

# Safeguarding Week 2021

21-25 June

MCA across the Key Lines of Enquiry  
(Health & Social Care Staff)  
Hilary Spilsbury – Training Officer for  
East Riding Safeguarding Adults Board



*Safeguarding  
is everybody's  
business*



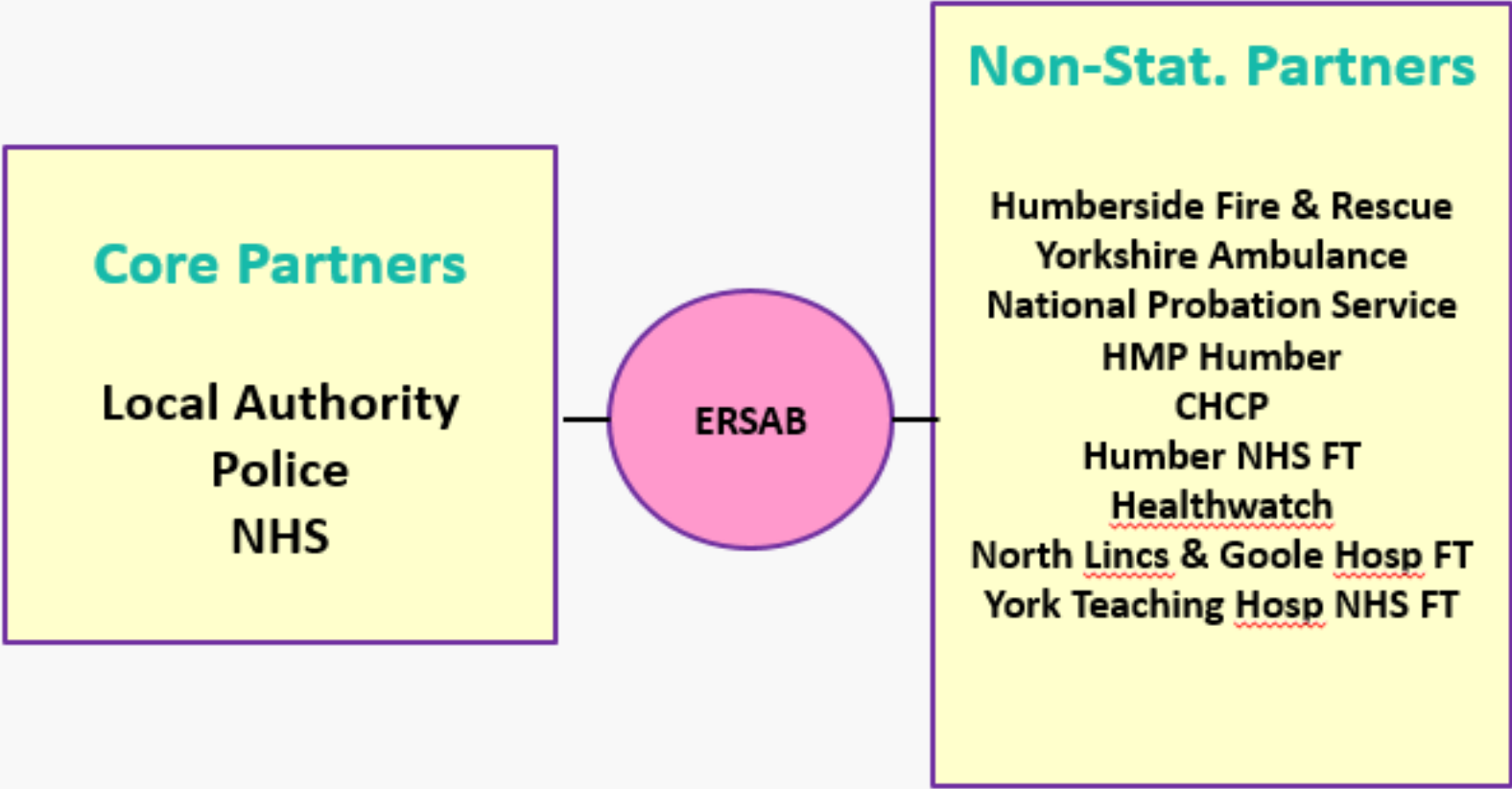
## Housekeeping

- Thank you for attending this event
- We will be starting promptly at 12.00 noon
- Please ensure that your camera and microphone are turned off
- Questions are welcome. Please use the chat function
- We'll be emailing a short evaluation form for your feedback – please take the time to respond

# Safeguarding Adults



## East Riding Safeguarding Adults Board



**Adult Safeguarding is everyone's responsibility**

# Safeguarding Adults



**“The Mental Capacity Act underpins human rights and empowerment for safeguarding practice.**

**The session explores how the Mental Capacity Act is threaded through the Regulatory requirements for Care Providers, with the aim of showing how influential this legislation is in promoting a safeguarding culture.”**

**This aim of the session is to discuss this statement**

# Safeguarding Adults



## Mental Capacity Act 2005 (MCA) introduced in England and Wales in 2007 to:



**Protect the rights of people aged 16 years and over to make their own decisions, as far as they are able**

**Provides a framework for supporting and involving people in making decisions about their own care, treatment and support**

**Make sure any decisions made on behalf of a person who lacks capacity to do so, has regard to their wishes and is made in their best interests**

# Safeguarding Adults



## The 5 Core Principles of the MCA

A person must be **assumed** to have capacity unless it is established that they lack capacity

A person must not be treated as unable to make a decision unless all **practicable** (do-able) steps to help them to do so have been taken without success

A person is not to be treated as unable to make a decision merely because they make an **unwise** decision

An act is done, or decision made, under this Act for or on behalf of a person who lacks capacity, must be done, or made in their **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 as effectively achieved in a way that is **less restrictive** of the person's rights and freedoms of action

# Safeguarding Adults



Safeguarding  
is everybody's  
business

**In May 2019 the Mental Capacity Act was updated:**

## **Mental Capacity (Amendment) Act 2019**

**Deprivation of Liberty Safeguards (DOLS) will stop and the new scheme is called**

### **LIBERTY PROTECTION SAFEGUARDS (LPS)**

**<https://www.gov.uk/government/publications/liberty-protection-safeguards-factsheets>**

**(Due to commence April 2022 – guidance will be issued)**

# Safeguarding Adults



**Underpinning knowledge for practice**

**Mental Capacity Act 2005 -Mandatory Training**

**Care Act 2014 – Well –being, Advocacy & Safeguarding  
Making Safeguarding Personal 2014**

**Equality Act 2010 – Nine protected characteristics**

**Health & Social Care Act 2008 (Regulated Activities)  
Regulations 2014 (Part 3) & Care Quality Commission  
(Registration) Regulations 2009 (Part 4)**



# Safeguarding Adults



## **Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards**

The Mental Capacity Act 2005 sets out what must be done to make sure that the human rights of people who may lack mental capacity to make decisions are protected, including when balancing autonomy and protection in relation to consent or refusal of care or treatment.

CQC is required by law to monitor how the Deprivation of Liberty Safeguards are being used, and to report on what we find.

Inspectors look at restriction and deprivation of liberty during CQC inspections. This can be appropriate but must be undertaken lawfully; inspections will check whether the Mental Capacity Act code of practice was followed properly.

Inspectors will consider this during inspections, and whether providers are monitoring practice to ensure that people's rights and associated legal requirements are being recognised and met. CQC April 2019.

# Safeguarding Adults



## Care Quality Commission

Throughout the pandemic, our regulatory role has not changed. Our core purpose to ensure that the public receive safe, effective, compassionate and high-quality care has remained at the centre of our activities – and this will continue.

**March 2021 Newsletter**

# Safeguarding Adults



Safeguarding  
is everybody's  
business

## 6 Key Principles in Adult Safeguarding

1. Empowerment
2. Prevention
3. Proportionality
4. Protection
5. Partnership
6. Accountability



# Safeguarding Adults



Safeguarding  
is everybody's  
business

## CQC Fundamental Standards

1. Person – centred care
2. Dignity & Respect
3. Consent
4. Safety
5. Safeguarding from abuse
6. Food & Drink
7. Premises & Equipment
8. Complaints
9. Good Governance
10. Staffing
11. Fit & Proper staff
12. Duty of Candour
13. Display of ratings

# Safeguarding Adults



## NICE in the Adult Social Care Sector



Accessed nice.org.uk 24.06.21

# Safeguarding Adults



Safeguarding  
is everybody's  
business

## CQC Key Lines of Enquiry (KLOES)

SAFE

Effective

Caring

Responsive

Well - Led

# Safeguarding Adults



Safeguarding  
is everybody's  
business

SAFE

## Issues Linked to MCA (Reg.13)

S1: How do systems, processes and practices safeguard people from abuse?

S2: How are risks to people assessed, and their safety monitored and managed so they are supported to stay safe and their freedom is respected?

S3: How does the service make sure that there are sufficient numbers of suitable staff to support people to stay safe and meet their needs?

S4: How do you ensure the proper and safe use of medicines?

# Safeguarding Adults



Safeguarding  
is everybody's  
business

SAFE

## Issues Linked to MCA

- Safeguarding training, knowledge & use
- Human rights & freedoms, consent to care & treatment (Reg. 11)
- Timely care that respects dignity
- Assessment & review of risks
- Supporting people/relevant others with information
- Lessons learned from incidents/accidents – Duty of Candour (Reg.20)
- Sufficient staff – for safety & well being
- Safe/ Covert medications & partnership working



# Safeguarding Adults



Safeguarding  
is everybody's  
business

Effective

## Issues Linked to MCA (E7) (Reg. 12/11)

### **E7. Is consent to care and treatment always sought in line with legislation and guidance?**

E7.1 Do staff understand the relevant consent and decision-making requirements of legislation and guidance?

E7.2 How are people supported to make their own decisions in line with relevant legislation and guidance?

E7.3 How and when is possible lack of mental capacity to make a particular decision assessed and recorded?

E7.4 How is the process for seeking consent monitored and reviewed to ensure it meets legal requirements and follows relevant national guidance?

# Safeguarding Adults



Safeguarding  
is everybody's  
business

Effective

## Issues Linked to MCA (E7) (Reg. 12/11)

E7.5 When people lack the mental capacity to make a decision, how do staff ensure that best interests decisions are made in accordance with legislation?

E7.6 How does the service promote supportive practice that avoids the need for physical restraint? Where physical restraint may be necessary, how does the service ensure that it is used in a safe, proportionate, and monitored way as part of a wider person-centred support plan?

E7.7 Do staff recognise when people aged 16 and over, who lack mental capacity, are being deprived of their liberty, and do they seek authorisation to do so when they consider it necessary and proportionate?

# Safeguarding Adults



Safeguarding  
is everybody's  
business

Effective

## Issues Linked to MCA (E7) (Reg. 12/11)

### Care & treatment always sought in line with legislation and guidance

- Social distancing, restrictions, positive behaviour plans
- Person – centred support plans (Reg.9)
- physical restraint: safe, proportionate and monitored, **DOLS**
- Ensuring that you meet the **MCA code of practice** requirements
- Knowledge & skills - Teamwork & Partnership
- EOL: Holistic assessment
- Nutrition (Reg.14), Long term conditions
- **Advance statements, Advance decisions to refuse treatment, Lasting Power of Attorney, Preferred priorities of care**
- Informed Consent ( Reg.11 – need for consent)

# Safeguarding Adults



Safeguarding  
is everybody's  
business

Caring

## Issues Linked to MCA (C 1 &2)

C1: How do you ensure that people are treated with kindness, respect and compassion, and that they are given emotional support when needed?

C2: How does the service support people to express their views and be actively involved in making decisions about their care, support and treatment as far as possible?

# Safeguarding Adults



Safeguarding  
is everybody's  
business

## Caring

### Issues Linked to MCA (C 1 &2) (Reg. 9/10/14)

- Kindness, compassion in their day to day care and support. Privacy, dignity, respect & independence.
- Person centred care plans: preferences, personal histories, backgrounds and potential.
- Feedback from people and families/carers
- Emotional wellbeing/ spiritual needs/ social life/advocates/relationships
- Time, training and support for staff to provide care & support in a compassionate and personal way?
- NB. Best Interest decisions

# Safeguarding Adults



Safeguarding  
is everybody's  
business

Responsive

## Issues Linked to MCA (R 1 & R3)

R1: How do people receive personalised care that is responsive to their needs?

R3: How are people supported at the end of their life to have a comfortable, dignified and pain-free death?

# Safeguarding Adults



Safeguarding  
is everybody's  
business

Responsive

## Issues Linked to MCA (R 1 & R3)

- Accessible information standard (AIS)
- Reasonable adjustments
- Individual needs & involvement in decision making
- Concerns & complaints (R2 & Reg.16) – evidence action
- how are people who raise a complaint or concern protected from harassment, discrimination or disadvantage?
- Personal priorities & outcomes met at EOL
- Partnership working & outreach

# Safeguarding Adults



Safeguarding  
is everybody's  
business

Well - Led

## Issues Linked to MCA (W2/4/5) (Reg.17)

W1. Is there a clear vision and credible strategy to deliver high-quality care and support, and promote a positive culture that is person-centred, open, inclusive and empowering, which achieves good outcomes for people?

W2: How does the governance framework ensure that responsibilities are clear and that quality performance, risks, and regulatory requirements are understood and managed?



# Safeguarding Adults



Safeguarding  
is everybody's  
business

Well - Led

## Issues Linked to MCA (W2/4/5) (Reg.17)

W3. How are the people who use the service, the public and staff engaged and involved?

W4: How does the service continuously learn, improve, innovate and ensure sustainability?

W5: How does the provider work in partnership with other agencies?

# Safeguarding Adults



Safeguarding  
is everybody's  
business

Well - Led

## Issues Linked to MCA (W2/4/5) (Reg.17)

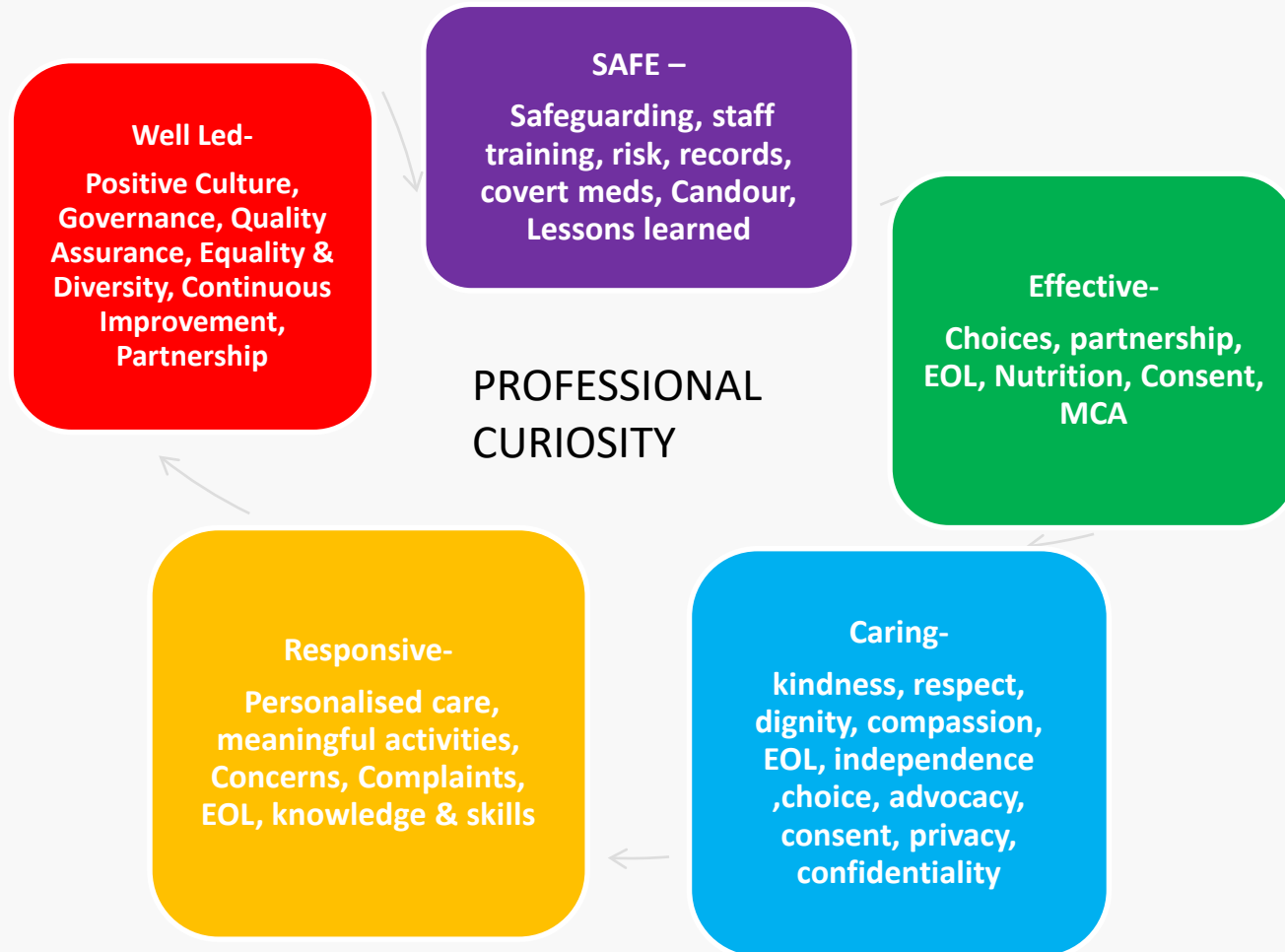
- **Promotion of Positive culture**
- **Governance Framework & Quality Assurance**
- **Regulatory requirements – understood & managed**
- **How are people involved & engaged**
- **Equality & Diversity**
- **Learn, improve, innovate and ensure sustainability – culture of continuous improvement**
- **Partnership working – Services, information, evidence base for care & treatment**

# Safeguarding Adults



Safeguarding  
is everybody's  
business

SUMMARY  
MCA in  
KLOES



# Safeguarding Adults



Safeguarding  
is everybody's  
business

Ensure staff are aware of the **Care Act 2014** guidance. The following document has the three relevant areas: Well – being, Advocacy and Safeguarding

The Department of Health and Social Care Document '**Care and support statutory guidance**': **Updated April 2021**

Access the 'Making Safeguarding Personal' outcome summary sheets (Oct 2017)  
<http://www.ersab.org.uk/making-safeguarding-personal/>

Consider training available locally/nationally on Mental Capacity Act.  
Skills for Care and Social Care Institute for Excellence (SCIE)

Provide staff with access to the Mental Capacity Act **Code of Practice** and sign up for email updates from CQC and Department of Health and Social Care (DHSC) to be aware when changes take place.

Ensure any Deprivation of Liberty orders are up to date and renewed as required. Give good period of notice to DoLs team at the Local Authority and keep records of communication.

# NICE QUICK GUIDES - 2021



# Safeguarding Adults



Safeguarding  
is everybody's  
business

Thank you for Listening

# Any Questions



# Safeguarding Adults



Safeguarding  
is everybody's  
business

## Sources of Information

**Care Quality Commission – [www.cqc.org.uk](http://www.cqc.org.uk) – Guidance for providers**

June 2018 – ASC Key lines of enquiry mapped to CQC

Key lines of enquiry, prompts and ratings characteristics for adult social care services

Transitional monitoring approach: what to expect

**CQC (2021) Protect, Respect, Connect – Living and dying well during covid-19**

**East Riding Safeguarding Adults Board Website – [www.ersab.org.uk](http://www.ersab.org.uk)**

(Provides information, operational policy & procedures, concern forms, Newsletter and e learning package)

Liberty Protection Safeguards:

<https://www.gov.uk/government/publications/liberty-protection-safeguards-factsheets>

**Mental Capacity Act (MCA) 2005 – Code of Practice 2007. (downloadable or hard copy £15) [www.gov.uk](http://www.gov.uk) – put title in search bar**

**National Institute for health & Care Excellence (NICE) Safeguarding Adults in Care Homes. [www.nice.org.uk](http://www.nice.org.uk). NICE Guideline February 2021, ng189, Accessed 24.06.21**

**Social Care Institute for Excellence (SCIE) – [www.scie.org.uk](http://www.scie.org.uk) - Health & Social Care improvement agency and independent charity ( MCA & SAT e learning packages and information)**

**Office of the Public Guardian : The Office of the Public Guardian (OPG) protects people in England and Wales who may not have the mental capacity to make certain decisions for themselves, such as about their health and finance. [www.gov.uk](http://www.gov.uk)**

# Safeguarding Adults



Safeguarding  
is everybody's  
business

## Other Sources of Information

National Institute for Health & Care Excellence (NICE) October 2019  
**'End of life Care: Service delivery'** (NG142)

National Institute for Health & Care Excellence (NICE) February 2021  
**'Safeguarding adults in care homes'** (NG189)

*SCIE & NICE Quick Guides:* ([www.nice.org.uk](http://www.nice.org.uk): quick guides to social care topics)

June 2021 – Good Practice in safeguarding training

April 2021 – Creating a safeguarding culture.

Feb. 2020 – Promoting positive mental well being for older people.

Jan. 2020 – Recognising and responding to domestic violence & abuse