

West Berkshire Shared Lives Carers Guidance - Safeguarding and Deprivation of Liberty Safeguards (DoLS)



Introduction

This document provides guidance to Shared Lives Carers around

- 1- Safeguarding and
- 2- Deprivation of Liberty Safeguards (DoLS) for West Berkshire Council Shared Lives Scheme.

1- Safeguarding against Abuse and Neglect.

Service users have a right to friendships and a variety of other kinds of relationships with people. These are essential for everyone's health and well-being, and are usually positive experiences. However there are sometimes risks associated with being in relationships, including the risk of abuse or neglect. Sometimes this has to be balanced with the service user's right to expect to be safe, and to be protected and safeguarded from harm.

The Shared Lives service ensures that Shared Lives Carers and Officers are alert to the possibility of abuse and neglect, and can take action to safeguard the service user and / or other people if necessary.

How will this happen?

West Berkshire multiagency procedures

West Berkshire has a locally-agreed, multi-agency policy and procedure 'Safeguarding Adults Policies and Procedures' <http://www.sabberkshirewest.co.uk/practitioners/berkshire-safeguarding-adults-policy-and-procedures/>

These procedures should always be followed and the guidance in this document is therefore complimentary. If the service user would like to know more about the multi-agency policy and procedure, their Shared Lives Officer will be able to provide information about this.

Training

Shared Lives Carers and Officers are required to attend training in relation to safeguarding before or soon after joining the service. Training will support Carers to understand and recognise the different types of abuse, and ensure that they know how to respond if they are concerned this may be happening to the service user.

This aspect of the Shared Lives Carers' work will continue to be developed and monitored, through supervision, review and ongoing training.

Information and training on protection against allegations of abuse through safe working practices will be given to Shared Lives Carers.

Recognising and responding to abuse

Abuse can take many forms, e.g. financial, physical, sexual, psychological, discriminatory, institutional, etc. It often takes place between people who have a relationship of some sort, e.g. nurse and patient, worker and person using a service, appointee and person in receipt of welfare benefits, employer and employee, parent and son or daughter, etc.

To reduce the risk of abuse, one of the most important things we can do is give the service user information about what is or is not appropriate in different sorts of relationships and to ensure they have the power to say 'no' when they want to.

If the service user is in a situation of actual or potential abuse / neglect, we will help them to understand what is taking place and the harm that it may cause. We will also help the service user to access information about the options that are open to stop the abuse or neglect, or to reduce harm. If the service user does not have the capacity to give consent to the relationship or to make informed decisions about this, we will work with their family and / or representative / other professionals. This is to make sure decisions and actions are taken in the service user's best interests, and in line with the Mental Capacity Act 2005 Code of Practice.

Please refer to Shared Lives Carers guidance – Section 3 Making Choices & Decisions

Information about the service user is not shared with other people without their agreement. However; it may be necessary to override this principle, i.e. when it is essential for their own health or safety / welfare, or the health or safety / welfare of others.

We will tell the service user if we have to share information about them with other people (unless this puts them at even greater risk), and the reasons for this.

Safeguarding Concern

If Shared Lives Carers or Officers become aware of an incident of abuse or concerned about the possibility of abuse, they will:

- use their judgement to take any action that is immediately required to protect the service user and / or meet their immediate needs for assistance / support.
- report the matter immediately to the Shared Lives Registered Manager, to the Adult Social Care Department and to the Emergency Duty Team (EDT) if it is out-of-hours.

All incidents or concerns about abuse or neglect will be referred to the West Berkshire 'Safeguarding Adults' team. The response required, type of information-gathering or investigation will depend on the assessed risks to the service user and other people; the service user's own wishes about this; and decisions taken within the local 'Safeguarding Adults' procedure.

In all cases, careful records will be kept of the process, information gathered, decisions and outcomes. The service user will be kept informed about what is happening throughout this process (unless this puts them at even greater risk,) and about the outcomes.

The Shared Lives Registered Manager will take responsibility for making sure any concerns are reported to the local 'Safeguarding Adults' team. They will also take responsibility for informing any other relevant health or social care authorities (including the Care Quality Commission (CQC) if appropriate.

The Police will always be informed if a crime has been committed and the health or safety / welfare of other vulnerable adults or children is at risk. Any internal investigation will be co-ordinated with a Police investigation or other forms of 'Safeguarding Adults' investigations when required.

The Shared Lives Registered Manager and officers will work with the Shared Lives Carers and with other professionals to ensure that the local multi-agency 'Safeguarding Adults' procedure is followed. This will include making sure that:

- The service user is safe.
- The risks to the service user are properly assessed.
- The service user can say what action they would like taken, if any.

- Issues around consent, capacity and confidentiality are considered.
- Medical attention is obtained, if necessary.
- A decision is made about whether to inform the Police.
- Any forensic evidence is kept, if necessary.
- Any risks to other vulnerable adults or children are evaluated, and further action taken if necessary.
- The service user's family / representative is informed, if appropriate.
- The service user's rights to information, advocacy and support are met.
- A plan is put in place to safeguard the service user in the future.

We will take positive action to safeguard the service user through our procedures for assessment of their needs and for completing their **placement plan**.

If any risks to the service user's safety are identified, **a risk assessment and risk management plan** will be completed; these will be regularly reviewed. This will also happen if the service user's own behaviour sometimes causes risks of abuse towards other people.

We will take positive action to safeguard the service user through our recruitment and training for Shared Lives Carers and Shared Lives Officers. Shared Lives Carers and Shared Lives Officers will be selected carefully, with references and other necessary safety checks followed up before they begin working in this service.

Allegations against Shared Lives workers

If an allegation of abuse is made about a Shared Lives Worker, the Shared Lives Registered Manager will make sure:

- That a decision is made about whether they should continue with their work during the investigation.
- That their right to information, advocacy and support is met.
- That a referral is made to the Disclosure and Barring Service (DBS) (in accordance with the relevant Safeguarding legislation and procedures), when appropriate.
- That if the allegation is upheld, the scheme's disciplinary procedure will be followed.

If an allegation is made about a Shared Lives Carer, the Shared Lives Registered Manager will make sure:

- That a decision is taken about whether the Shared Lives arrangement should continue while the investigation is underway.
- That alternative arrangements are made for the service user when necessary.
- That the Shared Lives Carer's rights to information, advocacy and support during the investigation are met.
- That the work and approval of the Shared Lives Carer are reviewed after the investigation has been completed.
- That a referral is made to the DBS (in accordance with the relevant Safeguarding legislation and procedures), when appropriate.

The service user has a right to lead a life that is free from abuse and neglect. Failure to report an incident or suspicion of abuse / neglect could therefore result in disciplinary proceedings for Shared Lives Workers and a review of approval for Shared Lives Carers.

The scheme keeps a record of any allegations of abuse or neglect, which is available for inspection by the CQC and other regulatory bodies.

2- Restriction or Deprivation of Liberty Safeguards (DoLS)

The West Berkshire Council Shared Lives service has responsibilities to protect and promote the well-being, health and safety of people using or providing Shared Lives arrangements. In certain very limited circumstances, this may mean taking action that restricts a person's choices or freedoms in order to prevent harm to themselves.

How will this happen?

Before taking any decisions or actions that might affect the service user's liberty (freedom), we will carefully consider all the circumstances relating to their situation. In line with the **Mental Capacity Act 2005** we will wherever possible discuss and agree any necessary restrictions with them as part of their **placement plan**; these will be reviewed at least annually.

If it appears that the service user is not able to make choices and decisions for themselves, the Shared Lives scheme we make sure that:

- there is a proper assessment of the person's mental capacity and ability to make decisions and choices
- all the relevant circumstances have been considered.
- we have tried to find out their wishes and feelings.
- we have asked other relevant people for their views.
- any decisions and actions are taken in their best interests.
- any decisions and the reasons for them are carefully recorded.
- any action is proportionate to the likely risks of harm and the seriousness of that harm.
- alternative courses of action are considered, and the one that is least restrictive of the service user's rights / freedom of action will be followed.
- The service user's family and / or representative / an independent advocate are involved in decisions, and that the service user is helped to remain in contact with them.

Some physical interventions may sometimes be necessary and permissible within the context of the Mental Capacity Act 2005. Any interventions or restrictions should only be used to prevent harm to a person who is not able to make choices and decisions for themselves, and should be proportionate to the likelihood and seriousness of harm.

This also applies to situations where a person is acting in ways that challenge services, or which may cause harm to other people; when under common law Shared Lives Carers and Officers would have a duty of care and can take action when necessary to prevent harm.

Any interventions or restrictions that are used in a Shared Lives arrangement should happen in the least restrictive way. If West Berkshire Council Shared Lives service believe that a restriction imposed in a Shared Lives arrangement could amount to a person being deprived of their liberty we will follow West Berkshire Council guidance on what action the Shared Lives service needs to take. This includes situations where a person lacks the capacity to make decisions about where they receive care and treatment and:

- are subject to both continuous supervision and control and
- are not free to leave their care setting

West Berkshire Council is the supervisory body for applications related to deprivation of liberty for people ordinarily resident in West Berkshire. It is the responsibility of the **Shared Lives Manager** to contact the Best Interest Assessor who will organise for the appropriate application process to be followed. This process may include a visit by a best interest's assessor or social worker and information gathering from others involved with the service user.

If a deprivation of liberty authorisation is received from the Court of Protection regarding a person using Shared Lives, the Shared Lives scheme will ensure that the deprivation of liberty will only be kept in place for the duration of the authorisation. If a further authorisation is required this will be made in good time, to ensure that the person using Shared Lives is not being unlawfully deprived of their liberty.

The West Berkshire Council Shared Lives Scheme will complete the CQC statutory notification for an application to deprive a person of their liberty and its outcome. The scheme will do this for every application that is made to the Court of Protection to deprive someone of their liberty, once the outcome of this application is known.

For all Shared Lives arrangements West Berkshire Council Shared Lives Scheme will work with the Shared Lives Carer:

- to identify and implement the least restrictive ways that care and support can be provided to the person using Shared Lives. This will be detailed in their **placement plan**
- providing up to date Mental Capacity Act 2005 training.

This will ensure that they are able to effectively support people using Shared Lives, avoid using unnecessary restraint, or unlawfully depriving someone of their liberty in a Shared Lives arrangement.

If Shared Lives Carers consider the service users they are supporting is being deprived of their liberty then they should report this and discuss with the Shared Lives team.

Shared Lives Carers are responsible for attending training and understanding their responsibilities under the Act.

WBC DoLS Team

[Deprivation of Liberty Safeguards \(DoLS\) Coordinator:](#)

West Berkshire Council's Deprivation of Liberty Safeguards (DOLs) Coordinator

dols@westberks.gov.uk

01635 519056

Appendix 1 – Useful links and examples of deprivation of liberty in Shared Lives.

Mental Capacity Act 2005: A brief guide for providers of Shared Lives and other community services. Available from: http://www.local.gov.uk/documents/10180/6869714/L14-393+MCA+guides_09.pdf/e95b1230-88b3-44dc-8cb9-4672c5d1ce3d

The Mental Capacity Act 2005:

http://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf

[Chapter 7 of the Law Society, Deprivation of Liberty guidance](#) includes guidance and examples of deprivation of liberty in Shared Lives arrangements. The examples below have been adapted from the Law Society guidance:

Example 1: Emma

The measures in the following scenario are likely to amount to a deprivation of liberty:

Emma is 18 years old with moderate to severe learning disability and is unable to live on her own independently. She lives in a long term Shared Lives arrangement with her Shared Lives carer, who is called Jane. Emma can only communicate her wants and wishes in a limited way, demonstrates challenging behaviour and has a lack of understanding of danger when going out. As a result it has been decided by care management, the Shared Lives scheme and Jane, that Emma is unable to go out on her own and needs to have someone with her at all times. The only time Emma gets to go out is if she is escorted by Jane, her daughter Sarah, or when attending the local day centre or college, where she is escorted to and from by a support worker from the local authority. If Emma tries to leave she is prevented by Jane, to ensure that she will not be putting herself at risk. Whilst at home, Jane keeps a very close eye on Emma throughout the day and knows what she is up to at all times.

Emma has a brilliant relationship with Jane and seems happy with the way in which her support is provided. Emma's mother and sister are also aware of the care and support arrangements and do not have any objections to how this is being provided and they do not regard Emma as being confined or restrained, as this is for her own safety.

It is likely that Emma is being deprived of her liberty and an authorisation from the Court of Protection would be required. In this situation the Shared Lives scheme should work with Emma, her mother and sister, and Jane to identify ways in which Emma can be supported in a less restrictive way. This could include Emma having some phased support to enable her to eventually go out on her own, or travel training to enable her to travel independently. The Shared Lives scheme, Jane and Emma could develop and contribute to a risk management plan which explains what needs to happen if Emma finds herself in danger or suddenly needs support when she is out alone. The Shared Lives scheme could also arrange for Jane to attend Mental Capacity Act training, so that she is able to effectively support Emma in a way which does not deprive her of her liberty.

If less restrictive options can't be identified then the Shared Lives scheme will need to start the process of applying to deprive Emma of her liberty regarding being constantly supervised and being told when she can and can't leave. The Shared Lives scheme would make an initial referral to the relevant person/team from the local authority, following the local authority process. The local authority would then arrange for a mental capacity and best interest assessment to determine whether Emma has the mental capacity to agree to the way her care and support are being provided and what would be in Emma's best interests going forward. If the best interest assessor determines that Emma being deprived of her liberty is the best way forward, they would submit a report back to the local authority, who would then make a formal application to deprive Emma of her liberty to the Court of Protection. The best interest assessor may also determine that for future decisions her mum or sister may be the best person to act as a Court of Protection appointed deputy for future decisions. The request for this to happen would be submitted as part of the application to the Court of Protection.

Example 2: Matthew

The scenario below may give rise to a deprivation of liberty:

Matthew is 33 years old and has autism, a moderate learning disability, and very limited communication skills. He lives in a Shared Lives arrangement with Shared Lives carers, Paul and Sarah Morgan, along with their daughter Ella. He requires frequent daily support and needs to have someone with him or near him all day. For example he cannot judge water temperature, struggles with managing his personal hygiene and appearance, so Paul or Sarah run him a bath or shower, support him with washing, and brushing his hair and teeth. He cannot dress according to weather conditions so he has his clothing chosen for him and is dressed by Paul or Sarah. He is able to go out independently, but he gets extremely anxious when there are loud noises or lots of people around him. He currently only goes out during quieter times of the day, accompanied by Paul or Sarah, whilst wearing head phones to muffle the level of noise outside.

In this example the care and support that Matthew receives could be a potential deprivation of liberty due to him requiring a significant and continuous level of support throughout the day and there are questions about how free he would be to leave. To determine whether he would be classed as being deprived of his liberty a careful assessment would be required to determine the extent that he is under continuous complete supervision and control, and what would happen to him if he were to try and leave without a family member accompanying him.

Regardless of the outcome of any assessment the Shared Lives scheme, Paul and Sarah should look at the care and support to determine if anything could be done differently and in a less restrictive way e.g. supporting him to make his own decisions about what to wear, teaching him to brush his own hair and teeth, looking at how he could go out independently.

Example 3: Barry

The scenario below may or may not give rise to a deprivation of liberty:

Barry is 62, has a learning disability and has been living with Sam and Linda, his Shared Lives carers, for the past 10 years. Over the last 4 years he has developed dementia and the level of support that Sam and Linda provide has significantly increased. Barry has been experiencing fluctuating levels of confusion about where he is, which causes him to become angry, he has started to wander out of the house in the middle of the night and experience incontinence; he is supported by Sam and Linda with this. As his dementia started to become more challenging Sam and Linda initially would lock all the doors so that he could not leave without one of them and they would spend most of the day with him, to ensure he did not come to any harm. Barry is supported by Sam and Linda to go to a range of local groups that he enjoys. The Shared Lives scheme identified that the care and support provided could potentially be depriving Barry of his liberty, so they worked with Sam and Linda to look at how they could continue to support Barry in a less restrictive way. Sam and Linda went on training for managing challenging behaviour and to better understand dementia. The doors are no longer locked all the time, as sensors have been fitted, which immediately inform Sam and Linda if Barry tries to wander off in the middle of the night. If Barry does try to wander off they are immediately notified and one of them will follow him out of the house to make sure he is okay.

Despite the changes to the way that the care and support are being provided by Sam and Linda, it could still be determined that Barry is being deprived of his liberty, as there are questions about how free to leave he is, and the level of constant supervision that he is under. Although he has been diagnosed with dementia, this fluctuates and at times he is still able to make and consent to decisions for himself. The Shared Lives scheme have requested that Barry has a mental capacity and best interest assessment to determine whether he is able to consent to the care and support or whether a full application to the Court of Protection is required for a deprivation of liberty.