

PSS Shared Lives Guidance

Financial Abuse – Guidance for Shared Lives Schemes and Shared Lives Carers

2019

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Introduction

Shared Lives carers have a difficult and complex role. They are asked to share their lives and their homes with the people they support. At the same time to work in accordance with the key principles of Shared Lives, the requirements of the Support Plan, the Shared Lives Arrangement Agreement and the Shared Lives scheme policies and procedures. Shared Lives carers are expected, therefore, to have both a professional and an informal and caring relationship with the people that they support. Those investigating any allegations need to recognise the tensions that exist between the professional and the informal caring role of the Shared Lives carers. Any judgement about the appropriateness of the boundaries between the Shared Lives carers and the person placed with them, will need to take into account the particular requirements of Shared Lives and the realities of normal family life.

In Shared Lives arrangements the person will be supported to be in control of their life. This includes looking after their own money and managing their financial affairs, whilst maintaining their right to keep these matters private. To reduce the risk of abuse, one of the most important things we can do is give the person information about what is or is not appropriate in different sorts of relationships and to ensure the person has the power to say 'no' when they want and need to. Even people who have mental capacity may not always have the ability to know they are being abused or taken advantage of.

The aim of this guidance is to ensure the safety of people in Shared Lives, to promote safe working practices and to minimise the damage to valued Shared Lives arrangements, where there has been an unfounded allegation of abuse.

Definition

Financial abuse covers a wide variety of activities from mishandling finances to fraud but may broadly be described as a violation of an individual's rights relating to their financial affairs or assets. Anyone can be a victim of financial abuse but particular groups may be especially at risk. Age and specific disabilities may have an impact on the individual's capacity to make decisions which places them at increased risk of abuse.

Section 42 (3) of the Care Act (2014) for England and 197 (1) of the Social Services and Well-being (Wales) Act 2014 states that: '(3) "Abuse" includes financial abuse; and for that purpose "financial abuse" includes (a) having money or other property stolen, (b) being defrauded, (c) being put under pressure in relation to money or other property, and (d) having money or other property misused.'

In Northern Ireland, the Adult Safeguarding - Prevention and Protection in Partnership describes financial abuse as 'actual or attempted theft, fraud or burglary. It is the misappropriation or misuse of money, property, benefits, material goods or other asset transactions which the person did not or could not consent to, or which were invalidated by intimidation, coercion or deception. This may include exploitation, embezzlement, withholding pension or benefits or pressure exerted around wills, property or inheritance'. The Regulation of Care (Scotland) Act 2001 does not specifically mention financial abuse.

Safeguarding in Shared Lives

Multi-agency policies and procedures are designed to ensure that allegations of abuse, in any setting, are investigated properly and sensitively in order to achieve the best possible outcome for the person who is alleged to have been abused. Nevertheless, the experience of many Shared Lives carers is that the investigative procedures can inadvertently damage valued Shared Lives arrangements and that this can be compounded where the investigator does not fully understand the way in which Shared Lives works. It is important then, that the response to an allegation is not in itself abusive and does not damage a valued Shared Lives arrangement beyond repair.

The Local Authority response should be considered and proportionate to the allegation and level of risk involved. They should carefully consider if the person using Shared Lives really needs to move out of the Shared Lives arrangement during an enquiry and if this is what the person wants. There should not be an automatic removal just because there has been a safeguarding alert. The Local Authority need to recognise that in many cases the Shared Lives household represents the person's family home and therefore, if required, the appropriate court procedures should be used to ensure that the person's human rights to home and family life are not violated.

The Shared Lives scheme is required to have an explicit policy and procedure for dealing with Safeguarding concerns, including any of financial abuse. This must be consistent with the multi-agency policy and procedures agreed in the local authority area and with the relevant country standards and regulations applicable to Shared Lives schemes. However, with the limited knowledge and experience of most Local Authorities and Safeguarding Boards of Shared Lives, the Shared Lives scheme manager would do well to pro-actively approach their local contacts to encourage joint working and to ensure that local policies are able to cover Shared Lives situations, thus pre-empting Safeguarding allegations, so that when the time comes they are dealt with appropriately and efficiently. This should include: what constitutes abuse and what would trigger an investigation, the role of each involved party, the co-ordination of the involved organisations and who is responsible for what, at each stage of an investigation. Consideration should also be given to which Local Authority will undertake investigations when people in Shared Lives originate from different areas, or when the Shared Lives carers lives outside the normal catchment area for that Local Authority/organisation.

The Shared Lives scheme will ensure that Shared Lives carers and Shared Lives workers are alert to the possibility of financial abuse and can take action to safeguard the person if necessary. This can be achieved through training, awareness raising and policies and procedures. Training should be Shared Lives specific and ensure that both the Shared Lives carers and workers understand and recognise financial abuse and know how to respond, if they are concerned this may be happening to the person they support. This aspect of their work will continue to be developed and monitored through supervision, review and ongoing training. The Shared Lives carers and workers should have information on the details of the multi-agency, Local Authority and Shared Lives scheme processes, including timescales that will be followed should there be an allegation of abuse; do's and don'ts for safe working practice (particularly if their person does not have mental capacity); a clear code of practice for Shared Lives carers covering gifts, bequests, and confidentiality and sources of advice, help and support should there be an allegation of abuse.

If Shared Lives carers or Shared Lives workers become aware of an incident of financial abuse, or are concerned about the possibility of abuse, they will use their judgement to take any action that is immediately required to protect the person in Shared Lives and/ or meet their immediate needs for assistance and support. They will then report the matter to the Shared Lives scheme manager straight away, or if it is out of office hours, to the Shared Lives schemes' parent organisation's Emergency Duty Team and then follow any further steps contained within the policy/handbook. The person in Shared Lives has a right to lead a life that is free from abuse and neglect, so failure to report an incident or suspicion of abuse could therefore result in disciplinary proceedings for Shared Lives workers and in a review of their approval for the Shared Lives carer.

If the person in Shared Lives is in a situation of actual or potential financial abuse, the Shared Lives scheme will help the person to understand what is taking place and the harm that it may cause. They will also help the person access information about the options that are open to them to stop the abuse. These should be in the most accessible form for each individual and further explained, if needed. If after this, it is felt that the person in Shared Lives does not have the capacity to make informed decisions about this, the scheme will work with them, their family/representative/professionals to make sure decisions and actions are taken in their best interests and in line with the Mental Capacity Act 2005, Adults with Incapacity (2000) Act in Scotland and the Mental Capacity Act (Northern Ireland) 2016.

All incidents or concerns about financial abuse or neglect will be investigated by the Shared Lives Scheme in the first instance, if appropriate. The extent and type of information-gathering or investigation will depend on the assessed risks to the person in Shared Lives, the person's own wishes about this and decisions taken within the Safeguarding Team responsible. In all cases careful records will be kept by the Shared Lives scheme of the process, information gathered, decisions and outcomes. The person in Shared Lives will be kept informed about what is happening throughout this process and about the outcomes. The Local Authority should ensure independent advocacy is available for the person using Shared Lives throughout the process but particularly when it is being considered whether they should move out of the Shared Lives home or back in again.

For more information on supporting people in Shared Lives with their finances and best practices around financial recording please see - Banking – Guidance for people in Shared Lives and their Shared Lives carers (8.02); Appointees and other options for managing the money of people using Shared Lives (8.01) and Financial recording guidance (8.05) for Shared Lives schemes and Shared Lives carers (8.05).

The Shared Lives scheme manager will take responsibility for making sure a referral to the local Safeguarding Board is put in place; also, for informing any other relevant health or social care authorities such as the Care Quality Commission (CQC) / Care Inspectorate Wales (CIW) / The Care Inspectorate for Scotland (SCSWIS) / The Regulation and Quality Improvement Authority (RQIA) for Northern Ireland, as required. The police will always be informed if a crime has been committed or the health, safety or welfare of other vulnerable adults or children is at risk. Any internal investigation will be co-ordinated with a Police and/or Safeguarding Adults investigation, as required. In all cases careful records will be kept by the Shared Lives scheme of the process, information gathered, decisions and outcomes.

The Shared Lives scheme manager will work both internally and externally to ensure that the Shared Lives scheme and the Local Authority best practice procedures and policies are followed. This will include making sure that: -

- the person is safe and consulted on what this means for them
- the risks to the person are properly assessed
- the person can say what action they would like taken, if any
- issues around consent, capacity and confidentiality are considered
- a decision is made about whether to inform the Police
- any risks to other vulnerable adults or children are evaluated and further action taken if necessary
- medical attention is obtained, if necessary
- any forensic evidence is kept, if necessary
- the person's family/representative are informed, if appropriate
- the person's rights to information, advocacy and support are met
- a plan is put in place to safeguard the person in the future

The emotional impact of an allegation of abuse upon the Shared Lives carers should not be underestimated. This will be compounded if Shared Lives carers are given the impression that they have been judged guilty of the allegation from the outset. The Shared Lives scheme has a responsibility to ensure that the Shared Lives carers are properly supported through the investigation that follows an allegation. This is particularly important where the Shared Lives scheme is not itself able to provide that support.

If an allegation is made about a Shared Lives carer(s), the Shared Lives scheme manager will make sure: -

- that a decision is taken about whether that Shared Lives arrangement and any other Shared Lives arrangements with the Shared Lives carer should continue, while the investigation is underway
- that alternative arrangements are made for the person and any other people living in Shared Lives arrangements with the Shared Lives carer, when necessary
- the Shared Lives carer understands their rights in relation to information, advocacy and support during the investigation and how these will be met
- that the Shared Lives carer is supported throughout the safeguarding process
- that a referral is made to the DBS (Disclosure and Barring Service) or Disclosure Scotland, when appropriate
- that the work and approval of the Shared Lives carer is reviewed after the investigation has been completed, if the allegation is upheld

**For more information on what to do after an allegation of abuse please see
Guidance 5.02 - In the case of an allegation of abuse or neglect against a Shared
Lives carer or a member of their household. Also, our Top Tips around
Safeguarding series – for Local Authorities, Shared Lives schemes and Shared
Lives carers.**

Regulatory Requirements

England - Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 -

CQC – Outcome 7: Safeguarding people who use services from abuse

This is one of the core 16 quality and safety standards. (Regulation 11 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010).

'Safeguarding service users from abuse 11.— (1) The registered person must make suitable arrangements to ensure that service users are safeguarded against the risk of abuse by means of— (a) taking reasonable steps to identify the possibility of abuse and prevent it before it occurs; and (b) responding appropriately to any allegation of abuse. (2) Where any form of control or restraint is used in the carrying on of the regulated activity, the registered person must have suitable arrangements in place to protect service users against the risk of such control or restraint being— (a) unlawful; or (b) otherwise excessive. (3) For the purposes of paragraph (1), "abuse", in relation to a service user, means— (a) sexual abuse; (b) physical or psychological ill-treatment; (c) theft, misuse or misappropriation of money or property; or (d) neglect and acts of omission which cause harm or place at risk of harm.'

The Care Inspectorate, or more formally Social Care and Social Working Improvement Scotland (SCSWIS) - Health and Social Care Standards - Standard 4: I have confidence in the people who support and care for me, under the Wellbeing Principle

- '- 3.20 I am protected from harm, neglect, abuse, bullying and exploitation by people who have a clear understanding of their responsibilities.
- 3.21 I am protected from harm because people are alert and respond to signs of significant deterioration in my health and wellbeing that I may be unhappy or may be at risk of harm.
- 3.22 I am listened to and taken seriously if I have a concern about the protection and safety of myself or others, with appropriate assessments and referrals made.'

Care Inspectorate Wales (CIW) register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales. Regulation and Inspection of Social Care (Wales) Act 2016 - this Act supports the aims of the Social Services and Well-being (Wales) Act 2014 which enshrines the rights of people using care and support services into law. For Adult Placement (Shared Lives) services, new regulations will not come in until April 2019.

The Regulation and Quality Improvement Authority (RQIA) is responsible for inspecting the availability and quality of health and social **care** services in **Northern Ireland**. The legislation under which RQIA was established is The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and The Adult Placement Agencies Regulations (Northern Ireland) 2007 also governs their work.

Support available from Shared Lives Plus to Shared Lives schemes and carers

Shared Lives carers

If a Shared Lives carer is a member of Shared Lives Plus they can contact the Shared Lives office on 0151 227 3499 and be directed to the best person to support them in the Carers Support and Development team. If a Shared Lives carer wishes to become a member of Shared Lives Plus and/or purchase the specialist Public Liability Insurance, the office, on the number above, will also be able to provide them with information and the appropriate forms to do this. The Carers Support and Development team at Shared Lives Plus can provide independent advice and support and give information around best practice for Financial Management in Shared Lives.

If a Shared Lives carer is worried about what they are being asked to do, regarding financial support, recording or appointeeship, they should first talk to their Shared Lives worker and then the scheme manager to try and resolve the situation to everyone's satisfaction, including the person in Shared Lives.

If this doesn't bring a solution, there is free access to a legal helpline which a Shared Lives carer can use for advice on any relevant legal issue. There is also legal expenses cover (up to a maximum of £100,000) for a Shared Lives carer if they have an allegation made against them, resulting in them being taken to court and/or the Shared Lives Scheme is seeking to de-approve them as a Shared Lives carer.

Shared Lives schemes

The Support and Quality team are available via email, telephone or at regional meetings to provide information, advice and support to Shared Lives schemes in the UK. There is also the Google Group forum where Shared Lives schemes can pose a question to other Shared Lives schemes and the bi-weekly newsletter that frequently has updates and new guidance. The Support and Quality Team can also liaise with the Carers Support and Development Team to seek a solution to a problem or issue around financial management or recording.

If you have any questions or queries about this Guidance, please contact – your local office