

OVERVIEW AND SCRUTINY COMMITTEE
19 JULY 2016

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

16

TITLE OF REPORT: REVISED POLICIES FOR SAFEGUARDING CHILDREN, AND SAFEGUARDING VULNERABLE ADULTS

REPORT OF THE HEAD OF POLICY AND COMMUNITY SERVICES

1. SUMMARY

- 1.1 The Children Act 2004 requires that all statutory organisations have robust procedures in place for recognising, responding to and referring concerns about children and young people who may be at risk from or experiencing abuse. Procedures should be underpinned by a policy reflecting current legislative requirements and detailing how the Council meets these. Our policy and procedures must be compliant with the requirements of our Local Safeguarding Children’s Board in Hertfordshire.
- 1.2 The Care Act 2014 came into effect on 1st April 2015 and places a statutory duty on local authorities to provide services to meet the needs of adults who require care and support. A duty to establish a Safeguarding Adults Board in every local authority area was introduced and a duty placed on Districts Councils and other local organisations to cooperate fully with the board. This duty involves both referring concerns and providing information when requested to assist with investigations. District Council representation is maintained on both the Hertfordshire Safeguarding Adults Board and Hertfordshire Districts Safeguarding Group.
- 1.3 The Council has robust procedures in place that govern how staff and members deal with concerns about children or adults at risk of harm. New policy documents which reflect legislative requirements and best practice have now been devised to underpin these procedures.
- 1.4 Neither this report, nor the associated policies involve the introduction of new procedures nor an increase in required resources from officers. These policies simply reflect work that is already being undertaken with appropriate revisions made for national and local changes in both legislation and good practice guidelines.

2. RECOMMENDATIONS

- 2.1 That Cabinet receive and comment on the revised policy documents for Safeguarding Children and Safeguarding Vulnerable Adults.
- 2.2 That subject to any amendment agreed by Cabinet, the policies are recommended for endorsement at Council.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations as made are the best that can be accommodated within the approved budget and resources. They ensure the Council will fulfil statutory obligations and ensure robust practices for the protection of children and vulnerable adults are demonstrated throughout the Council and services conducted on its behalf by partners and contractors.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None applicable

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Consultation has been carried out with the Lead Member for Adult Safeguarding, Cllr Bernard Lovewell and Children's Champion, Cllr Julian Cunningham.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Section 11 of the Children Act 2004 places a duty on all statutory agencies working with children and young people to 'safeguard and promote their welfare'. The duty means that key people and bodies must make arrangements not only to ensure their functions are discharged with full regard to the needs to safeguard and promote the welfare of children but that services they contract out to others also have regard to that need.
- 7.2 The Care Act 2014 came into effect on 1st April 2015 and places a statutory duty on local authorities to provide services to meet the needs of adults who require care and support. A duty to establish a Safeguarding Adults Board in every local authority area was introduced and a duty placed on Districts Councils and other local organisations to cooperate fully with the board. This duty involves both referring concerns and providing information when requested to assist with investigations. District Council representation is maintained on both the Hertfordshire Safeguarding Adults Board and Hertfordshire Districts Safeguarding Group.
- 7.3 A duty has been placed on top tier and unitary local authorities to establish independent Local Safeguarding Boards for both children and adults. Locally, these are known as the Hertfordshire Safeguarding Children Board (HSCB) and the Hertfordshire Safeguarding Adults Board (HSAB). Responsibility for the development and maintenance of both boards rests with Hertfordshire County Council, although officers from the Hertfordshire Districts and Boroughs are members of the Boards.

- 7.4 Safeguarding adults differs from the safeguarding and protection of children in a number of ways, including by application of quite different legislation. A key difference is that while there is a legal expectation that children are protected from physical or psychological damage, adults with mental capacity have a right by virtue of being of the age of majority, to make their own choices, take risks, be free from coercion, and to be consulted and involved in their own safeguarding plans. Adults without mental capacity have relevant legal safeguards under the Mental Capacity Act 2005.
- 7.5 Since NHDC's policies were adopted in 2014 a number of key new duties have been introduced:
- 7.5.1 The Prevent duty: The Counter-Terrorism and Security Act 2015 contains a duty on specified authorities to have due regard to the need to prevent people from being drawn into terrorism. In March 2015, parliament approved guidance (issued under section 29 of the Act) for specified authorities, which they must have regard to when complying with the duty. The duty commenced on 1 July 2015 for authorities specified in Schedule 6 to the act, save in respect of any specified authority to which section 31 (freedom of expression in universities etc) is expressed to apply. As part of NHDC's duty to safeguarding, staff, volunteers and members that are concerned an adult or child is at risk of being drawn into extremism must use our safeguarding procedures to report this.
- 7.5.2 In the UK, it is estimated that 60,000 women are living with the effects of Female Genital Mutilation (FGM) with a further 23,000 girls under 15 years old at risk of FGM (NSPCC). It is illegal to perform FGM in the UK, to take a British Citizen or permanent resident outside the UK in order for FGM to be performed or to assist a person in either of these acts. However lack of awareness, fear of reporting or concerns over showing sensitivity to cultural practices often result in actual or at risk cases not being reported. Multi-agency practice guidelines were issued in 2014 to promote the reporting of Female Genital Mutilation. Female Genital Mutilation Protection Orders came into effect on 17th July 2015 providing legal protection to a person at risk of FGM and from 31st October 2015 it became a legal requirement for regulated health and social care professionals and teachers to report known cases of FGM in under 18's in England and Wales to the Police. As part of NHDC's duty to safeguarding, staff, volunteers and members that are concerned an adult or child has been the victim of FGM or is at risk must use our safeguarding procedures to report this.
- 7.5.3 The Anti-Social Behaviour Crime and Policing Act 2014 have made it illegal in England and Wales to force someone to marry, to take someone overseas and force them to marry and to marry someone without the mental capacity to consent. As part of NHDC's duty to safeguarding, staff, volunteers and members that are concerned an adult or child has been the victim of forced marriage or is at risk must use our safeguarding procedures to report this.

8. ISSUES

- 8.1 A bi-annual audit of the Council's compliance with Section 11 of the Children Act 2004 is conducted by the Hertfordshire Safeguarding Children's Board. Having an up to date policy for Safeguarding Children is a key requirement in the audit.
- 8.2 A safer staffing audit conducted in 2016 by SIAS highlighted that the existing policies for Safeguarding Children and Safeguarding Vulnerable Adults were due to be revised in 2015. A revised target date for completion of this action was agreed as July 2016.

- 8.3 The Council has statutory duties to contribute to the safeguarding of both children and vulnerable adults. The existence of a policy that reflects current legislative requirements and best practice guidelines is a key requirement in maintaining these duties.

9. LEGAL IMPLICATIONS

- 9.1 This report is produced subject to section 11 of the Children Act 2004. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 states at Schedule 3 (Functions not to be the sole responsibility of the Council's Executive) that a Children and Young People's Plan produced pursuant to Children and Young People's Plan (England) Regulations 2005/2149 cannot be the sole responsibility of the Council's executive, Cabinet can provide a recommendation but it must be agreed by Council.
- 9.2 Safeguarding plans are produced pursuant to the Children and Young People's Plan (England) Regulations 2005/2149 because the regulations state at regulation 4 that each plan shall in particular include arrangements made by the authority under section 11(2) of the Children Act 2004 (arrangements to safeguard and promote welfare).
- 9.3 The purpose of the Safeguarding Vulnerable Groups Act 2006 is to restrict contact between children and vulnerable adults and those who might do them harm. The barring aspects of the Act came into force in October 2009.

While the 2006 Act itself is very complex, its key principles are straightforward. They are as follows:

- (i) unsuitable persons should be barred from working with children or vulnerable adults;
- (ii) employers should have a straightforward means of checking that a person is not barred from working with children or vulnerable adults;
- (iii) suitability checks should not be one-offs: they should be an element of ongoing assessment of suitability to catch those who commit wrongs following a suitability check.

- 9.4 The Care Act 2014 came into effect on 1st April 2015 and places a statutory duty on local authorities to provide services to meet the needs of adults who require care and support. A duty to establish a Safeguarding Adults Board in every local authority area was introduced and a duty placed on Districts Councils and other local organisations to cooperate fully with the board. This duty involves both referring concerns and providing information when requested to assist with investigations. District Council representation is maintained on both the Hertfordshire Safeguarding Adults Board and Hertfordshire Districts Safeguarding Group.
- 9.5 The legal implications are otherwise considered within the body of the Report.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no additional financial implications arising from the adoption of these policies as the intention is that any reporting of concerns are made through Council employees and members in their 'day to day' work.

11. RISK IMPLICATIONS

- 11.1 Progress on implementing and reviewing Corporate Policies for Safeguarding Children and Safeguarding Adults at Risk of Harm is tracked on the risk register via risk entry RR278.
- 11.2 The Safeguarding Children and Safeguarding Vulnerable Adults policies outline the various steps taken by North Hertfordshire District Council to reduce the risk to both employees and members and children and vulnerable adults accessing our services, including procedures for safe recruitment, learning and development for employees and reporting procedures for employees with concerns.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 9.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The Equality Act underpins the Children Act 2004 and Safeguarding vulnerable Groups Act 2006. The procedures outlined in the report and accompanying policies provide NHDC with clear guidelines to prevent, report suspected abusive behaviour and eliminate abuse. This positively supports both vulnerable children and adults within the community.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 The Council has a detailed Data Barring Service policy in place regarding checking the suitability of applicants and employees working with children and adults in vulnerable situations, also known as 'safe staffing'. As well as the measures we have in place for safe recruitment, we provide relevant learning and development for employees and have clear reporting procedures for employees with concerns.

15. APPENDICES

15.1 Safeguarding Children and Vulnerable Adults policy revised 2016

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17. BACKGROUND PAPERS

None