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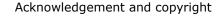
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## Yorkshire and the Humber Joint Improvement Partnership

Safeguarding vulnerable adults through better commissioning

A discussion paper for commissioners of adult social care

November 2010



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## Yorkshire and the Humber Joint Improvement Partnership

## Safeguarding vulnerable adults through better commissioning

### **Discussion Paper**

#### 1 Introduction

The Developing Intelligent Commissioning Programme is designed to develop the commissioning capability and capacity within Yorkshire and the Humber region to enable authorities to deliver the transforming adult social care agenda. The programme is funded by Yorkshire and the Humber Joint Improvement Partnership, working in collaboration with ADASS Yorkshire and Humberside. The programme is being delivered by the Institute of Public Care, Oxford Brookes University (IPC). This paper is a part of a series papers produced for commissioners and other senior partners in Adult Social Care.

Based on a review of the existing literature and IPC's own experience in working with local authorities reviewing their safeguarding procedures, this discussion paper looks at the relationship between personalisation, safeguarding and commissioning. It highlights some of the key overlaps and tensions which face those commissioning adult social care and goes on to discuss a number of considerations for commissioners looking to contract services, including the types of support and advice required to enable people to make informed decisions and good practice in relationship to aligning and integrating personalisation and adult safeguarding policies and procedures.

### 2 Personalisation and adult safeguarding: an overview

When it was first published in 2007, *Putting People First*<sup>1</sup> highlighted a vision for adult social care based on increased personalisation and the empowerment of the individual which would enable every person – across the spectrum of need – to take control over the shape of his or her support. Local authorities have been encouraged to adopt their own approaches to interpreting the vision, with their role increasingly becoming one of brokerage, facilitation and community leadership than of provision and direct control. *Transforming Social Care*<sup>2</sup> strengthened this vision and placed responsibility on Local Authorities to move the focus away from intervention at the point of crisis to a more proactive and preventative model by:

<sup>&</sup>lt;sup>1</sup> Department of Health (2007) Putting People First Concordat

<sup>&</sup>lt;sup>2</sup> Local Authority Circular: Transforming Adult Social Care (March 2009)

"... [making] significant steps towards redesigning and reshaping their adult social care services [by 2011]... and have... an effective and established mechanism to enable people to make supported decisions built on appropriate safeguarding arrangements..."

The push towards greater choice and control looks set to continue; with a clear commitment from the coalition government to ensuring that the NHS is patientled and outcomes-focussed and the promised extension of personal budgets. Although at the time of writing the exact nature of how this will manifest itself is still out for consultation, the NHS White Paper, *Equity and Excellence: Liberating the NHS*<sup>3</sup> suggests there are likely to be a number of changes which will have implications for adults' social care and the way it is commissioned and funded, including:

- Better alignment with local health and well being responsibilities.
- Joint commissioning of social care and health improvement.
- Strategic integration across health and adult social care, children's services and wider local authority agenda.
- The transfer of public health responsibilities to the local authority.
- The strengthened role of CQC to focus upon safety and quality, and the expansion of NICE to develop quality standards for social care.

Moreover, in July, the new Secretary of State for Health, Andrew Lansley stated four principles upon which social care should be based<sup>4</sup>:

- Prevention keeping people as independent as possible, for as long as they feel able, not least by providing earlier support.
- Protection we have to ensure that people do not have to worry about becoming vulnerable - that the support they need is there, that they will be safe and secure.
- Partnership we need a partnership between the family and the state, balancing collective solidarity with state support.
- Personalisation we must give people control of their own care, so they can choose services that best meet their needs.

The government has also announced further policy documents to be published in the next 6 months, including a Vision for Social Care, a series of post spending review briefing papers and finally a paper on the long term funding of care due out in late spring 2011. At the same time DH, ADASS and the LGA are working on a revision of the Putting People First agreement whilst the Law Commission is looking at how to create a sustainable legal and financial framework for social care<sup>5</sup> which will help shape the Social Care White Paper in 2011.

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<sup>&</sup>lt;sup>3</sup> Department of Health (July 2010) Equity and Excellence: Liberating the NHS. White Paper

<sup>&</sup>lt;sup>4</sup> Speech to the 5th International Carers Conference, The Royal Armouries, Leeds, 9 July 2010

<sup>&</sup>lt;sup>5</sup>Law Commission (2010) Outline of our proposed Adult Social Care Statute

So how does current adult safeguarding policy sit within this wider context of greater personalisation?

Although many of these policies – both past and present – discuss safeguarding as an important part of providing care, there is still little in the way of guidance into how this agenda sits alongside that of personalisation in practice. Much of the work around understanding how social care could ensure more effective safeguarding through better commissioning is being driven by professionals and their representative bodies and has continued to evolve since 1997 when the Government published the White Paper *Who Decides* which defined a vulnerable adult as someone:

"...who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation." <sup>6</sup>

The publication of *No Secrets*<sup>7</sup> in 2000 outlined the Government's ongoing commitment to preventing and tackling adult abuse by giving Local Authorities the responsibility for the co-ordination and implementation of a multi-agency partnership under section 7 of the Local Authority Social Services Act 1970. Forming the backbone of adult protection in England, *No Secrets* requires Local Authorities to develop safeguarding policies and procedures with all commissioners and providers of social and health services in their area, which included local NHS bodies, police forces, user groups and any other relevant public, private and voluntary sector organisations.

Under the guidance, and the subsequent National Framework published by the Association of Directors of Social Services (ADASS) in 2005<sup>8</sup>, partners are expected to make certain that:

- The roles, responsibilities and the authority and accountability of each of the partner organisations are clearly identified.
- Mechanisms for developing policies and strategies to protect vulnerable adults are established.
- Procedures to identify abuse and formulate guidance for managing adult protection including dealing with complaints and grievances are developed.
- Equal opportunity policies and anti-discriminatory training is implemented.
- The requirements of confidentiality with the need to protect vulnerable adults are carefully balanced.
- Mechanisms for monitoring and reviewing the impact of their policies and procedures are in place.

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<sup>&</sup>lt;sup>6</sup> No Secrets, Safeguarding Adults and Ault Protection: Good Practice in Safeguarding Adults (2008) Edited by Jacki Pritchard

<sup>&</sup>lt;sup>7</sup> Department of Health and Home Office (2000) No Secrets: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse.

<sup>&</sup>lt;sup>8</sup> Safeguarding Adults: A National Framework of Standards for Good Practice and Outcomes in Adult Protection Work (2005) ADSS

These are routinely assessed as part of the statutory inspection process undertaken by the Care Quality Commission (CQC) to ensure a consistent approach to the identification and management of safeguarding cases<sup>9</sup>. Moreover, safeguarding policies are likely to continue to evolve as the Social Care White Paper is published and the Law Commission looks to develop statutory requirements for safeguarding. Some indication of what this might look like was published in February 2010, when their proposals indicated they were exploring putting responsibility on Local Authorities to have a duty to investigate – distinct from any responsibility the Police may have to conduct a criminal investigation – any incident of abuse for all adults over 18 who has social care needs and are at risk of abuse and neglect regardless of whether or not they meet current eligibility criteria 10. This is likely to have implications not only for those involved in overseeing adult safeguarding policies and procedures but also those who have a responsibility for commissioning services in relation to how they manage their local markets, personal budgets and direct payments and still support innovation and personalisation for the service user.

## 3 Personalisation and adult safeguarding: A shared vision or conflicting agendas?

Although many argue that personalisation and safeguarding both share the same end goals (eg, ensuring that individuals have control over their own care and support and become empowered citizens) their starting points are significantly different. The former is a clear vision and philosophy around how individuals should be able to live their own lives whilst the latter is a set of policies and procedures, developed in response to specific incidences and driven by the need to provide structure and process to difficult situations where an individual's safety is at risk. There is much discussion about the potential gaps and tensions which exist between the two frameworks and their practical implementation<sup>11</sup>, <sup>12</sup>, <sup>13</sup>. Some of these tensions are outlined in Table 1, where the conflict between the two becomes more evident.

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<sup>&</sup>lt;sup>9</sup> Commission for Social Care Inspection (2007) 'Safeguarding Adults Protocol and Guidance'

<sup>&</sup>lt;sup>10</sup> Spencer-Lane, T. (2010) Five Key reforms to reshape adult care law. Community Care Safeguarding Adults: Report on the consultation on the review of No Secrets (2009) Department of Health

<sup>&</sup>lt;sup>12</sup>Personalisation and safeguarding: ADASS (2008)

<sup>&</sup>lt;sup>13</sup> Draft SCIE Report: Carr, S. (2010) Self directed support and personal budgets: enabling risk, ensuring safety

Table 1: Summary of key differences between safeguarding and personalisation

Personalisation	Safeguarding
Positive Risk Enablement.	Risk Reduction.
User Choice and Control.	Centralised responsibility and accountability of key agencies and organisations.
Encourages Independence.	Acts on behalf of the individual, although the individual should be involved in the process.
Requires new ways of thinking about who Local Authority customers/service users are.	Tends to focus on those receiving Local Authority subsidy or support.
Allows service users to access a range of services, personal assistants and support options.	Predominantly relates to services which fall under Local Authority/PCT control.
Interpreted differently across Teams and Local Authority Areas.	Determined by clear sets of policies and procedures.
Ongoing process of support planning and review.	Short, sharp interventions with planned review points, which should then be passed onto the care management process.
Part of wider systems transformation and changes in organisational structures to encourage more integrated working.	Increasingly being undertaken by 'professionals' and teams responsible for implementing and overseeing safeguarding arrangements.
Usually driven by teams of commissioners looking to reshape and redesign services.	Tends to be overseen by frontline social care staff in isolation of the ongoing personalisation agenda.

There are also a number of practical tensions in relation to how personalisation is implemented and how local authorities can ensure adequate safeguarding which are still to be resolved. For example, the 2008 ADASS paper on personalisation and safeguarding raised the concerns about those 'services' which fall out with the regulatory framework; for instance the personal assistant, certain types of day activities and low level preventative services including any care purchased through direct payments or personal budgets which is not regulated by CQC. This becomes even more complicated when considering the range of organisations which might be involved in providing care and support for a single individual, and the differences in definition of 'vulnerable adult' amongst health and social care professionals. There is also the issue of changing demographics including greater wealth of older people and those with learning disabilities as a result of owner-occupancy and increasing house prices which will become more of an issue should the Law Commission recommend that Local Authorities become responsible for safeguarding all vulnerable adults not just those in receipt of local authority commissioned services.

Fundamentally personalisation asks statutory agencies to reduce their level of control, whilst safeguarding policies and procedures often require greater levels of intervention order to be able to protect an individual from harm and reduce levels risk, particularly as accountability for serious incidences lies not with the vulnerable adult, but with the agencies involved in supporting them. In practice this can mean that authorities run the two agendas on parallel tracks, with little transparency between the roles of the authority in relation to personalisation and safeguarding nor discussion on how their role, corporate culture and the expectations and role of commissioners and front line staff might need to change and adapt in order to integrate the two.

## 4 Personalisation, Adult safeguarding and understanding risk

Last year's consultation on the *No Secrets* guidance<sup>14</sup> considered some of the issues discussed above. Key themes which emerged were:

- The need to balance empowerment and rights to self-determination with that of a duty of care and responsibility for the spending of public money.
- The need to support people to understand the risks they take, ways of assessing this and working within the personalisation and safeguarding frameworks to empower positive risk taking.
- The increased opportunity for financial abuse as direct payments and personal budgets are rolled out more widely.

The government response to the consultation has not yet been published but there is a desire amongst public care organisations to look at these issues in more depth and to establish frameworks which allow safeguarding to be a part of – not an add-on – to the whole transformation of adult social care. There is much in the way of emerging discussion from key agencies such as ADASS, LGID and SCIE on understanding risk and the role of person centred practice in developing this, and no discussion paper on personalisation and adult safeguarding would be complete without at least touching upon the issues raised by these groups.

In 2009 Duffy and Gillespie<sup>15</sup> argued – from their experience of the In-Control programme – that, for personalisation to be successful, it must be based upon effective risk assessment enabling individuals to take positive action to make informed decisions about their own care and well-being. They went on to say that personalisation can strengthen citizenship, and can be used to create a comprehensive approach to risk management and person centred practice, thereby helping to prevent abuse and reduce harm. These themes are echoed in the recent guidance to Councillors from LGID which discusses the importance of not losing sight of the person within safeguarding policies and procedures and that safeguarding can remain personalised by ensuring that:

<sup>&</sup>lt;sup>14</sup> Department of Health (2009) Safeguarding Adults: Report on the consultation of No Secrets

<sup>&</sup>lt;sup>15</sup> Duffy, S. and Gillespie, J (2009) Personalisation and Safeguarding v1. In Control Partnerships

- The central focus should be the empowerment and well-being of the serviceuser.
- At all times, safeguarding practitioners listen to the service user and ensure their voice is heard.
- Service users have the right to make choices and decisions themselves practitioners are there to support the decision making of the individual and to respect their rights.
- Safeguarding processes should be service user led, not professional led<sup>16</sup>.

Although in principle the fact that person centred support planning and review should help to reduce risk makes sense; there is still not enough evidence to say whether or not this actually happens. Moreover, our own work in IPC – where we have supported local authorities to understand their own safeguarding practice – suggests that good quality risk assessment is sometimes patchy and safeguarding assessments and the care management process can be conducted in isolation of one another, which results in the needs of the adult getting lost within the procedures and paperwork. Understanding how personalisation and safeguarding could be better integrated is essential and needs to be addressed now.

#### **5** Considerations for commissioners

So what does this all mean for commissioners who may not be involved in the day-to-day running of adult safeguarding policies and procedures, but who have as much of a responsibility to ensuring the end service user remains free from harm as the social care staff supporting them to make informed choices?

Throughout the response to the *No Secrets* consultation it was clear that the debate for integrating safeguarding within the personalisation and transformation agenda was crucial. Developing the role of commissioning to consider how services can and should facilitate positive risk taking must form a part of the conversations that commissioners have with their providers. Whilst ensuring that service users are actively inform the design of, and engage in the delivery of, services should help to reduce the likelihood of abuse by shaping local provision more widely.

Clearly the commissioning process has ample opportunities for commissioners to develop their approaches to embedding safeguarding within personalisation, including:

- **Planning service provision** by ensuring a good understanding of the needs of vulnerable adults within their local areas; the services which are in place to support them and the potential gaps in provision or 'trigger' points such as the transition from children's to adults' services, or between providers.
- **Supporting providers** to understand the personalisation agenda and how safeguarding sits within this; from defining standards for regulated and non-

<sup>&</sup>lt;sup>16</sup> Julian, G., and Penhale, B. (2009) Safety Matters: developing practice in safeguarding adults, Dartington: Research in Practice for Adults

regulated services through to developing quality assurance and monitoring processes.

- **Reviewing contracting and purchasing arrangements** to drive better personalisation, and being clear about the commissioning & decommissioning processes and the expectations for personalisation and safeguarding which the local authority and/or its partners will place on providers.
- Supporting service users, families and carers to understand the 'total' provision of services within the local authority and the options available to them so that they can make informed choices about what support they receive.
- **Look at the organisational arrangements** which underpin personalisation and adult safeguarding by considering what needs to be done to improve front line practice in relation to the personalisation agenda, and how this will impact on the safeguarding process.

The following table provides a checklist for commissioners in relation to these key areas, and offers some suggestions for how safeguarding can become better embedded within the commissioning process.

Table 2: Safeguarding vulnerable adults through better commissioning - Checklist for commissioners

Role of Commissioners	Safeguarding and Personalisation checklist	Suggested Activities
Planning service provision	<ul> <li>Do we understand our local adults' population, in particular do we know enough about the most vulnerable within our local population?</li> <li>What services are there to support the most vulnerable (regulated and non-regulated) and what gaps are there in provision?</li> <li>What are the pathways for our adults through services, and what are the most likely 'trigger' points which may open up opportunities for abuse? How can we reduce these?</li> </ul>	<ul> <li>Understanding the needs of vulnerable adults within their local population and the risk factors which are likely to increase their level of vulnerability.</li> <li>Mapping pathways into, through and out of services to ensure that potential 'trigger's for abuse are identified and managed.</li> <li>Involving service users, and their representatives, in the design of services and monitoring and review processes.</li> </ul>
Supporting providers	<ul> <li>Do our commissioning strategies clearly articulate our expectations of providers in relation to personalisation and safeguarding?</li> <li>Have we clearly articulated where responsibility and accountability lies?</li> <li>What support in relation to training and service development do we provide?</li> <li>What is our relationship with non-regulated services? Do we look to develop a 'hands-off' approach to overseeing safeguarding arrangements in these, or should we be more proactive in ensuring that safeguarding is embedded within all our services?</li> </ul>	<ul> <li>Develop clear commissioning/decommissioning strategies which promote personalisation, positive risk taking and safeguarding.</li> <li>Support providers to establish good workforce recruitment and vetting systems and provide safeguarding training and support where required.</li> <li>Look to develop and articulate a set of minimum standards/expectations of providers in relation to personalisation and adult safeguarding for both regulated and non-regulated services.</li> <li>Regular commissioner/provider meetings to discuss and monitor progress and raise issues around safeguarding and how risks are shared and mitigated.</li> <li>Working with providers to design services which enable positive risk taking but remove the likelihood of abuse.</li> </ul>

Role of Commissioners	Safeguarding and Personalisation checklist	Suggested Activities
Reviewing contracting and purchasing	<ul> <li>How do we monitor and oversee non-regulated services?</li> <li>Are there any trends in safeguarding incidences across provision and what might these tell us about how well aligned our services are with the expectations of personalisation?</li> <li>Are safeguarding policies and procedures routinely signposted in our contracts?</li> <li>How do we contract for better outcomes and are we clear with our providers about what this entails?</li> </ul>	<ul> <li>Review safeguarding arrangements across all providers in local area.</li> <li>Ensure all audits and reviews of services look into trends of safeguarding alerts and referrals, and examine the root causes of such trends.</li> <li>Develop clear processes for monitoring of all contracts, which covers quality of provision, safeguarding policies and procedures, and – importantly – outcomes for the service user.</li> <li>Build in review points into the contract where service improvements can be discussed and agreed.</li> <li>Develop policies for information sharing across agencies.</li> <li>Build into contracts with providers clear expectations for reviewing packages of care and how this will be monitored.</li> <li>Develop a set of quality standards linking personalisation and safeguarding (currently being piloted by the North East REIP). These could be used as the basis of an accreditation scheme for non-regulated services.</li> <li>Develop contingency arrangements to reallocate care provision where block providers are deemed to be failing services.</li> </ul>
Supporting service users, families and	What do we currently do to engage service users, families and carers in the commissioning of services? How effectively does this shape	Consider a 'mystery shopper' exercise looking at the experience of adults from the first point of contact through to accessing information on services, detailed support and mediation/advocacy

Role of Commissioners	Safeguarding and Personalisation checklist	Suggested Activities
carers	<ul> <li>local provision?</li> <li>How do service users engage in the design of safeguarding policies?</li> <li>What advice and guidance do we offer service users in relation to accessing support? And how can this be improved?</li> </ul>	<ul> <li>to see what information is provided, identify any inconsistencies and any causes for concern.</li> <li>Look at developing a suite of 'regulatory' options for non-regulated services which enable services users to make informed choices. These could include offering CRB checks as part of the support offered in relation to receipt of Direct Payments, developing a list of preferred providers or a buy with confidence scheme.</li> </ul>
Looking at organisational arrangements	<ul> <li>What are the arrangements between commissioning, personalisation and adult safeguarding within our local authority?</li> <li>How well integrated and transparent are these?</li> <li>How aware are frontline social care staff of the personalisation agenda and how is this reflected in their day-to-day practice of care management and adult safeguarding?</li> </ul>	<ul> <li>Look into conducting an internal audit of adult safeguarding policies, procedures and files to understand the links between care management, frontline social care practice and the safeguarding process.</li> <li>Develop a coherent statement in relation to what the local authorities position is in relation to adult safeguarding and what approach it will take in relation to supporting vulnerable adults make informed choices about their own personalised care.</li> <li>Ensure strong links between commissioners and those overseeing the management of adult safeguarding policies and procedures, involving both parties in the design of policies, contracts and specifications, but also – where appropriate – in any safeguarding strategy meetings and reviews.</li> </ul>

#### **6** Examples of good practice and guidance

The following documents outline examples of good practice or guidance in relation to safeguarding adults through better commissioning arrangements. The list is not exhaustive, but does aim to highlight the five key areas outlined in Section 5.

## Safeguarding Adults: A National Framework of Standards for Good Practice and Outcomes in Adult Protection Work (2005) ADSS

Overarching guidance for all local authorities outlining expectations and a set of standards for good safeguarding practice. It is accompanied by a benchmarking tool which outlines the key areas of responsibility for commissioners.

**NHS Kirklees: Safeguarding Children and Adults Commissioning Policy** This document clearly outlines the responsibilities of commissioners, and their expectations of providers in relation to adult safeguarding.

## Southwark Health and Social Care: Guidance document – Commissioning and contracting processes related to safeguarding adults.

This document sets out a range of strategic statements and contains example contract clauses drawn from ADASS and CSCI (as was, now CQC) guidance.

### Calderdale, Kirklees and Wakefield wide – Interagency Framework for sharing information

Outlines the agencies involved and expectations and responsibilities on what information can be shared and when.

# Giordano, A. and Street, D (2009) Challenging Provider Performance: developing policy to improve the quality of care to protect vulnerable adults. The Journal of Adult Protection. Vol 11 (2) pg 5-12

This paper summarises the arrangements within Caerphilly in relation to assessing provider performance and ensure quality.

#### **Barnet Council: Train the trainer programme**

Barnet Council offers a 'train the trainer' approach to raising awareness of safeguarding adults' policies and procedures to key staff responsible for delivering care. This is also offered as a package to help train service users to spot abuse

# South-West Joint Improvement Partnership: Contracting and accrediting non-regulated care services (2010) SW Commissioning Resource Project 2 (to be published)

A briefing paper on the regulation of non-regulated care services, highlighting a range of options available to commissioners.

#### **7** Final Note

Adult safeguarding is an area which is evolving all the time and we would like to thank Richard Tassell from the Y&H Joint Improvement Partnership, the Law Commission and the Local Government Improvement and Development Agency for their input into developing this paper. IPC would welcome any information on examples where personalisation and safeguarding have been successfully integrated, comments, thoughts or feedback on this paper in order to inform future discussions. Please send any responses to Usha Boolaky, at IPC on <a href="mailto:uboolaky@brookes.ac.uk">uboolaky@brookes.ac.uk</a>

Any outstanding omissions or errors within this discussion paper are the responsibility of IPC.