Safeguarding

Whatever the nature of your organisation, you may come into contact with children and vulnerable adults.

Making sure that these groups are adequately protected is a vitally important duty. This includes protecting them from abuse, neglect and exploitation. Given the high profile of recent cases, investigations into historic abuse and intense public scrutiny, it is no surprise that safeguarding remains a significant concern for many organisations.

It can be a challenging area to get right. This is not just because effective strategies are dependent on fostering a safe, trusting and supportive culture, but also, the nature of abuse and awareness of it is constantly evolving. For example, advances in and accessibility to technology coupled with the normalisation of social media platforms has increased the potential for abuse.

It's essential that safeguarding practices keep pace with such changes. This calls for strong leadership, empowered staff who are properly trained and an environment where people feel confident in reporting any concern. To support this, robust safeguarding procedures are key. Obviously these should provide the necessary framework and detailed arrangements to maintain a safe environment. Ensuring that these adequately reflect best practice and are implemented with sufficient vigilance is an essential first-step.

Forms of abuse

Abuse can take many forms including:

- physical – such as assault, misuse of medication, restraint or inappropriate physical sanctions
- sexual – examples include sexual assault or other non-consensual acts
- psychological – including emotional abuse, threats of harm or abandonment and harassment
- financial or material – such as theft, fraud and the misappropriation of property
- neglect and acts of omission – examples include failure to provide access to appropriate care or educational services
- discriminatory – including discrimination on grounds of race, gender, gender identity, disability, sexual orientation and religion.

Child abuse - definition

"A form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent harm. Children may be abused in a family or in an institutional or community setting by those known to them or, more rarely, by others (e.g. via the internet). They may be abused by an adult or adults, or another child or children."*

*Working Together to Safeguard Children, A guide to inter-agency working to safeguard and promote the welfare of children, DoE, July 2018

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Legal requirements

As you would expect, there is a detailed legal framework aimed at protecting both children and vulnerable adults.

The law surrounding the protection of vulnerable adults is wide-ranging. Examples of key legal requirements are set out in the Human Rights Act 1998; the Equalities Act 2010; the Safeguarding Vulnerable Groups Act 2006 and the Care Act 2014. Adult care is regulated by the Care Quality Commission (CQC) with specific duties for safeguarding contained in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Regulation 13). The intention of this regulation is to safeguard people who use services from suffering any form of abuse or improper treatment while receiving care and treatment. Improper treatment includes discrimination or unlawful restraint, which includes inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005.

Similarly, the framework for protecting children is equally complex. Examples of key legal requirements are set out in the Children's Acts of 1989 (this provides the legislative framework for child protection in England); the Children's Act 2004 (which strengthens the 1989 Act); and the Education Act 2002 (which includes a provision requiring school governing bodies, local education authorities and further education institutions to make arrangements to safeguard and promote the welfare of children).

Many organisations will be subject to charity law and regulated either by the Charity Commission or other 'principal' Regulators. Voluntary, charity, social enterprise (VCSE) and private sector organisations should have appropriate arrangements in place to safeguard and protect children or vulnerable adults from harm. Charity trustees are responsible for ensuring those benefiting from, or working with, their charity, are not harmed in any way through contact with it.

The Charity Commission for England and Wales provides guidance on safeguarding compliance which should be followed. This is available at www.gov.uk/guidance/charities-how-to-protect-vulnerable-groups-including-children.

Managing safeguarding

Some of the key elements of an effective approach to managing safeguarding include:

Leading from the front

It is important that senior managers and trustees promote a culture where safeguarding is taken seriously. They should acknowledge that ultimate responsibility for child protection and adult safeguarding rests with them and that safeguarding is part of their duty of care to their service users.

This can be evidenced by a public commitment from the senior management or leadership team to the importance of safeguarding and promoting the welfare of children and/or vulnerable adults, including lines of accountability within the organisation.

All leadership teams should be able to provide evidence that adequate safeguarding arrangements are in place and rigorously followed. Policies should be approved and endorsed by the senior management team or board of trustees and reviewed by them where things change.

The Charity Commission says safeguarding should be a key governance priority. Any failure by trustees to manage safeguarding risks adequately would be of serious regulatory concern to them. They may consider this to be misconduct and/or mismanagement in the administration of the charity and it may also be a breach of trustee duty. Further information is available at: www.gov.uk/guidance/safeguarding-duties-for-charity-trustees.

Setting out your policy

Setting out how children and/or vulnerable adults will be kept safe is essential. Usually, this will be in the form of a written safeguarding policy.

This document should not only highlight an organisation's commitment to protect children or vulnerable adults in the form of a statement, but also detail the arrangements and responsibilities for doing this. It should link to any other supporting procedures (e.g. those relating to bullying, whistle blowing, acceptable behaviour or intimate care), as well as detailing how any concerns will be dealt with.

The policy should be clearly and concisely written and specific to an organisation. It should be dated and signed by the most senior person (e.g. Director, Chief Executive or Chair of Governors). It will need to be reviewed annually and revised (if required) by senior management as often as necessary, or where there are organisational, legal or other changes.

The National Society for the Prevention of Cruelty to Children (NSPCC) has produced a guide to the development of safeguarding policies. These are available at https://learning.nspcc.org.uk/safeguarding-child-protection/writing-a-safeguarding-policy/.

The policy should include clear whistleblowing procedures, which reflect the principles in Sir Robert Francis's Freedom to Speak Up review and are suitably referenced in staff training and codes of conduct. For information on this see www.gov.uk/government/publications/sir-robert-francis-freedom-to-speak-up-review.

Getting specialist help

It's important for any organisation to have access to appropriate advice, guidance and expertise on safeguarding matters.

Within any group or organisation there should be at least one designated safeguarding lead who is able to refer concerns to the local authority designated safeguarding officer in accordance with their procedures. Their role and responsibilities should be clearly defined. They should be competent and have sufficient time, resource and profile to meet the demands of the role. They should hold a Safeguarding Level 3 training qualification.

In addition to this, it may be necessary to put arrangements in place for sourcing external help or support. Where this is the case, suitable procedures for assessing the competency of any external providers will need to be established. These procedures may require that competency is demonstrable through membership of a professional body or recognised training.

Organisations such as the NSPCC and Thirtyone:eight (formerly the Churches' Child Protection Advisory Service) are able to provide specialist help on all safeguarding matters. They have a range of consultancy and training services as well as guides, tools and templates. Further information is available at www.learning.nspcc.org.uk/safeguarding-child-protection/ and www.thirtyoneeight.org.

Identifying critical roles and risk assessment

The wide diversity of organisations and groups within the voluntary, community and faith sectors makes it very difficult to design a 'one-size fits all' approach to safeguarding standards. The needs and capacity of a small, recently established group, supported by volunteers, are very different from those of a well-established national organisation with many paid staff.

Arrangements should be in place to ensure that the physical risks associated with the activities undertaken by the children, young people and vulnerable adults are identified and managed. Each organisation's risk assessments and procedures should be adapted to the type of activities undertaken and any particular vulnerabilities of the people with whom they have contact; for example disabled children who are at increased risk of abuse due to their age and dependence on adults.

Implementing safer recruitment practices

Effective recruitment procedures demonstrate to staff, volunteers and those interested in working in an organisation the importance given to the safety and wellbeing of those who use your group or service.

All those who employ people to work regularly with vulnerable persons must carry out specified recruitment and vetting checks on intended new appointees, particularly identity and qualification checks, and where relevant, DBS checks, barred list checks, and right to work in the UK checks. The Protection of Freedoms Act 2012 sets out the permissions for obtaining DBS checks for 'regulated persons'.

Safe recruitment, selection and vetting procedures will include checks into the eligibility and the suitability of all trustees, staff and volunteers who have direct or indirect (e.g. helpline, email) contact with vulnerable persons.

Elements of good practice in recruitment comprise standardised application forms, including a personal disclosure section, follow up of references, transparent interview and selection procedures, enhanced DBS checks (and barred list checks for regulated activity) on anyone eligible. DBS checks can be checked on line using the continuous updating facility at www.gov.uk/dbs-update-service.

In the case of trustees, because of their position within a charity, the Commission takes the view that whenever there is a legal entitlement to obtain a DBS check in respect of such a trustee, a check should be carried out. This goes beyond circumstances where the trustee comes into contact with children or vulnerable adults.

The induction process should include safeguarding training appropriate to the role. The organisation should provide a code of conduct describing standards of behaviour required of staff in order to fulfil their roles. This code should assist in the protection of children, vulnerable adults, members of staff and volunteers. Written confirmation should be retained showing that any new recruit has received, understood and will comply with the safeguarding policy and procedures.

Providing adequate training

All staff need to attend relevant safeguarding training to give them the knowledge and skills to recognise signs of abuse, neglect or inappropriate behaviour and be confident in responding to any concerns raised.

Trustees, staff and volunteers need to learn about child protection and adult safeguarding in accordance with and as appropriate to their roles and responsibilities. This may include emerging issues such as eSafety, domestic violence, forced marriage, female genital mutilation, children who live away from home or go missing, child sexual exploitation, race and racism and extremism.

As mentioned previously, staff who are the designated lead for safeguarding should attend more advanced training. This is because they are responsible for ensuring appropriate action is taken , making referrals to other agencies.

Monitoring and reviewing your practices

Any safeguarding policy should be reviewed at least annually or whenever regulatory or other changes occur. Revisions or amendments should be made once arrangements have been made to implement them and then effectively communicated to employees and others.

All safeguarding arrangements should be kept under close and regular review. Prompt action should be taken as a consequence of any safeguarding issues that arise and conclusions drawn. Organisations may recruit external safeguarding specialists to review policies and procedures.

Inspections by the Care Quality Commission (CQC), Office for Standards in Education (OFSTED), Independent Schools Inspectorate (ISI), the Charity Commission or their regional equivalents provide senior management teams and others with an independent compliance assessment with statutory guidance. It is worth bearing in mind that such reports are public information.

Keeping appropriate documentation

Clear and accurate records are a necessity, particularly where referrals have to be made to a child protection or adult safeguarding agency because someone may be at risk of abuse or in need. Other records may also be needed where an organisation is called upon to prove that they were compliant with regulations and guidance at the time of an alleged safeguarding incident.

As such, a document retention policy should be in place. This should specify the documents to be kept, the periods for which they need to be retained and the security arrangements required for their safe storage and disposal.

'Respect for your private and family life' is seen as a fundamental right of the Human Rights Act (Article 8). This includes a stipulation that personal information should be kept securely and should not be shared without consent, except in special circumstances.

The recent amendment to data protection regulations (known as GDPR 2018) places greater emphasis on the need to justify the rationale for retaining personal information. Organisations will remain compliant as long as they are able to demonstrate why it is necessary to keep this information for safeguarding purposes and can demonstrate a lawful basis for holding this information. Further information is available at ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr.

Useful references

For those in education looking to safeguard children in England see:

■ Keeping children safe in education: Statutory guidance for schools and colleges, DoE, 2018 available at www.gov.uk/government/publications/keeping-children-safe-in-education--2

■ Keeping children safe in education: Statutory guidance for schools and colleges, Part 1: Information for all school and college staff, DoE, 2018 available at www.gov.uk/government/publications/keeping-children-safe-in-education--2

■ Statutory framework for the early year's foundation stage: Setting the standards for learning, development and care for children from birth to five, DoE. 2017 available at www.gov.uk/government/publications/early-years-foundation-stage-framework--2.

For those who are voluntary and community organisations, as well as social enterprises and not-for-profit organisations looking to safeguard children and young people up to the age of 25 in England see:

■ NSPCC (2017) NSPCC safeguarding standards and guidance for the voluntary and community sector: children, young people and young adults aged 0-25 (England). London: NSPCC, available at: https://www.nspcc.org.uk/services-and-resources/research-and-resources/2017/safe-network-standards/.

Need to contact us?

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