

# TreeHouse School

## Adult at Risk Safeguarding and Protection Procedure

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# 1. Introduction

## Purpose of the procedure

TreeHouse School has zero tolerance of all forms of abuse of adults and the aim of this procedure is to provide a framework for all staff including agency staff, contractors, volunteers, beneficiaries who receive involvement fees, Governors and Trustees, hereafter referred to as 'staff'. It should be used in conjunction with the Adult at Risk Safeguarding and Protection Policy, to prevent and reduce the risk of abuse to all adults who use TreeHouse School services or come into contact with staff. The procedure details the steps that individuals and key people are expected to take if they have a safeguarding concern.

At TreeHouse School we recognise our responsibilities as set out in the [London Multi Agency Adult Safeguarding policy and procedures \(updated June 2019\)](#)

# 2. Legal requirements

This procedure and its associated policy are mandatory for all staff, as they must be aware of their individual and collective roles and responsibilities in safeguarding and protecting adult learners from abuse and neglect.

The legal requirements are detailed in the policy.

# 3. Roles and Responsibilities

Safeguarding is **everyone's** responsibility and hence is a whole organisational approach. This policy applies to all staff in the school and is consistent with the procedures of Haringey Safeguarding Adults Procedures and Guidance.

Our policy and procedures also apply to extended school and off-site activities, such as community access programmes, residential visits and work experience placements.

## 3.1 All staff responsibilities

All staff will read and understand part 1 and Annex A of the Department for Education's statutory safeguarding guidance, [Keeping Children Safe in Education 2023 \(KCSiE\)](#) and review this guidance at least annually. The organisation has a process to track that staff have read and understood the relevant statutory safeguarding guidance, including that which is role specific.

All staff will be aware of:

- Our systems, which support safeguarding, including the staff code of conduct, the role of and how to contact the designated safeguarding lead (DSL), online safety including filtering and monitoring and acceptable use policy, the behaviour policy, and the safeguarding response to students who go missing from education.
- The early help/early intervention process and their role in it, including identifying emerging problems, liaising with the DSL, and sharing information with other professionals to support early identification and assessment.
- The process for making referrals to home and host Local Authority Adult social care and for statutory assessments that may follow a referral, including the role they might be expected to play.
- What to do if they identify a safeguarding issue or a student tells them they are being abused or neglected, including specific issues, such as FGM, and how to maintain an appropriate level of confidentiality while liaising with relevant professionals.

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- The signs of different types of abuse and neglect, as well as specific safeguarding issues, such as sexual exploitation, so-called honour-based abuse and radicalisation. The organisation has a separate Preventing Extremism and Radicalisation Policy. (See Adult Safeguarding Policy Appendix 2 for more detail how staff are supported to do this).
- Any allegations about the possibility of abuse by staff will always be treated seriously and will be fully investigated (see Appendix 6 Allegations of abuse against staff) following discussion with the Local Authority Designated Officer or Adult Safeguarding Team.

### 3.2 The Designated Safeguarding Lead (DSL)

- The Assistant Head of School of Treehouse School is the Designated Safeguarding Lead (DSL), with the Head of School being the Deputy DSL. The DSL takes lead responsibility for adult protection and wider safeguarding arrangements.
- The Director of Education is the overall Organisational Lead (OL) for Ambitious about Autism and the Ambitious about Autism Schools Trust, with responsibility for safeguarding. In the absence of the Director of Education the role will be delegated to another trained member of the Executive Leadership Team.
- During term time, the DSL will be available during school hours for staff to discuss any safeguarding concerns. See Appendix 1 for a full chart of DSLs and Deputy DSLs.
- Outside of term time a DSL duty rota is maintained.
- When the DSL is absent, the Head of School will act as cover for the whole school.
- The DSL will also keep the OL informed of any issues and liaise with the home and host Local Authority case managers and designated officers for adult protection concerns as appropriate. The OL will brief and update the Chief Executive and/or Chair of Trustees as appropriate.

The DSL will be given the time, funding, training, resources and support to:

- Provide advice and support to other staff on adult welfare and child protection matters.
- Take part in strategy discussions and inter-agency meetings and/or support other staff to do so.
- Refer cases of concern, as appropriate, to the relevant body (Local Authority Adult at Risk social care, Channel programme, and/or police), and support staff who make such referrals directly.
- Be aware of the PACE requirements for vulnerable people to have an Appropriate Adult. (Further information can be found in the Statutory guidance – (PACE Code C 2019).
- Be aware of PREVENT responsibilities and local arrangements for liaison with the Police.
- Be aware of, and follow, the NPCC guidance on when to make a direct referral to the police
- Where pupils have an allocated social worker, as a result of concerns about abuse or neglect, ensure relevant staff are aware of this so that additional learning and/or pastoral support can be offered to the pupil.
- Liaise with the school’s mental health lead.
- Liaise with HR to ensure appropriate referrals are made to the Disclosure & Barring Service, Teaching Regulation Agency and / or other regulatory bodies.
- The DSL will also keep the OL informed of any issues and liaise with Local Authority case managers and designated officers for adult at risk protection concerns as appropriate. The OL in turn will brief and keep updated the Chief Executive and/or Chair of Trustees as appropriate.

The full responsibilities of the DSL are set out in their job description and at KCSiE annex B.

### 3.3 Governance

The Board of Trustees will appoint a senior board level member, who is a member of the Education Committee, to monitor the effectiveness of this policy in conjunction with the board of

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Ambitious about Autism/ Autism Schools Trust. The Education Committee will approve this procedure at each review and the Director of Education will report to the committee on its implementation at each subsequent meeting of the committee.

In addition, Ambitious about Autism and Ambitious about Autism Schools Trust has a joint Safeguarding Board, which meets termly to review and monitor adult and child protection and safeguarding practice across the organisation. The Education Committee receives minutes of the meetings of the Safeguarding Board.

The Director of Education will act as the 'case manager' if an allegation of abuse is made against the Head of School.

The Chief Executive will act as the 'case manager' if an allegation of abuse is made against the Director of Education.

The Board of Trustees safeguarding lead will act as the 'case manager' if an allegation of abuse is made against the Chief Executive Officer. Trustees must follow the specific guidance outlined in [How to report serious incidents in your charity Sept 2017](#), [Charities: how to protect children and adults at risk 2018](#) and [Strategy for dealing with safeguarding issues in charities Dec 2017](#).

The Chief Executive will advise the Chair of Trustees when a safeguarding incident needs to be reported to the Charity Commission.

### 3.4 The Director of Education

The Director of Education is accountable for the implementation of this procedure, including:

- Ensuring that the Heads of educational settings inform staff of safeguarding policies and procedures as part of their induction.
- Ensuring that the Heads of educational settings communicate safeguarding policies and procedures to parents when their young person joins Ambitious about Autism/Ambitious about Autism Schools Trust and via the school's website.
- Ensuring that the DSL has appropriate time, funding, training and resources, and that there is always adequate cover if the DSL is absent.
- Ensuring that all staff undertake appropriate safeguarding and adult protection training and update this regularly.
- Ensuring that the Heads of educational settings have relevant staffing ratios in place.

## 4. Procedure details

The procedures detailed here are mandatory and must be followed. The flow charts (see Appendix 5) that accompany these procedures constitute the basic outline of the process that needs to be considered; each box on the flow chart has a related paragraph in these procedures. Procedures cannot predict every set of circumstances, and if any member of staff is dealing with a safeguarding matter, then they should raise concerns without delay, seek support through supervision and debrief with a senior manager at each stage of the process.

### Responding to concerns that an adult may be being abused or neglected

Also refer to flow chart Appendix 5.

### Recognition of signs and indicators of abuse

Recognition of the signs and indicators of abuse poses considerable challenges for most professional staff who work with adults and who do not deal with protection and safeguarding issues on a day-to-day basis. This is, in part because the notion of adults being at risk of abuse or neglect is one which is relatively new to our society in comparison to the longer-term acceptance of

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concerns of abuse for students and the now well-established systems in place. Identifying abuse of adults with disabilities who may also present with a range of behaviours of distress is not straightforward. It is crucial to effective safeguarding that all staff are able to recognise signs and indicators of abuse, and this requires acceptance that autistic adults are more likely to be abused than adults without disabilities.

If the member of staff believes that an adult is at immediate risk of harm or abuse, they will take immediate and reasonable steps to protect the adult. However, such situations are very rare, and, in most circumstances, staff will raise a concern following the process below.

### **Raising a concern**

**Staff will raise a concern by reporting directly, and without delay, to the DSL, verbally within two hours and followed up by creating a log on BehaviourWatch within 24 hours.**

If, for whatever reason staff struggle to locate the DSL they need to report their concerns to a member of the senior leadership team. Immediately. After raising a concern verbally, staff will also make a detailed account on BehaviourWatch of what they have seen, observed or heard. The member of staff who noted and raised the concern is known as the ‘alerter’; adult social care or the police may wish to speak to the ‘alerter’ at some point. If more than one member of staff was present, each must make their own report on BehaviourWatch.

### **Recording**

The keeping of accurate and prompt recording is fundamental to effective safeguarding and all staff have a responsibility to ensure all concerns are recorded appropriately.

The adult safeguarding facility within BehaviourWatch ensures that the following information is secured. If for some reason an individual with concerns is not able to access BehaviourWatch (a visiting professional for example) they should make a written record of their concern which should include;

- Who they have concerns about (name of adult at risk).
- In the view of the staff member does the adult at risk have the capacity to understand the concerns and that they may have been abused.
- What has been shared with the adult at risk about the concerns and what response have they made.
- If the adult at risk has capacity to understand the involvement of other agencies, what have they said about this.
- Date and time they are making the record.
- Date and time the incident occurred (if this is known).
- What was observed, heard or noted that led to the concern being raised.
- Source of information (if the concern was not directly observed i.e., a parent informs a member of staff that he/ she has seen abuse indicators).
- Behavioural observations (noting that this is one of the most likely ways in which a member of staff is likely to note concerns).
- If an adult at risk has made an allegation or disclosure, what was said or communicated.
- Which senior manager within Ambitious about Autism/Ambitious about Autism Schools Trust has been reported to (in line with these procedures) and what initial actions were agreed.
- This record must be signed and time/dated by the person making the recording and the DSL in the school.

When reporting a concern to home and host the Local Authority, the DSL will inform the Local Authority that a written record of the concern is available and will e-mail details of the concerns to

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the Local Authority if requested. Any details in relation to the adult concerned must be communicated in a secure way in line with our Data Protection Policy.

If at any stage TreeHouse School or the Local Authority decide that no further action is to be taken, then the reason for this and who made the decision will be recorded.

All subsequent actions/events following the reporting of a concern should be recorded on BehaviourWatch as should any documentation received from the Local Authority, police or other agencies.

## 5. Confidentiality and storage of safeguarding concerns

DSLs in our education settings have responsibility to ensure all concerns within the school are recorded, monitored and secured.

The responsibility for concerns that are not about students at the school are recorded, monitored, and secured is the responsibility of the Charity DSL.

All concerns saved on BehaviourWatch are accessible only to the designated staff, including the DSL, the Head of School, Director of Education, CEO, system administrators and other internal staff members only when it is required for them to have access to these files, as determined by the DSL. Access to BehaviourWatch is monitored on tiered access levels, that allow sections of the system to be shared only when required.

Any paper records will be kept in a locked cabinet and in a secure place within the main school buildings.

Records will not be taken off the site without the express written permission of the Director of Education. Access to these records will be strictly limited on a need-to-know basis and controlled by the DSL, Director of Education and the Chief Executive.

Where anyone other than the DSLs and Director of Education need access to the paper or digital records relating to an adult at risk, this will be recorded in the chronology. If records are sent outside of the organisation, then the records would be password protected and/or sent via an encrypted email system such as Egress Switch.

Electronic records relating to safeguarding concerns including e-mails and reports will be saved into the adult's safeguarding record on BehaviourWatch. Electronic records relating to staff around safeguarding concerns for staff will be held, securely, in the staff members HR file.

Safeguarding records will be kept separately from education files/ records. If a student transfers to another service, TreeHouse School will provide the new setting with a summary of any outstanding concerns and the names/contact details of key professional from other agencies who are aware of the concerns. Wherever possible, this will be with the knowledge and consent of the service user who is the subject of the data; however, under GDPR and the Data Protection Act 2018, TreeHouse School may share the information without consent if in our judgement this is necessary to protect an adult from abuse or harm.

Adults at risk with capacity may request access to anything that is recorded about them. Therefore, anyone recording safeguarding issues should consider this and ensure that records are factual and clear and, where opinion is expressed, it should be recorded as such and distinguished from fact.

### Initial fact finding

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It is reasonable to check some basic facts prior to alerting other professionals. The DSL will always lead on initial fact finding. They may delegate specific tasks of the initial fact finding to staff unrelated to the concerns. Initial fact finding should involve checking files and recent records and clarifying basic facts with key staff including the member of staff who raised the concern, as well as discretely asking other staff who have had recent contact with the adult to ascertain if they have any issues or concerns.

Initial fact finding should never involve asking an adult at risk to discuss the concerns or repeat a disclosure or allegation that has been made.

Initial fact finding can lead to the DSL deciding that there are no protection concerns that warrant a referral to Adult Social Care or the police. In such circumstances, when no further action is being taken, then the decision needs to be recorded and conveyed to the OL.

**Concern that an adult may be at risk of significant harm by staff, parents, carers or someone known to the adult**

If the concerns and initial fact finding lead to the conclusion that an adult may have been harmed or at risk of significant harm, then the DSL will raise an alert to the Adult Social Care Department in the home and host Local Authority area where the adult at risk lives or in the case of this being a concern about a member of staff then the LA host Borough Adult Social Care Department will be contacted.

**Involving the adult at risk**

It is important that, prior to making a referral to Adult Social Care or the police, timely consideration has been given to the ability of the adult at risk to understand the concerns, and whether they have an ability to give consent to concerns being raised with other agencies. It is likely that one of the first questions that the Local Authority is likely to ask is ‘Does the adult at risk have capacity?’ This refers to capacity as defined under the Mental Capacity Act 2005, which is explained in more detail in Appendix 2.

**In brief:**

It is always essential in safeguarding to consider whether the adult at risk is capable of giving informed consent. If they are, their consent should be sought prior to making a referral. This may be in relation to whether they give consent to:

- An 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.
- A Safeguarding Adults investigation going ahead in response to a concern that has been raised.
- Where an adult at risk, with mental 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. This may present challenges at the school, if the adult also asserts, they do not want their parents or carers to be informed. The person must be given information, 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.

In such circumstance in the above two points, an alert to the Adult Social Care Department must be made. When there are concerns that a crime has been committed, then the police should also

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be informed. An allegation of abuse or neglect of an adult at risk, who does not have capacity to consent on issues about their own safety, will always give rise to action under the Safeguarding Adults process and subsequent decisions made in their best interests will be made in line with the Mental Capacity Act and Mental Capacity Act Code. Section 44 of the Act makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks capacity.

### **Raising an Alert**

Raising an alert with the Adult Social Care Department will require a lot of information to be shared. This should happen without delay by telephone. All London Local Authorities now have forms that will also be required to be completed once the telephone referral has been made. The telephone call will require information sharing, which is detailed in Appendix 4, (Checklist for Preparing to make a referral).

The DSL will inform the OL and Chair of School Governors or other as appropriate. The OL in turn will brief and keep updated the CEO and Chair of Trustees as appropriate.

### **The Local Authority decision to accept or not, the concern of an adult at risk**

Adult safeguarding processes have historically evolved out of serious concerns for adults living in institutional settings; therefore, an Adult Social Care Department may attempt not to accept the nature of the concern, if the abuse is within a family setting. For example, they may attempt to classify the concern as domestic violence. In such circumstances advice should be carefully recorded and any signposting to other agencies followed without delay.

If the concerns are accepted as an adult at risk:

- If the adult at risk has capacity, the home and host Local Authority will arrange to speak with the adult to clarify facts and to find out from them what is happening, discuss the concerns and carry out a risk assessment with them. This will establish if they understand the risk and what help they may need to support them to reduce the risk if that is what they want. The Local Authority will want to be satisfied that the ability to make an informed decision is not being undermined by the harm they are experiencing and is not affected by intimidation, misuse of authority or undue influence, pressure or exploitation, if they decline assistance.
- If the adult at risk does not have capacity, then their capacity will be appropriately assessed as soon as possible; in safeguarding, this is a process that the home and host Local Authority will lead on. If it is established that the adult at risk lacks capacity, feedback will be given by the Local Authority to them and anyone who is acting in their best interests (for example a family member, attorney or court appointed deputy), unless they are implicated in the allegation.

## **6. Strategy meetings**

The Local Authority Adult Social Care Department can decide that there is a need for a strategy meeting. It should be anticipated that a manager will be invited to attend. At the meeting the following should be discussed:

- The wishes of the adult at risk.
- Whether an investigation will take place, and if so, how it should be conducted and by whom.
- A risk assessment.
- An interim protection plan.
- A clear record of the decisions.
- A record of what information is shared.
- An investigation plan with timescales.

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- A communication strategy.

The strategy discussion or meeting should take place before any investigation; the exception to this is if a police investigation is required to gather evidence. TreeHouse School should not begin an investigation prior to a decision by the multi-agency strategy meeting or discussion.

### **Outcomes of strategy meeting**

There are a wide range of possible outcomes that can come from a strategy meeting, these include:

- That the police are going to investigate - The staff member who raised the concern and the DSL are likely to be interviewed. (If the concerns relate to an Ambitious about Autism/Ambitious about Autism Schools Trust staff then they will also be interviewed by the police, and this could be under caution.)
- That the Local Authority is going to investigate - Again the staff member who raised the concern and the DSL are likely to be interviewed.
- That Ambitious about Autism/Ambitious about Autism Schools Trust lead its own internal investigation - under such circumstances the Local Authority will require a range of assurances regarding the protection of adults and the robustness of the process being agreed. There will also be an expectation of full, open and transparent feedback to the Local Authority.

## **7. Investigation**

Guidance on investigations can be found in the London Multi Agency Adult Safeguarding Policy and Procedures (June 2019).

## **8. Case Conference**

Following any investigation, a case conference is convened by the Local Authority.

The aim of a case conference is to:

- Consider the information contained in the investigating officer’s report(s).
- Consider the evidence and, if substantiated, plan what action is indicated.
- Plan further action if the allegation is not substantiated.
- Plan further action if the investigation is inconclusive.
- Consider what legal or statutory action or redress is indicated.
- Make a decision about the levels of current risks and a judgement about any likely future risks.
- Agree a protection plan.
- Agree how the protection plan will be reviewed and monitored.

### **Possible outcomes for the adult at risk**

- Increased monitoring.
- Removal from property/support, advice, services.
- Assessment/services.
- Application to Court of Protection.
- Application to change appointeeship.
- Referral to advocacy service.
- Referral to counselling services.
- Guardianship/use of Mental Health Act 2007.
- Review of self-directed support.
- Restriction/management of access.

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- Referral to MARAC (London based domestic violence units)
- No further action.
- Other.

**Possible outcomes for the person alleged to have caused harm**

- Criminal prosecution/formal caution.
- Police action.
- Assessment/services.
- Removal from property/support, advice, services.
- Management of access to adult at risk.
- Referral to the Disclosure and Barring Service.
- Disciplinary action.
- Action by OFSTED.
- Continued monitoring.
- Counselling/training.
- Referral to court-mandated treatment.
- Action under Mental Health Act 2007.
- Exoneration.
- No further action.
- Other.

**Protection Plans and reviews**

One outcome of a case conference is the agreement of a protection plan. This could mean that Ambitious about Autism/Ambitious about Autism Schools Trust is requested to provide additional services, monitoring or support as part of the plan. Staff involved with the plan and the adult at risk should have a good understanding as to what the plan involves, and the DSL should have a written copy of the plan.

The protection plan should be reviewed by the convening of a review meeting.

**Closing a safeguarding adults at risk process**

The Safeguarding Adults process may be closed at any stage if it is agreed that an on-going investigation is not needed or if the investigation has been completed and a protection plan is agreed and put in place.

In most cases a decision to close the Safeguarding Adults process is taken at the case conference or at a protection plan review. The Safeguarding Adults process may close, but other processes may continue, for example, a disciplinary or professional body investigation.

**9. Complaints and concerns about school and staff safeguarding practices**

**Complaints against staff**

Complaints against staff that are likely to require an adult protection investigation and will be handled in accordance with our procedures for dealing with allegations of abuse made against staff (see Appendix 6).

**Other complaints**

Concerns raised against the organisation in relation to its handling of safeguarding issues should be referred to the CEO who will raise this with the Chair of Trustees where appropriate.

**Whistleblowing**

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For information on Whistleblowing, please see the Ambitious about Autism/Ambitious about Autism Schools Trust Whistleblowing policy.

## 10. Training

### All staff

All staff members will undertake safeguarding and adult protection training at induction, including on whistleblowing procedures, to ensure they understand our safeguarding systems and their responsibilities, and can identify signs of possible abuse, neglect or safeguarding issues. This training will be regularly updated, at least annually and will be in line with advice from our local safeguarding adult partnership.

All staff will have training on the government's anti-radicalisation strategy, PREVENT, to enable them to identify students at risk of being drawn into terrorism and to challenge extremist ideas. Staff will also receive regular safeguarding and adult protection updates (for example, through emails, e-bulletins and staff meetings) as required, but at least annually.

### The DSL and deputies

The DSL and deputy DSLs will undertake adult protection and safeguarding training at least every two years.

In addition, they will update their knowledge and skills at regular intervals and at least annually (for example, through e-bulletins, meeting other DSLs, or taking time to read and digest safeguarding developments).

They will also undertake PREVENT awareness training at least every three years.

### Governors

All Trustees and Governors receive annual training about safeguarding, to make sure they have the knowledge and information needed to perform their functions and understand their strategic responsibilities as outlined in KCSiE part 2.

### Recruitment – interview/appointment panels

At least one person on any interview/appointment panel for a post at the school will have undertaken Safer Recruitment in Education training. This will cover, as a minimum, the contents of the Department for Education's statutory guidance, and be in line with local safeguarding procedures.

### Staff who have contact with students and families

All staff who have contact with students and families will have half termly supervisions which will provide them with support, coaching and training, promote the interests of students and allow for confidential discussions of sensitive issues.

## 11. Other issues

### Restraint and physical abuse

Unlawful or inappropriate use of restraint or physical intervention and/or deprivation of liberty is physical abuse. In extreme circumstances, unlawful or inappropriate use of restraint may constitute a criminal offence. TreeHouse School has a restraint reduction strategy, a Behaviour Policy and a Restrictive Physical Intervention Policy outlining the use of physical interventions and restraint incorporating best practice guidance and the Mental Capacity (Amendment) Act 2019, Mental Capacity Act *Code* and the Deprivation of Liberty Safeguards (DoLS) in respect of adults. Appendix 2 goes into more detail on mental capacity and safeguarding.

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## 12. Links with other policies

This policy links to the following policies and procedures:

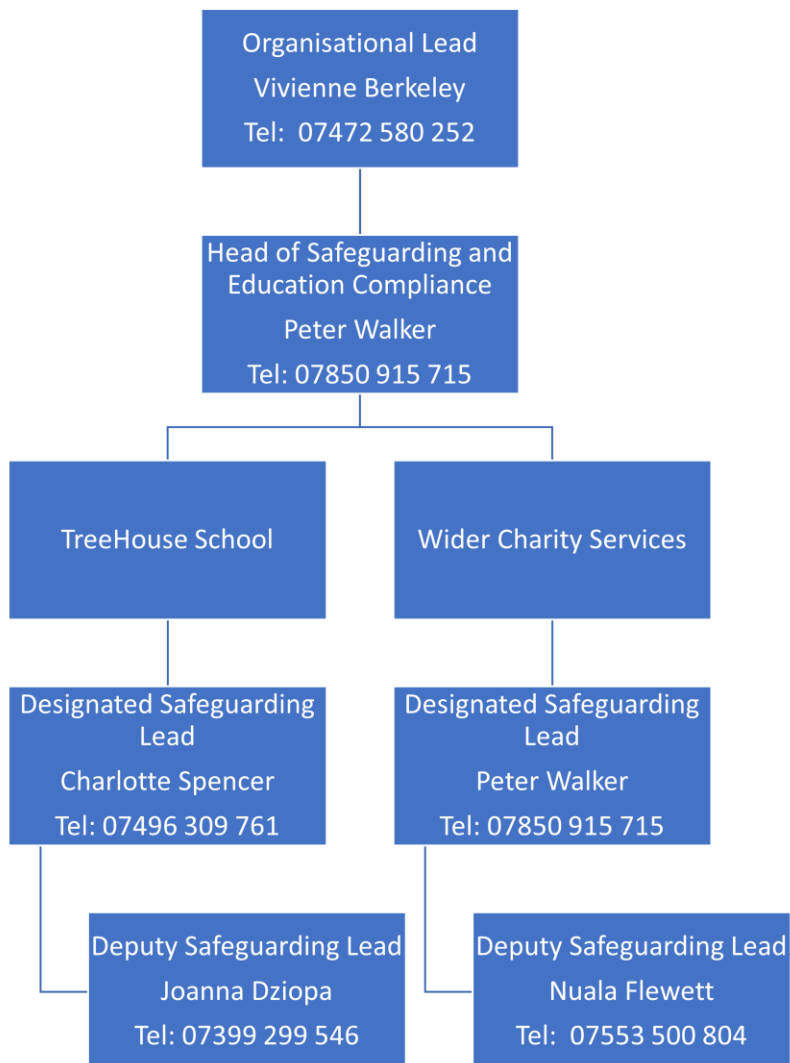
- Adult at Risk Safeguarding and Protection Policy
- Restrictive Physical Intervention
- Behaviour
- Code of conduct
- Selection and Recruitment
- Compliments and Complaints
- Data Protection
- Health and Safety
- Attendance
- E-safety
- PSHE and RSE
- Healthcare and First Aid
- Teaching, Learning and Assessment
- Curriculum Statement
- Privacy notices
- Whistleblowing
- Mental Health and Wellbeing of Autistic Children and Young People
- Preventing Extremism and Radicalisation.

## 13. Monitoring arrangements

This procedure and the linked Policy will be reviewed **annually** by the Director of Education. At every review, it will be approved by the Education Committee and will be provided to the Governing Body for information.

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## Appendix 1: Designated Safeguarding Leads



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## Appendix 2: Outline to the Mental Capacity Act and Safeguarding

### Mental capacity

The presumption in the Act is that adults have mental capacity to make informed choices about their own safety and how they live their lives. Issues of mental capacity and the ability to give informed consent are central to decisions and actions in Safeguarding Adults. 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.

This includes their ability:

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

The Mental Capacity Act 2005 provides a 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. This applies whether the decisions are life-changing events or everyday matters. All decisions taken in the Safeguarding Adults process must comply with the Act. The Act says that: '... a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an 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 as muscle movements, blinking an eye or squeezing a hand).

Mental capacity is time and decision specific. This means that a person may be able to make some decisions but not others at a particular point in time. For example, a person may have the capacity to consent to simple medical examination but not to major surgery. Their ability to make a decision may also fluctuate over time.

### Principles of the Mental Capacity Act 2005

Any person from the age of 16 (the age at which the Mental Capacity Act applies) 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 proved (on a balance of probabilities) otherwise:

- Adults at risk must receive all appropriate help and support to make decisions before anyone concludes that they cannot make their own decisions
- Adults at risk have the right to make decisions that others might regard as being unwise or eccentric and a person cannot be treated as lacking capacity for these reasons.

Decisions made on behalf of a person who lacks mental capacity must be done in their 'Best Interests' and on the basis of a 'Reasonable Belief' and should be the least restrictive of their basic rights and freedoms.

### Ill treatment and wilful neglect

An allegation of abuse or neglect of an adult at risk who does not have capacity to consent on issues about their own safety will always give rise to action under the Safeguarding Adults process and subsequent decisions made in their best interests in line with the Mental Capacity Act and Mental Capacity Act Code as outlined above. Section 44 of the Act makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks capacity.

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## Consent

It is always essential in safeguarding to consider whether the adult at risk is capable of giving informed consent. If they are, their consent should be sought. This may be in relation to whether they give consent to:

- An 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.
- A Safeguarding Adults investigation may go ahead in response to a concern that has been raised. 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 person 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, also;

The recommendations of an individual protection plan being put in place:

- A medical examination.
- An interview.
- Certain decisions and actions taken during the Safeguarding Adults process with the person or with people who know about their abuse and its impact on the adult at risk.

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 at risk.
- There is a duty of care to intervene, for example, a crime has been or may be committed.

## Deprivation of Liberty Safeguards (DoLS)

DoLS, which is integrated as an amendment into the Mental Capacity Act (as a result of the so called Bournemouth Judgment), apply to people from the age of 18 who have a mental disorder and who do not have mental capacity to consent to their liberty being restricted or removed.

At present the obtaining of local authorisation to deprive someone who lacks capacity of their liberty is reserved to those in a hospital, residential setting and, since new case law made in 2014, to supported living settings. Other regulated settings such as schools and colleges are expected to be aware of the principles of the Safeguards. Care homes must make applications to a Local Authority for authorisation to deprive someone of their liberty if they believe it is in their best interest. Hospitals must similarly make requests to their Clinical Care Group (CCG). Where the grounds are met for the authorisation, the authorising body may issue a certificate lasting up to 12 months, thereby lawfully permitting the deprivation of liberty of that individual. All decisions on care and treatment must comply with the Mental Capacity Act and the Mental Capacity Act Code.

The Care Quality Commission (CQC) has also issued guidance for providers of registered care and treatment services on DoLS. Reference should be made to the relevant Local Authority or health trust/CCG for procedures relating to DoLS. The fundamental test rests upon whether depriving an adult of their liberty is consistent with a best interest's decision.

It is to be noted that in any other setting, such as a college or a day care setting, authority to deprive an individual who lacks capacity of their liberty can ONLY be authorised by the Court of Protection. A deprivation of liberty in the absence of a Deprivation of Liberty certificate or an order from the Court of Protection would be likely to be regarded as a criminal offence.

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The threshold at which the degree of control of an individual may be regarded as being a deprivation of liberty is defined by case law (so may change) and is confined to: using force to admit someone who lacks capacity to an institution, complete and effective control over care and movement, control over contacts and residence, preventing someone electively leaving a setting, refusal to permit carers to remove the person from a setting, denial of social contacts and where autonomy is lost through continuous supervision and control.

### **Advocates**

The Local Authority lead should consider whether an adult at risk may benefit from the support of an independent advocate. There are two distinct types of advocacy – instructed and non-instructed – and it is important that people involved in the Safeguarding Adults process are aware of which type of advocate is representing the person and supporting them to express their views. Instructed advocates take their instructions from the person they are representing. For example, they will only attend meetings or express views with the permission of that person.

Non-instructed advocates work with people who lack capacity to make decisions about how the advocate should represent them. Non-instructed advocates independently decide how best to represent the person. Advocates should be invited to the strategy meeting or case conference, either accompanying the adult at risk or attending on their behalf, to represent the person’s views and wishes. Instructed advocates would attend only with the permission of the adult at risk.

### **Independent mental capacity advocates (IMCAs)**

IMCAs provide one type of non-instructed advocacy. Their role was established by the Mental Capacity Act 2005 to provide a statutory safeguard mainly for people who lack capacity to make important decisions and who do not have family or friends who can represent them to do so. IMCAs have a statutory role in the Safeguarding Adults process.

There is a legal requirement to make a decision about instructing an IMCA for an adult at risk who is the focus of Safeguarding Adults processes where they lack capacity to make decisions about their safety. IMCA instruction may be unnecessary if the adult at risk has adequate alternative independent representation. This could be from another advocate, or from family or friends. It is good practice for the Local Authority lead to make a decision about the need for IMCA instruction and, if required, to make the instruction to the local IMCA provider. Before making an instruction to an IMCA for Safeguarding Adults, it is necessary to assess the person as lacking capacity for consenting to at least one protective measure which is either being considered or has been put in place. Examples of protective measures may include (but are not limited to):

- Restrictions on contact with certain people
- Temporary or permanent moves of accommodation
- The police interviewing the person or collecting forensic evidence which may support a prosecution
- Increased support or supervision
- An application to the Court of Protection
- Restrictions on accessing specific services and/or places
- Access to counselling or psychology with the aim of reducing the risk of further abuse.

### **Court of Protection**

The Court of Protection deals with decisions and orders affecting people who lack capacity. The court can make major decisions about health and welfare, as well as property and financial affairs. The court has powers to:

- Decide whether a person has capacity to make a particular decision for themselves.
  - Make declarations, decisions or orders on financial and welfare matters affecting people who lack capacity to make such decisions.
  - Appoint deputies to make decisions for people lacking capacity to make those decisions.

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- Determine DoLS matters where certification is not permitted.
- Decide whether a lasting power of attorney or an enduring power of attorney is valid.
- Remove deputies or attorneys who fail to carry out their duties.

In most cases decisions about personal welfare will be able to be made legally without making an application to the court, as long as the decisions are made in accordance with the core principles set out in the Mental Capacity Act 2005 and the best interests checklist and any disagreements can be resolved informally.

However, it may be necessary and desirable to make an application to the court in a safeguarding situation where there are:

- Particularly difficult decisions to be made
- Disagreements that cannot be resolved by any other means
- On-going decisions needed about the personal welfare of a person who lacks capacity to make such decisions for themselves
- Matters relating to property and/or financial issues that need to be resolved
- Serious healthcare and treatment decisions, for example, withdrawal of artificial nutrition or hydration
- Concerns that a person should be moved from a place where they are believed to be at risk
- Concerns or a desire to place restrictions on contact with named individuals because of risk or where proposed Safeguarding Adults actions may amount to a deprivation of liberty outside of a care home, supported living setting or hospital.

### **Office of the Public Guardian (OPG)**

The OPG was established under the Mental Capacity Act to support the Public Guardian and to protect people lacking capacity by:

- setting up and managing separate registers of lasting powers of attorney, of enduring powers of attorney and of court-appointed deputies
- supervising deputies
- sending Court of Protection visitors to visit people who lack capacity and also those for whom it has formal powers to act on their behalf
- receiving reports from attorneys acting under lasting powers of attorney and deputies
- providing reports to the Court of Protection the OPG may be involved in Safeguarding Vulnerable Adults in a number of ways, including:
  - promoting and raising awareness of legal safeguards and remedies, for example, lasting powers of attorney and the services of the OPG and the Court of Protection
  - receiving reports of abuse relating to vulnerable adults ('whistle blowing')
  - responding to requests to search the register of deputies and attorneys (provided free of charge to local authorities and registered health bodies)
  - investigating reported concerns, on behalf of the Public Guardian, about the actions of a deputy or registered attorney, or someone acting under a single order from the court
  - Working in partnership with other agencies, including adult care social services and the police.

### **Investigations undertaken by the OPG**

The OPG can carry out an investigation into the actions of a deputy, of a registered attorney (lasting powers of attorney or enduring powers of attorney) or someone authorised by the Court of Protection to carry out a transaction for someone who lacks capacity, and report to the Public Guardian or the court.

How the investigation is carried out will depend on the particular circumstances but will typically involve contact with people and agencies that have contact with the person.

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Family and friends and other relevant people who are not implicated in the allegation of abuse often have an important part to play in the Safeguarding Adults process and provide valuable support to the individual and to manage the risk. If appropriate and possible, and where the adult at risk has mental capacity and gives their consent and there are no evidential constraints; family and friends should be consulted. If the adult does not have mental capacity, family and friends must be consulted under the Mental Capacity Act 2005.

### **Vital interest**

If the adult at risk has the mental capacity to make informed decisions about their safety and they do not want any action to be taken, this does not preclude the sharing of information under Safeguarding Adults procedures with relevant professional colleagues. This is to enable professionals to assess the risk of harm and to be confident that the adult at risk is not being unduly influenced or intimidated and is aware of all the options. This will also enable professionals to check the safety and validity of decisions made. It is good practice to inform the adult at risk that this action is being taken unless doing so would increase the risk of harm.

### **Best interest**

If an adult at risk lacks capacity to make informed decisions about maintaining their safety and they do not want any action to be taken, professionals have a duty to act in their best interests under the Mental Capacity Act 2005. This would automatically trigger a Safeguarding Adults referral.

### **Public interest**

If the adult at risk has the mental capacity to make informed decisions about maintaining their safety and they do not want any action to be taken, practitioners have a duty to share the information with relevant professionals to prevent harm to others. This will automatically trigger a Safeguarding Adults referral.

### **Personal decisions**

The adult at risk will have views about what is an acceptable level of risk to them and about balancing the risks in order to maintain the lifestyle or contacts they wish. There may be a balance to be struck between the benefits of achieving safety and the loss of contact with someone whom they value. A person with mental capacity may choose to live in a situation which is seen as unsafe by professionals, if the alternatives they are being offered are unacceptable to them. They do not, however, have a right to make decisions about the protection other people may need where they may also be at risk from the same person, service or setting.

Adults at risk need to be able to make informed choices from the information they are given. In order to do this, they may need support in a variety of ways such as the help of a family member or friend (as long as they are not the person alleged to have caused the harm), an advocate or IMCA, a language interpreter or other communication assistance or aid.

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### Appendix 3: Local Authority Adult Social Care useful numbers

The below details are for the host local authorities for TreeHouse School. Note if your concerns are about the possible abuse of an adult in their own home, then the call will need to be made to the home Local Authority adult social care service where they reside.

#### Haringey Adult Social Care useful numbers:

If the concern is about an adult who lives in Haringey or about the possibly abusive conduct and behaviour of staff of TreeHouse School, then the following numbers should be used:

If the danger is immediate, always call the police on their emergency number	999
Safeguarding Adults Referral and Advice Line (office hours)	020 8489 1400
Safeguarding Adults Referral and Advice Line (out of hours)	020 8489 0000
Community Safety and Engagement Team	020 8489 1335
Police - Criminal Investigation Department (CID) (evenings and weekends)	020 8345 0832

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## Appendix 4: Checklist for preparing to make a referral

### Details of the referrer

- Name, address and telephone number
- Relationship to the adult at risk
- Name of the person raising the alert if different

### Details of the adult at risk

- Name(s), address and telephone number.
- Date of birth, or age.
- Details of any other members of the household including children
- Information about the primary care needs of the adult, that is, disability or illness
- Funding authority, if relevant
- Ethnic origin and religion
- Sex identification (including transgender and sexuality)
- Communication needs of the adult at risk due to sensory or other impairments including any interpreter or communication requirements
- Whether the adult at risk knows about the referral
- Whether the adult at risk has consented to the referral and, if not, on what grounds the decision was made to refer
- What is known of the person's mental capacity and their views about the abuse or neglect and what they want done about it (if that is known at this stage)?
- Details of how to gain access to the person and who can be contacted if there are difficulties

### Information about the abuse, neglect or physical harm

- How and when did the concern come to light?
- When did the alleged abuse occur?
- Where did the alleged abuse take place?
- What are the details of the alleged abuse?
- What impact is this having on the adult at risk?
- What is the adult at risk saying about the abuse?
- Are there details of any witnesses?
- Is there any potential risk to anyone visiting the adult at risk to find out what is happening?
- Is a child (under 18 years) at risk?

### Details of the person causing the harm (if known)

- Name, age and sex identification.
- What is their relationship to the adult at risk?
- Are they the adult at risk's main carer?
- Are they living with the adult at risk?
- Are they a member of staff?
- What is their role?
- Are they employed through a personal budget?
- Which organisation are they employed by?
- Are there other people at risk from the person causing the harm?

### Any immediate actions that have been taken

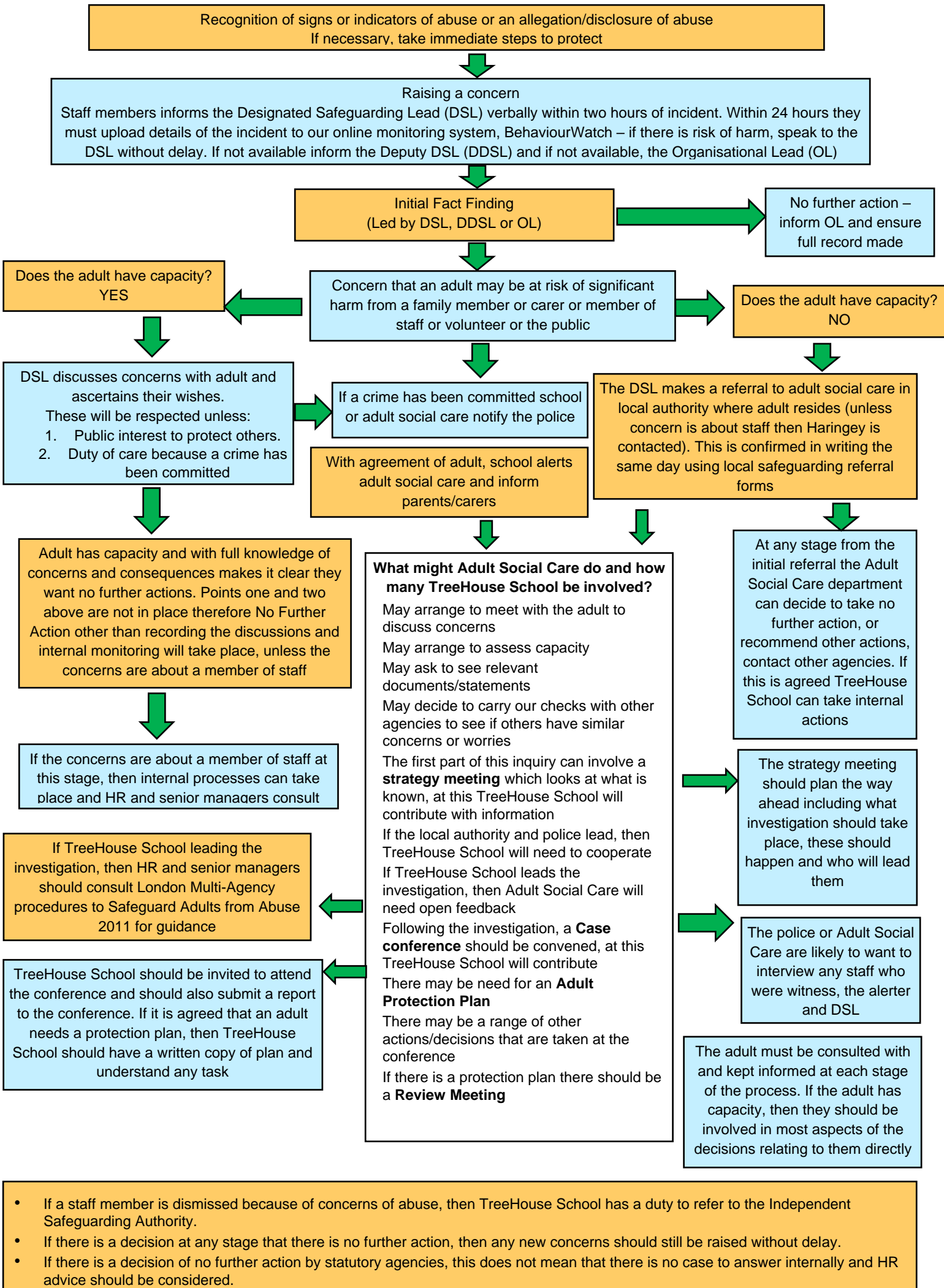
- Were emergency services contacted? If so, which?
- What action was taken?
- What is the crime number if a report has been made to the police?

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- Details of any immediate plan that has been put in place to protect the adult at risk from further harm
- Have children's services been informed if a child (under 18 years) is a risk?

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## Appendix 5: Responding to concerns that an adult may be being abused or neglected



## Appendix 6: Allegations of abuse made against staff

This section of this policy applies to all cases in which it is alleged that a current member of staff, including beneficiaries who receive involvement fees and/or expenses has:

- Behaved in a way that has harmed a student, or may have harmed a student, or
- Possibly committed a criminal offence against or related to a student, or
- Behaved towards a student in a way that indicates he or she may pose a risk of harm to students.

It applies regardless of whether the alleged abuse or behaviour took place in the school.

Allegations against a teacher who is no longer teaching and historical allegations of abuse will be referred to the police.

We will deal with any allegation of abuse against a member of staff very quickly, in a fair and consistent way that provides effective adult protection while also supporting the individual who is the subject of the allegation.

Our procedures for dealing with allegations will be applied with common sense and good judgement.

### Suspension

Suspension will not be the default position and will only be considered in cases where there is reason to suspect that a student(s) is/are at risk of harm, or the case is so serious that it might be grounds for dismissal. In such cases, we will only suspend an individual if we have considered all other options available and there is no reasonable alternative. Based on an assessment of risk, we will consider alternatives such as:

- Redeployment within the school so that the individual does not have direct contact with the student(s) concerned.
- Providing an assistant to be present when the individual has contact with students.
- Redeploying the individual to alternative work in the school so that they do not have unsupervised access to students.
- Moving the student(s) to classes where they will not come into contact with the individual, making it clear that this is not a punishment and parents have been consulted.
- Working from home

### Definitions for outcomes of allegation investigations

**Substantiated:** there is sufficient evidence to prove the allegation

**Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive

**False:** there is sufficient evidence to disprove the allegation

**Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation (this does not imply guilt or innocence)

**Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made

### Procedure for dealing with allegations.

In the event of an allegation that meets or appears to meet the criteria above:

- The Head of School will immediately inform the Director of Education and the Chair of Governors.
- The Director of Education as the Organisational Lead will inform the CEO.

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- If the allegation is likely to be considered a Serious Incident the CEO will inform the Trustee responsible for safeguarding and a report to the Charity Commission undertaken. The Charity DSL is responsible for completing the report to the Charity Commission.
- A 'case manager' will be allocated by the Head of School (they must be a trained DSL and a member of the Senior Leadership Team). The case manager will:
  - Immediately discuss the allegation with the designated officer at the home and host Local Authority (the LADO). This is to consider the nature, content and context of the allegation and agree a course of action, including whether further enquiries are necessary to enable a decision on how to proceed, and whether it is necessary to involve the police and/or adult's social care services. (The case manager may, on occasion, consider it necessary to involve the police *before* consulting the LADO – for example, if the accused individual is deemed to be an immediate risk to student(s) or there is evidence of a possible criminal offence. In such cases, the case manager will notify the LADO as soon as practicably possible after contacting the police).
  - Advise the People Team Business Partner.
  - Inform the accused individual of the concerns or allegations and likely course of action as soon as possible after speaking to the designated officer (and the police or adult's social care services, where necessary).
  - Where the police and/or adult's social care services are involved, the case manager will only share such information with the individual as has been agreed with those agencies.
  - Where appropriate (in the circumstances described above), carefully consider whether suspension of the individual from contact with students at the school is justified or whether alternative arrangements such as those outlined above can be put in place. Advice will be sought from the LADO, police and/or adult's social care services, as appropriate.
  - **If immediate suspension is considered necessary**, agree and record the rationale for this with the LADO. The record will include information about the alternatives to suspension that have been considered, and why they were rejected. Written confirmation of the suspension will be provided to the individual facing the allegation or concern within one working day, and the individual will be given a named contact at the school and their contact details.
  - **If it is decided that no further action is to be taken** in regard to the subject of the allegation or concern, record this decision and the justification for it and agree with the LADO what information should be put in writing to the individual and by whom, as well as what action should follow both in respect of the individual and those who made the initial allegation.
  - **If it is decided that further action is needed**, take steps as agreed with the LADO to initiate the appropriate action in school and/or liaise with the police and/or adult's social care services as appropriate.
  - Provide effective support for the individual facing the allegation or concern, including appointing a named representative from the senior team to keep them informed of the progress of the case and consider what other support is appropriate. Staff can contact our Employee Assistance Programme, CiC Tel 0800 085 1376, +4407 938 0963 outside of the UK, or log onto the portal [well-online.co.uk](https://www.well-online.co.uk).
  - Inform the parents or carers of the student(s) involved about the allegation as soon as possible if they do not already know (following agreement with adult's social care services and/or the police, if applicable). The case manager will also inform the parents or carers of the requirement to maintain confidentiality about any allegations made against teachers (where this applies) while investigations are ongoing. Any parent or carer who wishes to have the confidentiality restrictions removed in respect of a teacher will be advised to seek legal advice.

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- Keep the parents or carers of the student(s) involved informed of the progress of the case and the outcome, where there is not a criminal prosecution, including the outcome of any disciplinary process (in confidence).
- If the allegation is founded make a referral to the DBS where it is thought that the individual facing the allegation or concern has engaged in conduct that harmed or is likely to harm a student, or if the individual otherwise poses a risk of harm to a student.

If the school is made aware that the Secretary of State has made an interim prohibition order in respect of an individual, we will immediately suspend that individual from teaching, pending the findings of the investigation by the Teaching Regulation Agency (TRA).

Where the police are involved, wherever possible Ambitious about Autism/Ambitious about Autism Schools Trust will ask the police at the start of the investigation to obtain consent from the individuals involved to share their statements and evidence for use in the school's disciplinary process, should this be required at a later point. The same will be requested where adult's social care are undertaking s47 enquiries.

### Timescales

- Any cases where it is clear immediately that the allegation is unsubstantiated or malicious will be resolved within one week.
- If the nature of an allegation does not require formal disciplinary action, we will institute appropriate action within three working days.
- If a disciplinary hearing is required and can be held without further investigation, we would usually hold this within 15 working days.

### Specific actions following a criminal investigation or prosecution

The case manager will discuss with the home and host Local Authority designated officer whether any further action, including disciplinary action, is appropriate and, if so, how to proceed, taking into account information provided by the police and/or adult's social care services.

### Conclusion of a case where the allegation is substantiated

If the allegation is substantiated and the individual is dismissed or the school ceases to use their services, or the individual resigns or otherwise ceases to provide their services, the case manager and Ambitious about Autism's People Team Business Partner will discuss with the LADO and referrals will be made to DBS when the organisation believes a person has caused harm or poses a future risk of harm to vulnerable groups, including children.'

If the individual concerned is a member of teaching staff, the case manager and personnel adviser will discuss with the LADO whether to refer the matter to the TRA to consider prohibiting the individual from teaching. A referral would be appropriate if the alleged misconduct is so serious that it warrants a decision on whether the teacher should be prevented from teaching.

### Individuals returning to work after suspension

If it is decided on the conclusion of a case that an individual who has been suspended can return to work, the case manager will consider how best to facilitate this.

The case manager will also consider how best to manage the individual's contact with the student(s) who made the allegation, if they are still attending the school.

### Unsubstantiated or malicious allegations

If an allegation is shown to be deliberately invented, or malicious, the Head of School or other appropriate person in the case of an allegation against the Head of School, will consider whether

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any disciplinary action is appropriate against the student(s)/learner(s)/staff who made it, or whether the police should be asked to consider whether action against those who made the allegation might be appropriate, even if they are not a student or learner.

### **Confidentiality**

The school will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The case manager will take advice from the LADO, police and adult's social care services, as appropriate, to agree:

- Who needs to know about the allegation and what information can be shared.
- How to manage speculation, leaks and gossip, including how to make parents or carers of a student(s) involved aware of their obligations with respect to confidentiality.
- What, if any, information can be reasonably given to the wider community to reduce speculation.
- How to manage press interest if, and when, it arises.

### **Record-keeping**

The case manager will maintain clear records about any case where the allegation or concern meets the criteria above and store them on the individual's confidential personnel file for the duration of the case. Such records will include:

- A clear and comprehensive summary of the allegation.
- Details of how the allegation was followed up and resolved.
- Notes of any action taken, and decisions reached (and justification for these, as stated above).

If an allegation or concern is not found to have been malicious, the school will retain the records of the case on the individual's confidential personnel file and provide a copy to the individual. We will normally retain these records at least until the individual has reached normal pension age, or for 10 years from the date of the allegation if that is longer. However, for the duration of an inquiry into an incident it is unlawful to destroy any records that may be called as evidence to the inquiry; as a result, the records relating to any allegation of sexual harm will be retained for the duration of the inquiry, regardless of the outcome.

The records of any allegation that is found to be malicious will be deleted from the individual's personnel file, unless they fall within the scope of an inquiry as described above.

### **References**

When providing employer references, we will not refer to any allegation that has been proven to be false, unsubstantiated, or malicious, or any history of allegations where all such allegations have been proven to be false, unsubstantiated or malicious.

### **Learning lessons**

At the conclusion of any case, we will review the circumstances of the case using a 'lessons learnt' approach to determine whether there are any improvements that we can make to the school's procedures or practice to help prevent similar events in the future.

This will include consideration of (as applicable):

- Issues arising from the decision to suspend the member of staff.
- The duration of the suspension.
- Whether or not the suspension was justified.

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- The use of suspension when the individual is subsequently reinstated. We will consider how future investigations of a similar nature could be carried out without suspending the individual.
- Whether there are any training needs or changes to policies/procedures needed.

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