



Herts Disability Sports Foundation

Registered Charity No. 1156034

Safeguarding Adults at Risk Policy

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Herts Disability Sports Foundation – Safeguarding Adults at Risk Policy

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Introduction

The key objectives of HDSF are to provide support, education, training and the opportunity to take part in sporting activities for individuals who struggle to access sport and physical activity - to improve physical health and wellbeing. HDSF staff have contact with a wide variety of adults at risk in a wide variety of settings including; our work with Day Services, holiday sporting activities and other community events.

HDSF believes that:

- The welfare of the adult at risk is paramount,
- All adults at risk have the right to equal protection from all types of harm or abuse,
- Adults at risk should never experience abuse of any kind.

We have a responsibility to promote the welfare of all of our service users and to keep them safe. We are committed to practise in a way that protects them – this policy document is based on best practice guidance issued by the Hertfordshire Safeguarding Adults Board.

The purpose of this policy is to:

- Safeguard adults at risk who receive HDSF's services.
- Provide staff and volunteers with the overarching principles that guide our approach to safeguarding and child protection.

This policy applies to all staff of Herts Disability Sports Foundation (HDSF) including Trustee Board members, paid staff, volunteers, agency staff, students and anyone working on behalf of the Foundation. It shows a commitment to protecting and safeguarding adults at risk against potential or actual harm.

The policy also demonstrates a commitment to working with statutory bodies, voluntary agencies and other organisations to promote the safety and welfare of adults at risk, and acting promptly whenever a concern is raised about an adult at risk or about the behaviour of an adult. HDSF will work with the appropriate statutory bodies when an investigation into abuse is necessary.

It should be noted that in this organisation, we operate a positive and inclusive approach to employment practices and at any time, we may have staff or volunteers with learning

difficulties who would find it difficult to carry out all the duties outlined in this policy. We operate a supportive leadership policy; only senior/specialist members of staff may deliver a session on their own, where it is safe and appropriate to do so. All other staff deliver sessions in teams of 2 or more - where the staff member or volunteer does not have the capability to carry out all the functions outlined in this policy, the 'lead' member of staff will assume that responsibility.

In this policy we have used the Hertfordshire Safeguarding Adults Board's definition of Adult at Risk as;

An adult in need of care and support. This may be because they are older or have a mental health problem, a learning or physical disability **and** they are at risk of abuse or neglect.

It is important that everyone in the organisation is aware that the person who first encounters a case of alleged or suspected abuse is not responsible for deciding whether or not abuse has occurred. That is a task for the professional protection agencies following a referral to them of concern about an adult at risk.

Policy statement and Principles

Herts Disability Sports Foundation believes all children and adults at risk are entitled to protection from harm and have the right to take part in sport and physical activity in a safe, positive and enjoyable environment. Herts Disability Sports Foundation have a duty of care to safeguard adults at risk involved in sport and physical activity from harm. This policy aims to ensure that safeguarding measures are put in place to keep adults at risk safe and to prevent harm from occurring when participating in sport and physical activity.

In 2013, a Government statement on adult safeguarding policy set out the following key principles for adult safeguarding work:

Empowerment	Adults are encouraged to make their own decisions and are provided with support and information.
Protection	Support and representation for those in greatest need.
Prevention	Better to take action before harm occurs.
Proportionality	Proportionate and least intrusive response.
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.

Herts Disability Sports Foundations' Safeguarding Adults at Risk Policy accepts these principles and is based on the following:

- the welfare and safety of adults at risk is of primary concern
- everyone has the right to be treated as an individual
- all adults at risk have a right to be safe and to be treated with dignity and respect, with a right to privacy
- all adults at risk, whatever their age, culture, disability, gender, language, racial origin, religious belief and/or sexual identity have the right to protection from abuse

- all incidents of suspected poor practice and allegations of abuse will be taken seriously and responded to swiftly and appropriately
- confidentiality should be upheld in line with the Data Protection Act (1998), and the Freedom of Information Act (2004)
- this policy will be promoted to all staff and volunteers, partners and service users, and will be available on the Herts Disability Sports Foundation website
- all Herts Disability Sports Foundation staff, volunteers, Trustees and partnering organisations have a role to play in ensuring that the responsibilities/commitments to safeguarding set out in this policy are upheld and at the forefront of everything they do.

The policy will be reviewed a year after development and thereafter, every three years, or in the following circumstances;

- changes in legislation and/or government guidance,
- as required by the Hertfordshire Safeguarding Adults Board,
- as required by the Charity Commission,
- when the details of the Named Person or Deputy change,
- as a result of any other significant change or event.

Named Persons and Important Contacts

HDSF has an appointed individual who is responsible for dealing with any safeguarding concerns. In their absence, a deputy will always be available for anyone to consult with.

The Named Persons for safeguarding adults at risk within HDSF are:

Named Person for Safeguarding	Ros Cramp
Work telephone number:	01462 600193
Mobile number:	07817 756143
Emergency contact no:	07817 756143
Deputy:	Sine Bates
Work telephone number:	01462 600193
Mobile number:	
Emergency contact no:	

Other Key Contacts:

Health & Community Services (including out of hours)	0300 123 4042
Hertfordshire Partnership NHS Foundation Trust – for adults receiving mental health services	0300 777 0707
Police	In an emergency – 999 No immediate risk to life but a police response is required - 101

Responsibilities of Individuals

All members of HDSF are to;

- understand and apply this policy and procedure in their activities,
- identify opportunities and undertake appropriate training to support them in their role,
- act appropriately at all times and be able to challenge inappropriate behaviour in others,
- be able to recognise harm, and
- know how to report any concerns in a timely and appropriate way.

In addition, senior members of the organisation (including Trustees) are to;

- ensure all staff and volunteers understand this policy and procedure,
- take a constructive approach to safeguarding adults at risk and accept the legal responsibility to provide a duty of care to protect and safeguard the wellbeing of adults at risk engaged in any activity over which it has supervision and control
- respect and promote the rights, wishes and feelings of adults at risk
- promote an organisational culture of openness that ensures that all adults at risk, employees, service users and carers are listened to and respected as individuals and feel they can raise their concerns and know that they will be listened to, without worrying that something bad will happen as a result.
- offer opportunities to undertake appropriate safeguarding training and refresher training,
- ensure that the policy and procedure is adhered to and undertake regular compliance audits,
- ensure that a whistleblowing policy is developed, agreed and communicated to all staff and volunteers,
- ensure that parents, adults at risk, staff and volunteers are provided with information about this policy, what it does, and what they can expect from Herts Disability Sports Foundation,

- ensure that parents, adults at risk, staff and volunteers are provided with clear procedures to voice their concerns or lodge complaints if they feel unsure or unhappy about anything,
- commit to and lead on the continuous development, monitoring and review of this policy and the procedures outlined within it.

The role and responsibilities of the Named Person(s) are:

- to ensure that all staff are aware of what they should do and who they should go to if they are concerned that an adult at risk may be subject to abuse or neglect
- to ensure that any concerns about an adult at risk are acted on, clearly recorded, referred on where necessary and followed up to ensure the issues are addressed
- to record any reported incidents in relation to an adult at risk or breach of safeguarding policies and procedures. This record will be kept in a secure place and its contents will be confidential.

Safer Staffing and DBS checks

Every organisation has its own processes for recruiting to paid and unpaid work. Herts Disability Sports Foundation is no exception. Locally, the Hertfordshire Safeguarding Adults Board sets out guidance in the Safe Staffing Handbook:

<http://m.hertsdirect.org/docs/pdf/h/hscbhandbook.pdf>

A key point includes DBS or Enhanced DBS checks for staff or volunteers working directly with adults at risk or who have frequent contact with adults at risk through the organisation. Ideally, references are taken up in advance of them commencing with the organisation and these are checked.

Any staff or volunteers who have not been vetted prior to working with adults at risk will be closely supervised and not left alone with an adult at risk in a one-to-one situation.

Types of abuse

The following categories of abuse are not mutually exclusive and an adult at risk may be subjected to more than one type of abuse at the same time, whatever the setting. It is important to recognise that some adults at risk may reveal abuse themselves by talking about or drawing attention to physical signs or displaying certain actions and gestures. This may be their only means of communication and it is therefore important for carers to be alert to these signs and to consider what they might mean.

Physical:

Including assault, hitting, slapping, pushing, misuse of medication, restraint or inappropriate physical 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.

Psychological:

Including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.

Financial or material abuse:

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.

Discriminatory abuse:

Including forms of harassment, slurs or similar treatment, because of race, gender and gender identity, age, disability, sexual orientation or religion. May develop into 'hate crime' (see below).

Neglect and acts of omission:

Including ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, care and support or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating.

Organisational abuse:

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.

Domestic violence:

Including psychological, physical, sexual, financial, emotional abuse; so called 'honour' based violence.

Modern slavery:

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.

Self-neglect:

Covers a wide range of behaviour neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding.

FGM:

Female Genital Mutilation (sometimes referred to as female circumcision) refers to procedures that intentionally alter or cause injury to the female genital organs for non-medical reasons. The practice is illegal in the UK.

Forced Marriage:

A forced marriage is where one or both people do not or cannot consent to the marriage and pressure or abuse is used. It is recognised in the UK as a form of violence against women and men, domestic/child abuse and a serious abuse of human rights.

Radicalisation:

Where an individual or group comes to adopt increasingly extreme political, social, or religious ideals and aspirations that reject or undermine the status quo or reject and/or undermine contemporary ideas and expressions of freedom of choice.

Hate Crime:

Crimes committed against someone because of their disability, gender-identity, race, religion or belief, or sexual orientation are hate crimes and should be reported to the police. Hate crimes can include: threatening behaviour, assault, robbery, damage to property, inciting others to commit hate crimes, harassment.

Mate Crime:

Mate Crime is defined as the exploitation, abuse or theft from any vulnerable person by those they consider to be their friends. Those that commit such abuse or theft are often referred to as 'fake friends'.

(There is more information on the indicators of abuse and neglect in Appendix 1.)

Recognising abuse

It is often difficult to recognise abuse and exploitation. Staff and volunteers should be alert to:

- Changes in an individual's disposition or demeanour.
- Overhearing indications of abuse or exploitation from an individual.
- Being informed directly or indirectly by other adults, member of the public, carer or other staff or volunteers.

The indicators listed in Appendix 1 are frequently found in cases of abuse and/or neglect, but their presence is not proof abuse has occurred. However, they must be regarded as indicators of possible significant harm. Such indications justify the need for careful assessment and discussion with the Named Person, and may require consultation with and/or referral to Local Adult Services.

Abuse that occurs through social media is often harder to detect. It is important to remember that the type of abuse that can occur through social media always includes emotional and psychological abuse and can include sexual and financial abuse. Social media includes (but is not limited to); networking sites such as Facebook, Twitter and LinkedIn, email, text messages, Skype and instant messaging services.

If indicators of abuse appear incrementally over time (and there is no disclosure of abuse by the individual), it can be less clear that the individual is being abused, or at risk of abuse. In these cases, discuss the signs with Herts Disability Sports Foundations' Named Person. Sharing relevant information promptly is a crucial part of harm reduction and risk management.

Adults at risk may be abused by a wide range of people including staff, carers, volunteers, coaches, family members, neighbours, friends and associates, strangers, or people who deliberately exploit vulnerable people.

Guidance for instructors and volunteers

If an Adult at Risk confides in you;

- Stay calm, approachable and open to what they have to say,
- Speak to them in a private and safe place,
- Listen to them carefully without interrupting,
- Make it clear that you are taking what they are telling you seriously,
- Acknowledge that you understand how difficult this might be for them to say what they are saying,
- Reassure them that they have done the right thing by telling someone,
- Let them know that you will do everything you can to help them,
- Do not show any shock or disgust,
- Do not probe further,
- Do not ask leading questions that might suggest the answer,
- Ask the adult what they would like to happen next,
- Do not make assumptions,
- Do not make any comments about the alleged abuser,
- Do not make promises you cannot keep, particularly about keeping the information 'secret', but explain that you may need to share it with the Named Person.
- Do not discuss with colleagues apart from the Named Person (or their deputy),
- Follow the steps outlined in the next section.

Steps to follow if you are worried about an Adult at Risk or if an Adult at Risk confides in you

HDSF recognises that it has a duty to act on reports or suspicions of abuse and believes that the safety of the Adult at Risk should override any doubts, hesitations, or other considerations (such as the potential to have a negative impact on professional relationships with others).

A flow diagram for actions to take if you are worried about an Adult at Risk or if an Adult at Risk confides in you is at Appendix 2.

If you observe worrying changes in an Adult at Risk's behaviour, physical condition or appearance, you should follow these steps:

- Initially talk to the person about what you are observing. It is okay to ask questions, for example: "I've noticed that you don't appear yourself today, is everything okay?" But never use leading questions
- Listen carefully to what the person has to say and take it seriously
- Never investigate or take sole responsibility for a situation where a person talks about matters that may be indicative of abuse
- Always explain to the person that any information they have given will have to be shared with others, if this indicates they and/or other Adults at Risk are at risk of harm
- Notify HDSF's Named Person for safeguarding
- Record what was said as soon as possible after any disclosure, using the form attached at Appendix 3, and send to the Named Person for safeguarding
- Respect confidentiality and file documents securely.

The Named Person(s) will take immediate action if there is a suspicion that an Adult at Risk has been, or is likely to be, abused. In this situation the Named Person will contact the police and/or Health & Community Services. If a telephone referral is made direct to Health & Community Services this must be followed up in writing (using the form at Appendix 4) within 24 hrs.

The Named Person can also seek advice and clarity about a situation that is beginning to raise concern through Health & Community Services 0300 123 4042. Advice can also be sought from Hertfordshire Partnership NHS Foundation Trust if the adult is known or believed to be in receipt of mental health services.

All HDSF staff must make **immediate** contact with the Named Person where it is believed or suspected that an Adult at Risk is suffering or is likely to suffer Significant Harm. The Named Person will make a referral to the Health & Community Services if they feel this threshold is met.

A referral must be made as soon as possible when any concern of significant harm becomes known - the greater the level of perceived risk, the more urgent the action should be.

If you are worried about an Adult at Risk you have a duty to refer.

The belief or suspicion about significant harm may be based on information which comes from different sources. It may come from a member of the public, the adult concerned, another adult (who may also be at Risk), a family member or other professional staff. It may relate to a single incident or an accumulation of lower level concerns.

The information may also relate to harm caused by another Adult at Risk, in which case both adults, i.e. the suspected perpetrator and victim, must be referred.

The suspicion or allegation may relate to a professional or volunteer caring for or working with the adult – see the next section, entitled 'Managing allegations against an adult who works with Adults at Risk'.

Managing allegations against an adult who works with Adults at Risk

The procedures outlined in this section should be followed whenever it is alleged a person who works with Adults at Risk has in any activity connected with her/his employment or voluntary activity:

- behaved in a way that has, or may have harmed an Adult at Risk
- possibly committed a criminal offence against / related to an Adult at Risk
- behaved toward an Adult at Risk in a way which indicates s/he is unsuitable to work with Adults at Risk.

The procedures apply to situations when:

- there are suspicions or allegations of abuse by a person who works with Adults at Risk in either a paid or unpaid capacity
- it is discovered that an individual known to have been involved previously in Adult or Child abuse is, or has been, working with Adults at Risk.

If an allegation relating to an Adult at Risk is made about a person undertaking paid or unpaid care, consideration must also be given to the need to alert those who manage her/him in that role.

Procedure

When an allegation is first reported, you should take the matter seriously and keep an open mind. You should not investigate or ask leading questions if seeking clarification and it is important not to make assumptions. Confidentiality should not be promised and the person making the allegation should be advised that the concern will be shared on a 'need to know' basis only

Actions to be taken include making a written record of the allegation using the informant's words - including time, date and place where the alleged incident took place, what was said and anyone else present – use the form at Appendix 3. This form should be signed and dated and immediately passed on to the Named Person for Safeguarding without delay.

If you are the recipient of an allegation, you must not unilaterally determine its validity. Failure to report allegations in accordance with procedures is a potential disciplinary matter.

If there is an immediate or imminent risk of significant harm to an Adult at Risk, you should contact Health & Community Services or the Police and then speak to the Named Person for Safeguarding to inform them of the actions you have taken. Follow this up in writing using the form attached at Appendix 3.

The Named Person for Safeguarding must take steps to ensure that the person against whom the allegation is made is removed from the situation immediately. This may be done by either agreement or suspension from the organisation until the matter has been fully investigated.

It is important that HDSF do not take any disciplinary action against the alleged perpetrator without reference to the Police and/or Health & Community Services. The aim is to ensure that an internal action does not prejudice or compromise any possible police investigation.

Any member of staff who believes that allegations or suspicions, which have been reported to the appropriate manager, are not being investigated properly has a responsibility to report it to a higher level – the Trustees of HDSF.

If, for any reason, there are difficulties with following the above procedure, the Whistle Blowing Procedure should be considered or a referral made directly to Health & Community Services and / or the Police.

The need for consultation must not delay a referral, which should be in accordance with Referral procedure.

HDSF should keep the subject of allegations informed of progress in the case and arrange to provide appropriate support (via Occupational Health or equivalent). If the person is suspended, s/he should be kept informed of development in the workplace and if a member of a Trades Union or professional association, advised at the outset to contact that body.

Confidentiality

Protection of adults at risk raises issues of confidentiality which must be clearly understood by all. To ensure that the referral procedure complies with the Data Protection Act (1998) and the Freedom of Information Act (2004), the following guidelines should be adopted when concerns around adult protection arise:

- Staff, volunteers and trustees have a professional responsibility to share relevant information about the protection of adults at risk with other professionals, particularly investigative agencies and adult social services
- Clear boundaries of confidentiality will be communicated to all
- All personal information regarding adults at risk will be kept confidential. All written records will be kept in a secure area for a specific time as identified in data protection guidelines. Records will only record details required in the initial contact form
- If an adult confides in a member of staff and requests that the information is kept secret, it is important that the member of staff tells the adult sensitively that he or she has a responsibility to refer cases of alleged abuse to the appropriate agencies
- Within that context, the adult must, however, be assured that the matter will be disclosed only to people who need to know about it
- Where possible, consent must be obtained from the adult before sharing personal information with third parties. In some circumstances obtaining consent may be neither possible nor desirable as the safety and welfare of the adult at risk is the priority. See the following Section on Consent
- Where a disclosure has been made, staff must let the adult know the position regarding their role and what action they will have to take as a result
- Staff must assure the adult that they will keep them informed of any action to be taken and why. The adult's involvement in the process of sharing information must be fully considered and their wishes and feelings taken into account

Information sharing

Information sharing between organisations is essential to safeguard adults at risk.

The Care Act sets out the duty of individuals and agencies to provide information under these procedures to enable adults at risk to be safeguarded. The duty to share personal confidential data can be as important as the duty to respect the adult at risk's confidentiality.

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

1. Is the adult placing themselves at further risk of harm?
2. Is someone else likely to get hurt?
3. 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.
4. 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 with the Named Person at Herts Disability Sports Foundation.

When sharing information, follow these guidelines:

- Seek advice if in any doubt - without disclosing the identity of the person where possible, consult with the Named Person at Herts Disability Sports Foundation.
- Be transparent - the Data Protection Act (DPA) is not a barrier to sharing information but to ensure that personal information is shared appropriately, except in circumstances where by doing so places the individual at significant risk of harm.
- Consider the public interest - base all decisions to share information on the safety and well-being of the individual or others that may be affected by their actions.
- Share with consent where appropriate - where possible, respond to the wishes of those who do not consent to share confidential information. You may still share information without consent, if this is in the public interest.

- Keep a record - record your decision and reasons to share or not share information.
- Accurate, necessary, proportionate, relevant and secure - ensure all information shared is accurate, up-to-date and necessary, and share information only with those who need to have it.

Remember the purpose of the Data Protection Act - the DPA is designed to ensure personal information is shared appropriately, except in circumstances where doing so may place the person or others at significant harm.

Risk Assessments

Under the Health and Safety at Work Act 1974, HDSF, as employer, has a duty to ensure, so far as is reasonably practicable, the health and safety of their employees and others affected by their work activities. This includes participants in off site visits.

HDSF is also required, under the Management of Health and Safety at Work Regulations 1999, to:

- assess risks arising from activities
- implement suitable control measures
- provide information, training and supervision
- monitor the arrangements for controlling risk.

Although the ultimate responsibility for health and safety rests with HDSF, specific tasks are delegated to competent individuals. This would include the organisation of visits. This policy outlines the responsibilities of those involved in the organisation of visits, standards of competence and the arrangements for assessing risk and implementing suitable control measures. It also outlines how HDSF will monitor the arrangements.

Managers and employees involved with organising or supervising visits also have a legal duty to take reasonable care of their own and others' health and safety and to co-operate with HDSF to enable it to meet its health and safety responsibilities. This will be achieved through complying with the policy and following the associated guidance.

Risk assessment and risk management are legal requirements. For visits they involve the careful examination of what could cause harm during the visit and whether enough precautions have been taken or whether more should be done. The aim is to make sure no one gets hurt or becomes ill. The control measures should be understood by those involved.

Risk assessments should explicitly cover how special needs (e.g. educational, medical) are to be addressed. The programme of a visit, as set out in the risk assessment and the consent form, should not be deviated from and should include details of emergency/contingency measures.

There are three levels of risk assessment for visits:

Generic: Apply to the activity wherever or whenever it takes place. The information provided in this policy and associated guidance is based on a generic risk assessment.

Visit/Site Specific: Will differ from place to place and group to group. Those organising visits are responsible for carrying out visit /site specific risk assessments. Managers must ensure an adequate risk assessment is carried out.

Ongoing: The group leader should reassess risks while the visit is taking place, making judgements and decisions as the needs arise.

In addition to the above, individual risk assessment should be carried out on adults at risk whose vulnerability, behaviour or other factors may put them or others at greater risk.

Mental capacity and Consent

The Mental Capacity Act 2005 (MCA) provides the statutory framework to empower and protect people who may lack capacity to make decisions for themselves and establishes a framework for making decisions on their behalf.

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

The presumption is that adults have mental capacity to make informed choices about their own safety and how they live their lives.

All interventions need to take into account the ability of adults to make informed choices about the way they want to live and the risks they want to take.

Definition of lack of capacity

The MCA sets out a two stage test of capacity:

Stage 1 - There must be an impairment of, or disturbance in the functioning of, the mind or brain.

Stage 2 - There must be an inability to make the decision in question as a result of the impairment of, or disturbance in the functioning of, the mind or brain.

Further, a person is not able to make a decision if they are unable to:

- understand the information relevant to the decision or;
- retain that information long enough for them to make the decision or;
- use or weigh that information as part of the process of making the decision.

or

- communicate their decision (whether by talking, using sign language or by any other means such as muscle movements, blinking an eye or squeezing a hand).

Further information can be found in the Mental Capacity Act Code of Practice.

<http://www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act>

Mental capacity and safeguarding

Issues of mental capacity and the ability to give informed consent are central to decisions and actions in the safeguarding adults' procedure.

All decisions taken in the safeguarding adults' process must comply with the five core principles of the Mental Capacity Act 2005:

- a person must be assumed to have capacity unless it is established that he lacks capacity;
- a person is not to be treated as unable to make a decision unless all practicable steps to help him do so have been taken without success;
- a person is not to be treated as unable to make a decision merely because he makes an unwise decision;
- an act done or decision made, under this act for or on behalf of a person who lacks capacity must be done, or made, in his best interests;
- before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

This means that:

- an adult at risk has the right to make their own decisions and must be assumed to have capacity to make decisions about their own safety unless it is shown otherwise;
- there should always be the assumption that an adult at risk has capacity to make the decision in question.

If there is evidence to suggest that a person may lack capacity then a formal assessment of capacity should be carried out. This includes their ability to:

- understand the implications of their situation
- take action themselves to prevent abuse or protect themselves from abuse
- participate to the fullest extent possible in decision making about interventions

If the adult at risk does not have capacity

If it is established through assessment that the adult at risk lacks capacity and they have no family or friend who can be consulted regarding their best interests, an advocate or an independent mental capacity advocate (IMCA) should be instructed in line with the local

Consent

It is always essential in safeguarding to consider whether the adult at risk is capable of giving informed consent in relation to the investigation and safeguarding plan. If they are, their consent should be sought. This includes an awareness of the risks of disclosing that an investigation is being undertaken.

Where an adult at risk with capacity has made a decision that they do not want action to be taken and there are no public interest or vital interest considerations, their wishes must be respected.

The adult at risk must be given information and have the opportunity to consider all the risks and fully understand the likely consequences of that decision over the short and long term.

If, after discussion with the adult at risk who has mental capacity, they refuse any intervention, their wishes will be respected unless:

- there is a public interest, for example, not acting will put other adults or children at risk;
- there is a duty of care to intervene, for example, a crime has been or may be committed.

However consent may need to be considered in relation to the adult at risk's participation in activity that may be abusive. If consent to abuse or neglect was given under duress, for example, as a result of exploitation, pressure, fear or intimidation, this apparent consent should be disregarded with a safeguarding adults investigation going ahead in response to the concern that has been raised.

APPENDIX 1 – Indicators of abuse

Seriousness of harm or the extent of the abuse is not always clear at the point of the concern or referral. All reports of suspicions or concerns should be approached with an open mind and could give rise to action under Herts Disability Sports Foundation's Safeguarding Adults at Risk policy and procedures.

What follows is not an exhaustive list but an illustration as to the sort of signs and symptoms that could give rise to a safeguarding concern. Indicators that could appear in sport or physical activity situations are also included, for illustrative purposes only.

Physical

On body: symmetrical bruising; burns; marks; cuts.

Behaviours: wincing in pain; uncomfortable movement; flinching; limping; fabricated illness; underweight.

Change in behaviour: anger.

In sport or physical activity, indicators could include:

- any unwanted physical contact
- an instructor disregarding the individual requirements of each adult's needs when setting a training programme e.g. allowing those who are limited by a physical impairment to undertake long, continuous ergo training

Sexual

Physical: urinary tract infections (UTIs); bed wetting; for women, intimate bruising; pregnancy; sexually transmitted infections (STIs); men, faecal incontinence.

Change in behaviour: change in dress or presentation; either overt sexual behaviour or withdrawing from people; suddenly not wanting to be around or touched by certain genders.

In sport or physical activity, indicators could include:

- either direct or indirect involvement in sexual activity or a relationship whereby consent has not occurred, there is a lack of capacity to give consent or that someone has been coerced into a relationship due to another person's position of trust
- an instructor engaging in unnecessary and inappropriate physical contact
- an instructor making suggestive comments to their participants
- an individual spending an unnecessary amount of time in the changing area where adults at risk are present

Psychological

Change in behaviour: anxious; nervous; fearful; not wanting to go out; low self-worth.

Emotional and psychological harm rarely occurs in isolation and is usually present with each other type of abuse.

In a sport or physical activity situation indicators could include:

- a carer or instructor subjecting a adults at risk to constant criticism, shouting, name-calling, sarcasm, bullying or discriminatory behaviours or prejudicial attitudes
- a carer or instructor putting a adults at risk under unrealistic pressure in order to perform to high expectations.

Financial or material

Appearance: cold; unfed; unkempt.

Debt; homeless or about to be evicted or concerned about bailiffs; gambling; new best friend. Not able to pay usual outgoings so cuts down on heating, lighting, food, other expenses.

In sport or physical activity, indicators could include:

- blackmailing adults at risk by requiring financial or material payment in return for certain benefits such as sports awards or complimentary tickets
- charging adults at risk more than the standard fee for participation in sports activities.

Discriminatory

Name calling; segregation; not how intended but how perceived.

In sport or physical activity, indicators could include:

- females not being given equal access to an activity
- using sexist or discriminatory language towards others - for example male participants using language such as 'you hit like a girl', or other saying 'that was gay'

Neglect or acts of omission

Unkempt or unwashed; malnutrition; soiled clothes or bed linen.

Neglect is wilful – any of above; isolated; under/over medicated; under/overweight; withholding medication.

Act of omission – individual fails to act when see something occurring.

In sport or physical activity, indicators could include:

- an instructor not keeping an adult at risk safe by exposing them to undue cold, heat or the unnecessary risk of injury a parent, guardian or carer consistently leaving an adult at risk without adequate provisions e.g. food, water, clothing, sun block where they are unable to provide themselves with these provisions
- instructors not taking a player's injury seriously and asking them to continue playing

Organisational

In organisational setting: not responding to requests for toilet; drink; food etc.

Treating someone physically, verbally or psychologically in a demeaning or belittling way

Organisation does things at set times (e.g. toilet, bed, meals); lack of freedom; autocratic management style.

Domestic violence

Change in behaviour: physical symptoms as before.

There are estimates that domestic violence happens to 1 in 3 women and 1 in 6 men. 'Domestic' is defined as someone in same household i.e. family or spouse.

Modern slavery

Under-paid or not paid; not seen or allowed to leave. (There were 1746 cases in 2013 - up 47% from 2012.)

Self-neglect

Self-harm; hoarding; unkempt; drug & alcohol abuse; not medicating; not attending appointments.

FGM

A girl or woman who has had FGM may have difficulty walking, sitting or standing, spend longer than normal in the bathroom or toilet, have unusual behaviour after a period of absence, be particularly reluctant to undergo normal medical examinations, may ask for help, but may not be explicit about the problem due to embarrassment or fear.

Forced marriage

Persistent absence from school/work, requests for extended leave. Drop in performance, low motivation, decline in behaviour/engagement. Always leaving venues accompanied, surveillance by siblings or cousins. Evidence of self-harm, depression, social isolation, eating disorders or substance misuse. Evidence of family disputes, domestic abuse, or running away from home. Unreasonable restrictions (e.g. kept at home by parents) and financial restrictions.

Cyber bullying

Stops using the computer/phone or turns off the screen when someone comes near. Nervous or jumpy when using the computer or cell phone. Secretive about what they are doing on their computer/phone. Excessive amounts of time spent on computer/phone.

Becomes upset or angry when computer or mobile phone privileges are limited or taken away.

Radicalisation

Self-identification, 'Them and Us' view. Changes in the way individuals interact with society, changes in an individual's personality and expression of emotion, by association (with radical organisations).

Adults with care and support needs may be susceptible to exploitation into violent extremism by radicalisers who attempt to attract people to their cause using persuasion or charisma. The aim is to inspire new recruits and embed their extreme views.

Hate crime / Mate Crime

Lack of confidence and self-esteem. Anxiety and unhappiness. Withdrawal. Subservient behaviour and a constant seeking of approval of so-called 'friends'.

Appendix 2 – What you need to do if you have a concern about an Adult at Risk

These guidelines are for HDSF staff, volunteers, Trustees and parents/carers. If in doubt, **always** contact the HDSF Named Person – Ros Cramp.

You are concerned about the Adult's welfare or safety – because of what you've seen, heard or been told.



Does the Adult need Urgent medical attention? If they do - Dial 999 and tell the ambulance staff the Adult may be at risk.



Phone Ros to tell her what has happened – tell her as much as you can. If you can't reach Ros, phone Sine at the office.



Fill in the form at Appendix 3 – this is important.



Action for Named Person;

- If you suspect the Adult has been, or is likely to be, abused contact the police and /or Health & Community Services. [0300 123 4042]
- If the Adult at risk is receiving mental health services, contact Herts Partnership NHS Foundation Trust. [0300 777 0707]
- If the complaint is about staff from another organisation, contact their Safeguarding Lead immediately
- If the allegation is against a member of HDSF – remove them from the situation immediately.
- If the allegation is against another Adult at Risk, arrange for a member of staff to attend to their needs and ensure that their details are also reported.
- Make sure that other service users are not at risk.
- Complete the form at Appendix 4.

Appendix 3 – HDSF Reporting a Concern Form

This form will be used to report concerns about both children or adults who use our services.

Strictly Confidential - Please print clearly

Full name of the Child or Adult at Risk:
About the incident
Where were you?
What happened?
Was anyone else there?
Your name
Have you told the Ros or Sine about this incident
When?
How did you contact them?

Hertfordshire safeguarding adult concern form

Personal details of adult at risk			
Name:		Mr/Mrs/Ms	Dob: Gender:
Current Address:	Home address <i>(if different)</i> :		GP: Surgery:
Postcode:	Postcode:		Tel no:
Tel no:	Tel no:		Tel no:
NHS no (if known):		Ethnic origin:	
Police URN:		preferred language/communication needs?	
Other ref no:			
Allegation			
Date alleged abuse took place:		Time (if known):	
Where did the abuse happen:			
What type of abuse is suspected?		Please check all appropriate	
Neglect/acts of omission	<input type="checkbox"/>	Sexual	<input type="checkbox"/>
Self-neglect	<input type="checkbox"/>	Modern Slavery	<input type="checkbox"/>
Domestic Violence	<input type="checkbox"/>	Discriminatory (including hate crime)	<input type="checkbox"/>
Psychological/emotional	<input type="checkbox"/>	Physical	<input type="checkbox"/>
Financial/Material	<input type="checkbox"/>	Organisational	<input type="checkbox"/>
Please provide a brief, factual summary of the concerns leading to the referral. This should include what harm/injury or potential harm was caused			
Is anyone else at risk of harm?			
<i>Please state</i>			

Vulnerability of the adult at risk			
Physical disability		Dementia	
Learning disability		Sensory impairment	
Mental health		Older person, frailty, temp illness	
Substance misuse		Terminal illness	
Other			
Confidentiality and consent			
Has this referral been discussed with the service user? Yes or No?		Has the service user given permission to share the concerns with appropriate others Yes or No?	
If the answer either/both of the above questions is No , please state the reasons for proceeding without consent?			
What are the service user's views and what outcome do they expect?			
Does the service user have mental capacity to be involved in the enquiry and protection plan? Yes/no/unknown			
Or, has a diagnosis or presents in such a way that indicates that a capacity assessment is required? <i>(please state)</i>			
Has a capacity assessment been arranged or taken place? <i>(please state)</i>			
Details of the people involved in the incident			
Name:		DOB:	

Address:		Occupation:	
		Relationship to service user?	
Immediate actions			
(Including any emergency medical treatment provided, evidence preserved, actions taken to prevent further abuse)			
Protection plan			
Please indicate other agencies alerted			
Health & Community Services		HPFT	
Police		CLDT	
Acute hospital		Hertfordshire Community NHS Trust	
GP		Other	
Details of person completing the referral			
Name:		Organisation:	
Contact number:		Date referral form completed:	
Please return form to: Adult.Safeguarding@hertscgcsx.gov.uk .			