names of all those people who are **barred** from working with Vulnerable Adults. This will be included (if requested) at Stage 3 of the application process with the DBS, and appear on the applicant's Disclosure if they are.

Protecting Vulnerable Groups (PVG) (Disclosure Scotland) – Scotland

Types of work covered by PVG

The PVG Scheme doesn't apply to all jobs and volunteering. It only applies to 'regulated work'. There are 2 types of regulated work – work with children and work with protected adults. Regulated work is usually jobs including:

- caring responsibilities
- teaching or supervising children and/or protected adults
- providing personal services to children and/or protected adults
- working directly with children and/or protected adults

There are many kinds of roles, both paid or unpaid. Some examples are:

- nurse
- child-minder
- girl guide leader
- dentist

It can also apply to certain positions of trust within organisations, even where the role doesn't involve any direct contact with children or protected adults. Examples of this include:

- membership of certain council committees
- trustees of charities focused on children
- trustees of charities focused on protected adults

Some employers, like aid agencies, send staff or volunteers to provide care and education, for example, to people in countries outside the UK. These employers can apply to have an individual PVG-checked when that work, if done in Scotland, would be considered to be 'regulated work'.

Further information can be found on PVG Scheme <https://www.mygov.scot/pvg-scheme/types-of-work-covered-by-pvg/>

Access NI Enhanced Checks - Working with children and vulnerable adults – Northern Ireland

If you apply for a job or volunteer in a role providing services to, or having close and regular supervision of children or vulnerable adults, usually you'll need an enhanced check.

An enhanced check must be applied for through a registered body. Each Member Body has their own procedure to be followed for requesting Access NI Enhanced Checks.

If the position is home based, registered bodies must say this on the application. You have a home based role if you:

- do some or all of your work with children or adults in your home
- live with someone who is being, or has been AccessNI-checked because they work with children or do some or all of their work from home

Home based roles include:

- childminding
- fostering
- adoption

Further information can be found <https://www.nidirect.gov.uk/articles/using-criminal-record-check>