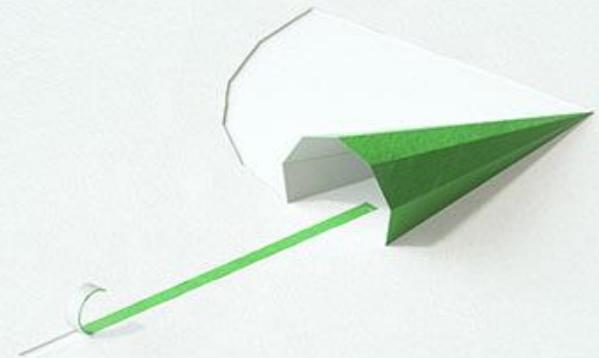


Welcome



# **Legal perspective: What does the law say we should be doing in the context of Making safeguarding personal?**

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# Making Safeguarding Personal

- **Spotlight on Safeguarding**
- **How this translates into the laws regulating providers**
  - **The Care Act**
  - **CQC**
- **How you show that you are Making Safeguarding Personal**



# Spotlight on safeguarding

- Mid Staffs, Winterbourne View, Connor Sparrowhawk
- The Human Rights Act, The Care Act, The Mental Capacity Act, DOLs and LPSs
- CQC, Ofsted, DHSC, LSABs

# Spotlight on safeguarding

- 394,655 concerns of abuse were raised during 2017-18, an increase of 8.2% on the previous year
- Older people are much more likely to be the subject of a S42 safeguarding enquiry; 1 in every 43 adults aged 85 and above, compared to one in every 862 adults aged 18-64.
- The most common type of risk in S42 enquiries was Neglect and Acts of Omission (32.1% of risks) and the most common location of the risk was the person's own home (43.5%).
- In 68.5% of S42 enquiries a risk was identified and action was taken.

- Safeguarding Adults, England, 2017-2018, NHS Digital



# The Care Act

Sections 42 - 47 and 68  
&  
Chapter 14 of the Guidance

Replaces the 'No Secrets' Guidance

*Safeguarding: protecting an adult's right to live in safety, free from abuse and neglect.*



# *Legal Changes: What is the defining difference for providers?*

Designed to move the spotlight from councils providing prescriptive, template services to a more nuanced approach in which an individual's care and support provision is a bespoke package tailored to their needs.



# *Legal Changes: What is the defining difference for providers?*

Central to the new system is a wish for service users to fully engage with and contribute to their care plans.

Through early engagement, an individual's needs are less likely to escalate as quickly  
= prevention rather than crisis management.



# What does this mean for providers on the ground?

Under this ‘new’ person-centred approach, LAs must provide a “diverse range of high-quality and appropriate services”; offering value for money without cost as the central objective.

*“LAs must not undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality – for example, by setting fee levels below an amount which is not sustainable for providers in the long-term”.*

# Section 5 of the Act

Providers can and should use this guidance in discussions with councils about fee-setting and long term planning for the service users' needs.



# The Wellbeing Principle

Focus on the needs and goals of the service user –

Create a sensible risk appraisal which appropriately balances the individual's needs and goals & acknowledge that, in doing so, any plan will include an element of acceptable risk.

In the words of Lord Justice Munby: ***“What good is making someone safer if it merely makes them miserable?”***



***“no decision about me without me”***

Safeguarding arrangements must

**put people in control of their  
own lives,**

not revert to a paternalistic and interventionist way of working.

# S42 in practice:

- Provider's staff must be aware of the criteria for consideration under s42
- Operational policies and procedures must give staff clear direction as to what to record & in what format.
- Professional, skilled supervision by line managers is essential in managing any safeguarding concern.
- All organisations must reflect statutory and good practice guidance when devising training and plans for staff
- Providers and frontline staff must be able to demonstrate that they understand when to act and when to refer to the local authority.

*Document: Guidance for providers on developing internal audit adult safeguarding policies and procedures*



Care Act  Statutory Guidance 

Local Safeguarding Policies and Procedures



Provider Policies and Procedures

**The Care Act was intended to unify standards**

**Note: The Care Act guidance includes templates**

# Duty does not end with the Care Act

- *Safeguarding has the highest priority across all organisations. There is a shared value of placing safeguarding within the highest of corporate priorities.*
- *Where the circumstances are not such as to trigger the Section 42 safeguarding duty, the Local Authority may choose to carry out proportionate safeguarding enquiries, in order to promote the adult's well being and to support preventative action.*
  - London Multi-Agency Adult Safeguarding Policy and Procedures  
(as amended August 2016)



# Care Quality Commission

*Why is safeguarding important to CQC to fulfil its purpose?*

- Under the Health and Social Care Act 2008, CQC's main statutory objective is to protect and promote the health, safety and welfare of people who use health and social care services.
- Monitoring safeguarding arrangements for people using the services CQC regulates and making sure that providers fulfil their responsibilities to keep children and adults safe is **fundamental** to meeting this objective.
  - Statement on CQC's roles and responsibilities for safeguarding children and adults, 2015



# Care Quality Commission

Many providers are regulated by CQC and those which are regulated have a duty to report any allegations of abuse or neglect to CQC

Providers must be clear where responsibility lies when abuse or neglect is perpetrated by employees

Providers must investigate any concern unless there is a compelling reason why it is inappropriate or unsafe



# CQC “must inspect the safeguarding arrangements of the service in each comprehensive inspection”

3 questions must be answered:

- *Do staff know what abuse is, how to spot it, or how to spot when people may be at risk of it?*
- *Do staff know how to act when they spot abuse or the risk of abuse?*
- *Do staff learn from safeguarding incidents or safeguarding risks?*

All staff who have direct and potentially unsupervised contact with service users should know about and be trained in safeguarding (including reception/ administrative staff)



# Evidence for Evaluation:

- Statutory Notifications
- Feedback from external sources (TVNs, social workers, GPs)
- Talking to service users and families
- Observing interactions between staff and service users
- Discussions with staff; testing how much they know and how they feel about the service
- Reviewing records; from policies and procedures to care records and daily notes

The Care Act guidance is the minimum requirement.



# How CQC measures safeguarding and the wellbeing principle?

Regulation 9 of HSCA 2008 (RA) Regs 2014

Person-centred care

- Key focus of many inspections, from analysis of care plans to activity journals
- Watchword for removing the institutional

• Is this it?



## ASC Key lines of enquiry mapped to requirements regulated by CQC

June 2018

Key Question & KLOEs		Suggested mapping	Also consider
<b>Safe</b>			
<p>By safe, we mean people are protected from abuse* and avoidable harm.            *Abuse can be physical, sexual, mental or psychological, financial, neglect, institutional or discriminatory abuse.</p>			
Code	Key line of enquiry / prompt		
S1	How do systems, processes and practices safeguard people from abuse?	Regulation 12: Safe care and treatment Regulation 13: Safeguarding service users from abuse and improper treatment Regulation 19: Fit and proper persons employed	Regulation 10: Dignity and respect Regulation 14: Meeting nutritional and hydration needs Regulation 17: Good governance
S2	How are risks to people assessed and their safety managed and monitored so they are supported to stay safe and their freedom respected?	Regulation 12: Safe care and treatment Regulation 13: Safeguarding service users from abuse and improper treatment	Regulation 15: Premises and equipment Regulation 17: Good governance Regulation 20: Duty of candour
S3	How does the service make sure that there are sufficient numbers of suitable staff to support people to stay safe and meet their needs?	Regulation 12: Safe care and treatment Regulation 18: Staffing Regulation 19: Fit and proper persons employed	Regulation 17: Good governance



S4	How does the provider ensure the proper and safe use of medicines?	Regulation 12: Safe care and treatment	Regulation 9: Person centred care Regulation 17: Good governance
S5	How well are people protected by the prevention and control of infection?	Regulation 12: Safe care and treatment	Regulation 15: Premises and equipment Regulation 17: Good governance

Key Question & KLOEs		Suggested mapping	Also consider
S6	Are lessons learned and improvements made when things go wrong?	Regulation 17: Good governance Regulation 20: Duty of Candour	

# CQC expectations in complaints handling

## **Regulation 16: Ensure that people can make a complaint about their care and treatment:**

- Providers must have effective and accessible systems for identifying, receiving, handling and responding to complaints.
  - All complaints must be investigated thoroughly and any necessary action taken where failures have been identified.
  - When requested to do so, providers must provide CQC with a summary of complaints, responses and other related correspondence or information.
- 
- CQC expects services to reflect the best practice guidance of the Parliamentary and Health Service Ombudsman, the Local Government Ombudsman and Healthwatch England in relation to “universal expectations of good complaints handling”.
  - CQC introduced a KLOE to look at how well complaints and concerns are handles. This will form part of CQC’s judgement and rating on responsiveness. 

## ASC Key lines of enquiry mapped to requirements regulated by CQC

June 2018

Key Question & KLOEs		Suggested mapping	Also consider
Responsive			
By responsive, we mean that services meet people's needs.			
Code	Key line of enquiry / prompt		
R1	How do people receive personalised care that is responsive to their needs?	Regulation 9: Person centred care Regulation 12: Safe care and treatment	Regulation 10: Dignity and respect Regulation 11: Need for consent Regulation 13: Safeguarding service users from abuse and improper treatment Regulation 15: Premises and equipment Regulation 17: Good governance
R2	How are people's concerns and complaints listened and responded to and used to improve the quality of care?	Regulation 16: Receiving and acting on complaints	Regulation 12: Safe care and treatment Regulation 17: Good governance Regulation 20: Duty of Candour



# Why is CQC inspection of complaints handling important to safeguarding?

*“These are challenging times for adult social care with pressure on resources, increasing demands and workforce shortages all having an impact on the quality and consistency of care that people receive.*

...

*Ensuring complaints policies are accessible, that people know how to raise issues, their concerns are responded to and any promised action gets sorted is all part of delivering truly responsive and well-led care. **Where we find that isn't happening, CQC will take action** in the interests of people, their families and carers, who deserve better”.*

- CQC Response to Local Government and Social Care Ombudsman's Review of Adult Social Care complaints 2017-2018



# CQC's expectations v LA / NHS expectations

Check that you know the local guidance on referral thresholds and be confident that you can justify your referral decisions against it

Consider every decision as if a CQC inspector is reviewing your documentation

# Preparing for inspections

- Providing evidence prior to the inspection is a key part of the inspection itself.
- Providers who appears enthusiastic and engaged will be viewed more positively.
- Take the pressure off the last-minute scramble by preparing throughout the year.
  - Consider the type of information requested in the past and prepare a file with that information.
  - Include all policies and procedures (ensure they are up-to-date and reflective of your current practice), service user feedback, letters from families, and external assessments.
- Feed the file throughout the year = less time-consuming, less stressful, and (including all the positive news from your service) an encouraging reminder of the successes over the past year.



# Preparing for inspections

*'If it's not written down; it didn't happen...'*

***CQC/ Care Inspectorate/ Ofsted/ NMC/ Safeguarding/ police and other investigations***



# Preparing for inspections

The outsider perspective:

- Engage with mock inspectors & treat them like the real thing
- Take the opportunity to test staff understanding and use of language
- Record their feedback & keep an audit trail of next steps

# Summary

- Spotlight on Safeguarding
- Risk assessments to reflect the balance between the individual's needs and goals & elements of acceptable risk
- *“No decision about me without me”*
- CQC's expectations v LA / NHS expectations
- *“If it's not written down; it didn't happen...”*
- Ensuring complaints policies are accessible, that people know how to raise issues, their concerns are responded to and any promised action gets sorted is all part of delivering truly responsive and well-led care
- *Prepare for inspections throughout the inspection cycle*



# Resources

- Care Act Guidance <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>
- LGA & ADASS: 'Making Safeguarding Personal: What might 'good' look like for health and social care commissioners and providers?'  
<https://www.local.gov.uk/sites/default/files/documents/25.27%20-%20CHIP%20Making%20Safeguarding%20Personal%3B%20What%20might%20%E2%80%98good%E2%80%99%20look%20like%20f.-2.pdf>
- Safeguarding Adults, England, 2017-2018, NHS Digital  
<https://digital.nhs.uk/data-and-information/publications/statistical/safeguarding-adults/annual-report-2017-18-england>
- CQC Complaints Matter, 2014  
[https://www.cqc.org.uk/sites/default/files/20141208\\_complaints\\_matter\\_report.pdf](https://www.cqc.org.uk/sites/default/files/20141208_complaints_matter_report.pdf)

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Thank you

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