

# Safeguarding Peer Review

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Liverpool Heart and Chest Hospital NHS  
Foundation Trust

**Deborah Ward**

**9<sup>th</sup> – 11<sup>th</sup> September 2014**

**Report Completed October 2014**

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## **Safeguarding Peer Review**

### **1. Overview**

- 1.1** The peer review was undertaken over a three day period (9<sup>th</sup> – 11<sup>th</sup> September). The reviewer was welcomed into the organisation, and all staff approached to discuss aspects of safeguarding were open and honest and the responses given appeared transparent. Prior to the three day period the reviewer undertook a desktop exercise and supported the system leaders within the organisation to identifying those who should be interviewed as part of the process. A timetable of interviewees was proposed by Liverpool Heart and Chest Hospital NHS Foundation Trust, to enable as many aspects to be considered, and to allow staff to plan time away from their key role within the trust.
- 1.2** The Director of Nursing requested a review of safeguarding provision as she was already looking at the way in which safeguarding leadership was covered within the organisation within a wider senior nurse review. The review was commissioned as it had been identified that this was an opportune time to review existing structures to ensure that the safeguarding roles were fit for purpose.
- 1.3** Clear terms of reference (appendix 1) were developed in partnership with the Director of Nursing in the months leading up to the review, and although not present at the time, the Director of Nursing requested the review proceed as planned.
- 1.4** The focus of the review was to identify if current safeguarding adult and child protection provision across the organisation was sufficient. As per NHS England, safeguarding incorporates:
- Child Protection
  - Safeguarding adults at risk of abuse
  - Mental Capacity Act
  - Mental Capacity Act Deprivation of Liberty Safeguards
  - Prevent

The review did not focus on aspects outside of these areas.

- 1.5** The Care Quality Commission is the independent regulator of health and social care in England and Wales. It has responsibility to inspect and monitor registered providers of health care across sixteen outcomes, with two outcomes directly relating to the Mental Capacity Act and safeguarding.
- Outcome 2, before people are given any examination, care, treatment or support, they should be asked if they agree to it.

- Outcome 7, people should be protected from abuse and staff should respect their human rights

- 1.6** On the last review of these outcomes, (outcome 2 - October 2013, and outcome 7 - August 2012) The Care Quality Commission identified that the Trust was meeting the expected standard.
- 1.7** Section 7 of this report offers recommendations to Liverpool Heart and Chest Hospital NHS Foundation Trust for consideration. If they are accepted and developed into an accompanying action plan by the organisation they will mitigate the risks associated with the identified gaps in provision.

## **2. Current Safeguarding Structure**

- 2.1** At the time of the review, Liverpool Heart and Chest Hospital NHS Foundation Trust have Named Doctor and Named Nurse provision for both child protection and safeguarding adults at risk of abuse. It is difficult to establish the whole time equivalent hours associated with the specific roles as all roles are incorporated within wider job descriptions and job plans.
- 2.2** The Director of Nursing is the executive lead for safeguarding within the organisation, and therefore is the accountable officer. The senior nursing team also consists of a Deputy Director of Nursing, and three Assistant Directors of Nursing.
- 2.3** The Assistant Director of Nursing for Surgery, Anaesthesia and Critical Care has the function of Named Nurse for Safeguarding Adults, and the Assistant Director of Nursing for Cardiology and Chest Medicine has the function of Named Nurse for Child Protection. Both roles are contained within job descriptions which identifies they are supported to fulfil this function by the Deputy Director of Nursing. The job descriptions are not explicit in relation to accountability relating to the Named Nurse function.
- 2.4** Both Assistant Directors of Nursing participated in the safeguarding review, and reported separately that the numbers of safeguarding concerns are relatively low within the trust, this was accepted as fact and figures relating to the number of safeguarding referrals to the Local Authority were not shared or backed up by data. The Assistant Director for Surgery, Anaesthesia and Critical Care identified the majority of referrals relate to potential financial abuse, again this was not supported by data. Current access to safeguarding advice and support is via telephone contact or through a referral form that staff complete and email over to the Assistant Directors of Nursing.

- 2.5** The Assistant Directors of Nursing co-chair the internal quarterly safeguarding meeting, which representatives from each area are members and invited to attend. The members of the meeting then cascade information back to the wider teams to ensure all areas are aware of current changes in safeguarding. The terms of reference for this group identify that the outcome of this meeting is reported to the Patient and Family Experience Committee and the Trust Board.
- 2.6** The Named Doctor provision for child protection is provided by a Consultant Chest Physician. The Named Doctor provision for safeguarding adults at risk has recently changed, from the Medical Director to a Consultant Anaesthetist who has an interest in safeguarding. At the time of the review, the reviewer was unable to discuss current safeguarding provision with either clinician who has a Named Doctor role. This concern was identified early in the process and an appointment was made to discuss current safeguarding practice with the Medical Director.

### **3. Pre Review Planning**

- 3.1** Following agreement of the terms of reference with the Director of Nursing, the reviewer undertook a desk top review and was sent multiple documents prior to the three day site visit at Liverpool Heart and Chest Hospital NHS Foundation Trust. This was to enable the reviewer to gain a robust understanding of current safeguarding process, policy and procedures.
- 3.2** The documents incorporated the 2013/14 safeguarding self-assessment audit tool, along with the embedded evidence provided by the Trust to support RAG rating and the response from Liverpool Clinical Commissioning Group. During the review of documentation, the reviewer identified potential areas of risk that would be the basis of the questions used during the three days on site speaking to staff.

### **4. The Site Visit**

- 4.1** A copy of the meeting schedule can be found at appendix 2. Meetings commenced immediately, and support was provided throughout the three day site visit by the support staff to the senior nurse leadership team. A standard set of questions were developed in advance to ask all participants of the review (appendix 3).
- 4.2** The individual meetings were kept informal, with the emphasis being on openness and transparency. All staff appeared to appreciate the opportunity given to them to discuss safeguarding process and were able to identify both good practice and potential gaps in provision. A full list of services area / individual job roles who participated in the review can be accessed in appendix 4.

- 4.3** Due to the cancellation of the planned meeting with the Clinical Commissioning Group on the afternoon of the 11<sup>th</sup> September, the Deputy Director of Nursing approved for the reviewer to undertake a walkabout across the hospital wards to discuss safeguarding provision. This was a very useful exercise and enabled the reviewer to discuss safeguarding provision with staff that have patient contact across multiple job roles.

## **5. Positive Practice**

- 5.1** All staff spoken to identified safeguarding those at risk of abuse as an essential aspect of their role. Within interviews and the walkabout all staff questioned identified their responsibility to alert any concern they identified relating to a potential safeguarding issue. The reviewer has confidence all staff would report the concern to the team leader, line manager or senior nurse on duty.
- 5.2** The organisation has developed specific policies that relate to under 1's being accommodated in the hospital to enable them to remain with parents who require treatment.
- 5.3** The organisation appears to have a robust system for identification and reporting of hospital acquired grade III or IV pressure ulcers onto StEIS. It is acknowledged within the organisation that any hospital acquired grade III or IV pressure ulcer must be reported to the Local Authority to be considered under safeguarding multi agency procedures.
- 5.4** A programme for 'PREVENT' has been rolled out across the trust with a current compliance rate of 29%. This is a positive achievement since the commencement of the roll out in 2013.
- 5.5** The senior nurse team did acknowledge the importance of implementing the Supreme Court ruling, and informed the reviewer that a local solicitors firm had been commissioned to deliver training sessions to senior clinicians and specific managers within the organisation. This work stream remains ongoing and the reviewer is assured that the organisation is committed to implement the revised definition of deprivation into clinical practice.

## **6. Gaps in Provision**

- 6.1** The review did identify gaps in current provision relating to safeguarding. An overview of identified concern is provided additional information relating to each area contained within section 2 (page 12-19 of the report).

## **6.2 Safeguarding Adult's / Child Protection**

- 6.2.1 Many staff reported they felt the organisations ability to offer advice and support relating to safeguarding concerns or issues was limited due to a lack of knowledge within the trust. As highlighted in section 2.3 the current Named Nurse function sits with two of the Assistant Directors of Nursing. The Named Nurse function is contained within the current job description which was shared as part of the review, and the reviewer identified this function as a single line, the example below is taken from the job description for the Assistant Director of Nursing for Cardiology and Chest Medicine.
- 6.2.2 *"The ADNS will act as the Named Nurse for Safeguarding Children. Supported closely by the Deputy Director of Nursing."*
- 6.2.3 It is acknowledged by the reviewer that only a sample of staff were spoken with, but not all staff knew the trust had an identified Named Nurse for either child protection or safeguarding adults at risk of abuse, or that the trust hold quarterly safeguarding meetings with managers or identified safeguarding link nurses. It was identified during the review the purpose of these meetings is to cascade information to the wider organisation, yet the review has identified there is a risk this information is not being cascaded to staff. It was also reported to the reviewer that attendance can be poor with certain staff groups.
- 6.2.4 In relation to the Named Doctor provision, the reviewer was unclear as to how much programmed activity time had been allocated to the safeguarding role. Working Together to Safeguard Children (2013) recommend there is allocated time within programmed activity to focus on safeguarding, with a suggestion of 2 sessions of programmed activity per week.

## **6.3 Community Service Provision**

- 6.3.1 Liverpool Heart and Chest Hospital NHS Foundation Trust are commissioned to deliver aspects of Knowsley community services. This provision has been delivered by the organisation for 3 years, with the staff being based on site for approximately 6 months at the time of the review. A specific community staff forum was arranged within the time table to enable the reviewer to gain a greater understanding of the community provision and potential safeguarding concerns.
- 6.3.2 The staff informed me that they do not currently report patient safeguarding concerns internally, as it is believed that their patients are not identified as Liverpool Heart and Chest Hospital NHS Foundation Trust patients. When asked who they

report safeguarding concerns to in relation to community patients, the reviewer was informed by the group that staff report concerns direct to Knowsley Local Authority.

- 6.3.3 On discussing the Mental Capacity Act, staff held different ideas over their individual responsibility to document capacity to consent to treatment, with some of the nursing staff stating they do not treat patients who cannot consent. As conversation developed the group identified that they did treat patients who may not be able to consent, and they identified they did not have a good understanding of the Mental Capacity Act or what was involved in documenting a capacity assessment.

#### **6.4 Mental Capacity Act**

- 6.4.1 During the review it became apparent that there is no organisational trust lead with expert knowledge to enable full implementation of the Mental Capacity Act, and throughout the review, staff identified that knowledge relating to the Mental Capacity Act was poor within the trust. In many NHS organisations this remit belongs to the Named Nurse for Safeguarding adults or is an additional role that works alongside the Named Nurse.
- 6.4.2 The Mental Capacity Act policy was last issued in 2009, and requires an immediate update to ensure all the changes in case law are incorporated. The documentation is basic, and the guidance is very limited to support staff in undertaking a capacity assessment. Speaking to nursing staff the reviewer was concerned staff were not clear who had accountability for recording a capacity assessment or how an assessment should be documented. The reviewer was informed by a staff member on ITU, that in their opinion staff do not know they are working under the Mental Capacity Act when a patient is heavily sedated or ventilated.
- 6.4.3 A limited number of medical staff were spoken with, and were asked to explained the process of undertaking capacity assessment, and the reviewer would like to highlight the medical staff were describing part of the test associated with memory recall, and did not discuss the two stage assessment or the four part functional test.

#### **6.5 Deprivation of Liberty Safeguards**

- 6.5.1 Deprivation of Liberty Safeguards was introduced into statute in April 2009 following an amendment to the Mental Health Act 2007. The reviewer has noted that Liverpool Heart and Chest Hospital NHS Foundation Trust have never completed an urgent authorisation or made a standard application to the supervisory body. Work is ongoing to ensure staff are aware of their responsibility to make applications.



- 6.5.2 Staff understanding of what may amount to a deprivation of liberty is extremely limited. Several staff nurses informed the reviewer they had completed the e-learning module, yet when asked what restrictive practices may be considered as a potential deprivation, one staff nurse remarked a deprivation of liberty is when a patient appears unkempt.
- 6.5.3 The section within Mental Capacity Act policy on Deprivation of Liberty Safeguards is inadequate to support staff implement the process, and the reviewer requested a search of the policy section on the intranet to identify if the organisation had a separate procedure on Deprivation of Liberty Safeguards, and no procedure could be identified.

## **6.6 Training**

- 6.6.1 Statutory requirement relating to safeguarding training is limited to the information contained within Working Together to Safeguard Children (2013). Training requirements relating to safeguarding adults at risk of abuse, the Mental Capacity Act 2005, Deprivation of Liberty Safeguards 2009 and Prevent are associated with the NHS contract and best practice. It was unclear to the reviewer if the organisation has a training strategy in relation to safeguarding adults, child protection, Mental Capacity Act / Deprivation of Liberty Safeguards or Prevent.
- 6.6.2 The current training delivery to front line staff relating to safeguarding adults, child protection, the Mental Capacity Act and Deprivation of Liberty Safeguards is via e-learning. As this is the only available training on site for staff relating to safeguarding the reviewer raised concern with the Learning and Development lead that local information is not provided as part of the training. The training does not cover how to make an alert and refers staff to review organisational policy.
- 6.6.3 Both Mental Capacity Act and Deprivation of Liberty Safeguards e-learning packages were reviewed. Both packages are deemed as inadequate to enable staff to implement the Act into clinical practice. The Mental Capacity Act package contained out of date information which informs staff that Deprivation of Liberty Safeguards would be introduced in 2009. The Deprivation of Liberty Safeguards package was developed by the Royal Collage Psychiatry, and on review it appeared it was aimed at medics who were expected to undertake the mental health assessments under the framework. As the package develops it covers aspects of the 'mini mental' test for memory recall and identifies the process to undertake this. It is clear to the reviewer this is the reason the medical staff explained this as being the process for assessing capacity (as discussed in section 6.4).

## **6.7 Policy**

- 6.7.1 Throughout the process all policies associated with the safeguarding portfolio were reviewed. The safeguarding adult policy requires review as it does not account for the changes in safeguarding legislation introduced with the Care Act 2014. It was also identified that the Named Doctor for safeguarding adult's provision changed recently and this needs to be updated within the policy. The safeguarding children's policy also requires an amendment due to acknowledge the change in trust named nurse.
- 6.7.2 The Mental Capacity Act policy and procedure was issued in October 2009 with a review date September 2010. The information within the policy is limiting and would not support full implementation of the Act into clinical practice. Section 18 within the policy (Deprivation of Liberty Safeguards) is inaccurate. It refers to the Primary Care Trust being supervisory body, and this ceased to function following the introduction of the Health and Social Care Act in April 2013.
- 6.7.3 The use of restraints in critical care policy was last issued in April 2012 and was due a review in October 2013. This policy would imply that the use of mittens are the only forms of restraint available with the organisation as they are the only form identified within the restraint policy. The reviewer understands that a review of this policy has commenced.

## **6.8 Documentation**

- 6.8.1 Liverpool Heart and Chest Hospital NHS Foundation Trust implemented an electronic patient record across its hospital site in June 2013. The system does not contain a specific safeguarding pathway, and staff report documentation of a safeguarding concern is inconsistent.
- 6.8.2 Mental capacity assessment and best interest decision tool is paper based and contained at the back of the policy. During the walkabout staff were questioned in relation to completion of this documentation and staff were not aware there was a paper based assessment form as they reported they would document an assessment within the patient note. Although this is a record of the assessment, the quality of assessment would not be auditable.
- 6.8.3 The Assistant Director of Nursing for Surgery, Anaesthesia and Critical Care (Named Nurse for Adult Safeguarding), informed the reviewer that a request had been made to the Electronic Patient Record (EPR) department to develop an electronic version of a capacity assessment and best interest decision tool to be used within the electronic patient record. On speaking to the Clinical Systems Manager, this work

stream is on hold until the current organisational Mental Capacity Act policy and supporting documentation has received review to ensure the EPR team develop an appropriate form.

## **7. Recommendations**

- 7.1** Named nurse provision is separated from the role of the Assistant Directors of Nursing and developed as an individual role to provide expert knowledge, advice and support to front line staff, managers, senior nurse leadership team and the Executive Board. A formal named nurse job description should be developed to identify clear objectives for the role within the organisation.
- 7.2** The allocation of Named Doctor for safeguarding children programmed activity and job plan is reviewed to ensure it is in line with Working Together to Safeguard Children (2013). It would be best practice to undertake a similar review of the programmed activity and job plan for Named Doctor for safeguarding adults.
- 7.3** A trust lead for implementation of the Mental Capacity Act is identified. This role requires expertise of the legislation and how it impacts on both inpatient and community services. A clear job description and job plan should be developed to enable the role to focus on the key requirements.
- 7.4** Training across all areas of safeguarding requires review and development to ensure staff at all levels and job roles are aware of their individual responsibility in relation to safeguarding children and adults at risk of abuse.
- 7.5** A new training package requires development in relation to Mental Capacity Act and Deprivation of Liberty Safeguards. This is a complex topic, and all decision makers (usually all clinical staff irrelevant of grade) require a comprehensive understanding of how to assess capacity and determine a best interest decision.
- 7.6** Mental Capacity Act policy and Deprivation of Liberty Safeguards procedures require immediate review to ensure they are factually accurate with consideration of case law. This should incorporate robust documentation to enable implementation across all patient areas, and assurance that if an application to the Court of Protection was required the documentation would be acceptable to court.
- 7.7** Review care pathways / care plans to ensure they consider implementation of the Mental Capacity Act, e.g. do they prompt a person to obtain consent? What if the patient lacks capacity, and is unable to consent?
- 7.8** Inpatient staff require urgent clarification in relation to the 'acid test' for deprivation of liberty safeguards. Due to the lack of clarity from the supervisory body in relation

to priority of applications, Liverpool Heart and Chest Hospital NHS trust should develop and propose a local guideline to the supervisory body for agreement.

- 7.9** The quarterly safeguarding meeting terms of reference and attendance list should be reviewed to ensure all service areas are represented.
- 7.10** The current safeguarding link nurses should be used as an excellent resource across the trust and developed into safeguarding / Mental Capacity Act champions. A champion model would increase the ability for staff to access safeguarding knowledge and advice. This would support staff to embed safeguarding into clinical practice.
- 7.11** Safeguarding supervision is a requirement of Working Together to Safeguard Children (2013) and a safeguarding supervision policy requires development within the organisation.
- 7.12** The electronic patient record should enable staff to identify through a flagging system if a safeguarding concern has been raised. At present patients may be at risk as when transferred from ward to ward, the receiving area could be unaware a risk has been identified or what action has been taken.

## **8. Summary**

- 8.1** The reviewer did identify positive practice in relation to systems in place to safeguard adults at risk of abuse and children. It is clear that the staff within the organisation understand their individual responsibility to alert concerns to an appropriate manager. This should be strengthened further to ensure alerts are made direct to the Local Authority.
- 8.2** Twelve recommendations have been identified through the process of the review with the Trust being notified of some of them immediately during the initial feedback to the Assistant Director of Nursing for Cardiology and Chest Medicine and the Director of Nursing via telephone feedback.
- 8.3** The reviewer is aware the Trust had commenced a review of the Deprivation of Liberty Safeguards prior to the safeguarding review, and this positive work has continued in raising staff awareness and policy development. The reviewer has been informed the Trust has now made two applications to authorise potential deprivation of liberty.
- 8.4** The reviewer is of the opinion that if the recommendations are considered and a robust action plan is developed and implemented by the organisation that significant assurance in relation to safeguarding adults at risk of abuse and children will be achieved.

## **Section 2: Additional Information.**

### **1. Safeguarding Adults / Child Protection Governance and Leadership**

- 1.1 NHS organisations have a duty to safeguard all children and adults at risk of abuse. This function is usually supported by an internal safeguarding service that incorporates staff with specialist knowledge across the safeguarding portfolio. As highlighted in section 2.3 the current Named Nurse function sits with the two Assistant Directors of Nursing. The Named Nurse function is contained within the current job description which was shared as part of the review, and the reviewer identified this function as a single line, the example below is taken from the job description for the Assistant Director of Nursing for Cardiology and Chest Medicine.
- 1.2 *“The ADNS will act as the Named Nurse for Safeguarding Children. Supported closely by the Deputy Director of Nursing.”*
- 1.3 Many staff reported they felt the organisations ability to offer advice and support relating to safeguarding concerns or issues was limited due to a lack of knowledge within the trust.
- 1.4 One of the standard questions asked by the reviewer to all front line staff related to the Named Nurse Function. Although only a sample of staff were spoken to, not all staff knew the trust had an identified Named Nurse for either child protection or safeguarding adults at risk of abuse. Of those that did identify the organisation had a safeguarding lead not all were confident when asked to name who the relevant leads were for either adults or children.
- 1.5 The Named Nurse provision relating to safeguarding within any NHS trust must be accessible to the staff who work within the organisation. During the interview process and on the walkabout, it became apparent that not all staff would be confident to approach an Assistant Director of Nursing with a safeguarding query. Concern was also raised by staff that the Assistant Directors of Nursing were not always accessible due to work load.
- 1.6 The reviewer was unclear as to how much programmed activity time had been allocated to the Named Doctor’s safeguarding role. In relation to safeguarding children, Working Together to Safeguard Children (2013) recommend there is allocated time within programmed activity to focus on safeguarding, with a suggestion of 2 sessions of programmed activity per week. Although there is no statutory guidance in relation to Named Doctor provision for safeguarding adults, best practice would identify the same minimum standards.

- 1.7 In relation to safeguarding adults, very few staff spoken to were able to identify the process of making a safeguarding alert to the Local Authority. As identified in section 5.1 all staff would report a concern to a team leader or manager, but not all staff were able to identify what happened to that information internally or who had responsibility to make a safeguarding alert to the Local Authority. The reviewer was informed during one interview that it was not clear who had authority to raise a safeguarding alert with the Local Authority.
- 1.8 During the staff forum, the reviewer was notified of a potential concern relating to communication within the organisation. If a potential safeguarding concern is identified during admission, the information is recorded on the admission documentation but the current system does not 'flag' the potential concern. The reviewer was informed that it is common practice for a patient to be transferred to multiple wards during the admission and this information would not be obvious to the ward staff on the receiving wards.
- 1.9 Although the number of patients under 18 years of age admitted to Liverpool Heart and Chest Hospital NHS Foundation Trust are low, all staff are required to have an understanding of child protection policies and procedure, should an under 18 be admitted to their area. During the walkabout the reviewer was informed that the process for admitting children is not clear.
- 1.10 Although the trust hold quarterly safeguarding meetings with managers or identified safeguarding link nurses, not all service areas knew of the meetings, therefore information was not being cascaded to staff. It was also reported to the reviewer that attendance can be poor with certain staff groups.
- 1.11 Safeguarding supervision is not currently delivered across the organisation. Although this is a national requirement for those working with children (Working Together to Safeguard Children, 2013) safeguarding supervision relating to adults at risk would be seen as best practice. The reviewer was informed that currently the organisation does not have provision to deliver safeguarding supervision.

## **2. Community Service Provision**

- 2.1 Liverpool Heart and Chest Hospital NHS Foundation Trust are commissioned to deliver aspects of Knowsley community services. This provision has been delivered by the organisation for 3 years, with the staff being based on site for approximately 6 months at the time of the review. A specific community staff forum was arranged within the time table to enable the reviewer to gain a greater understanding of the community provision and potential safeguarding concerns.

- 2.2 The forum was well represented with the team manager, social worker, nursing and therapy staff attending. When the group was asked to identify the safeguarding lead in the organisation, it became clear that staff were unaware there was a Named Nurse for safeguarding children or adults.
- 2.3 When asked who they report safeguarding concerns to in relation to community patients, the reviewer was informed by the group that staff report concerns direct to Knowsley Local Authority and the concern is usually passed back to the social worker within the team for investigation. The staff informed me that they do not currently report patient safeguarding concerns internally, as it is believed that their patients are not identified as Liverpool Heart and Chest Hospital NHS Trust patients. All staff informed the review they inform their line manager of the situation and what action has been taken. When questioned as to why the team did not report concerns internally all staff were in agreement that they had attempted to report concern in the past and told to just report to the Local Authority.
- 2.4 The staff who participated in the forum informed the reviewer they were not aware of the internal mechanism for reporting concerns to the Assistant Director of Nursing or that quarterly safeguarding meetings were held within the trust.
- 2.5 On discussing the Mental Capacity Act, staff held different ideas over their individual responsibility to document capacity to consent to treatment. The therapists and social worker identified they had some responsibility whilst some of the nursing staff stated they do not treat patients who cannot consent. As conversation developed the group identified that they did treat patients who may not be able to consent, and they identified they did not have a good understanding of the Mental Capacity Act or what was involved in documenting a capacity assessment.
- 2.6 The issues identified with the community provision were reported back to the Assistant Director of Nursing during the final debrief on the 11<sup>th</sup> September and also through telephone feedback to the Director of Nursing on the 12<sup>th</sup> September.

### **3. Mental Capacity Act**

- 3.1 During interviews with staff across service provision and at all grades, it became apparent to the reviewer that there is no organisational trust lead with expert knowledge to enable full implementation of the Mental Capacity Act. In many NHS organisations this remit belongs to the Named Nurse for Safeguarding adults or is an additional role that works alongside the Named Nurse.
- 3.2 The Mental Capacity Act policy was last issued in 2009 and in the reviewer's opinion is insufficient to support staff to implement the Mental Capacity Act into everyday

clinical practice. The documentation within the policy to support the process of capacity assessment is not sufficient, and on speaking to nursing staff the reviewer was concerned staff were not clear who had accountability for recording a capacity assessment or how an assessment should be documented.

- 3.3 When asked how a capacity assessment should be recorded in the patient record, many staff assumed that there was an assessment tool contained within the electronic patient record. The reviewer considered this incorrect as at an earlier interview the Assistant Director of Nursing with responsibility for safeguarding adults at risk of abuse stated that an assessment form for use within the electronic patient record system was currently under development.
- 3.4 Staff identify that knowledge relating to the Mental Capacity Act is poor within the trust. The reviewer took the opportunity to ask both nursing and medical staff when they would assess a patient's capacity and the response highlighted that some nursing staff believe it is the responsibility of the medical team to assess and document capacity. The reviewer was informed by a staff member on ITU, that in their opinion staff do not realise they are working under the Mental Capacity Act when a patient is heavily sedated or ventilated.
- 3.5 Some of the medical staff spoken to explained the process of undertaking capacity assessment, and the reviewer would like to highlight the medical staff were describing part of the test associated with memory recall, and did not discuss the two stage assessment or the four part functional test.

#### **4. Deprivation of Liberty Safeguards**

- 4.1 Deprivation of Liberty Safeguards was introduced into statute in April 2009 following an amendment to the Mental Health Act 2007. Although applications nationally were lower than expected the reviewer has noted that Liverpool Heart and Chest Hospital NHS Foundation Trust have never completed an urgent authorisation or made a standard application to the supervisory body. Following the Supreme Court Ruling into Cheshire West and Chester (March 2014), the threshold of what restriction amounts to a deprivation has been defined. An 'acid test' has been identified and if met an authorisation is required to ensure the deprivation is within the Law.
- 4.2 The acid test has 3 components:
- The person lacks capacity to consent to the admission or to remain an inpatient.
  - The person is not free to leave
  - The person is under continuous control and supervision.



- 4.3 Staff understanding of what may amount to a deprivation of liberty was extremely limited. Several staff nurses informed the reviewer they had completed the e-learning module, yet when asked what restrictive practices may be considered as a potential deprivation the response was very limited. One staff member stated “.... Dols would only be used if the person left the ward...” with another stating “...the signs of deprivation included a patient appearing to be unkempt or not having personal hygiene.”
- 4.4 On reviewing the organisations Mental Capacity Act policy, it is in the reviewer’s opinion the section on Deprivation of Liberty Safeguards is inadequate to support staff implement the process, and does not take into consideration the amendments required following the Supreme Court ruling. The reviewer requested a search of the policy section on the intranet to identify if the organisation had a separate procedure on Deprivation of Liberty Safeguards, and no procedure could be identified.
- 4.5 The 2013/14 safeguarding self-assessment audit tool identified that the organisation believe restraint is only used in Critical Care, and that there is an appropriate policy. The use of restraint was discussed during the review process and it was identified that wider ward areas would benefit from the ability to use this policy. It was also identified that the policy only covers the use of ‘control mittens’ which would imply that no other form of restraint is acceptable, although staff did inform the reviewer of episodes when security had been used to return patients or to control a difficult situation.

## **5. Training**

- 5.1 It was unclear to the reviewer if the organisation has a training strategy in relation to safeguarding adults, child protection, Mental Capacity Act / Deprivation of Liberty Safeguards or Prevent.
- 5.2 Statutory requirement relating to safeguarding training is limited to the information contained within Working Together to Safeguard Children (2013). Training requirements relating to safeguarding adults at risk of abuse, the Mental Capacity Act 2005, Deprivation of Liberty Safeguards 2009 and Prevent are associated with the NHS contract and best practice. Working Together to Safeguard Children informs all organisations of their responsibility to ensure staff are trained in child protection at the appropriate level depending on job role and function. All staff are expected to undertake level 1 basic awareness training which is usually delivered via e-learning. Any staff who may have limited contact with children are expected to undertake level 2 training with staff whose primary function is to work with children are expected to undertake multi agency level 3 training.

- 5.3 The current training delivery to front line staff relating to safeguarding adults, child protection, the Mental Capacity Act and Deprivation of Liberty Safeguards is via e-learning. Prevent training is in line with the national roll out of health WRAP which is a classroom based 1 hour 15 minutes session. The reviewer would like to acknowledge the work undertaken by the trust Prevent lead to roll out the mandatory package to all employed NHS staff.
- 5.4 A copy of the trust wide training needs analysis was reviewed during the site visit. For ease of use it has been developed into three service specific sections, medical staff, clinical staff and non-clinical staff. There are four mandatory e-learning packages for both medical and clinical staff, with non-clinical staff having two mandatory e-learning packages. The e-learning packages relating to safeguarding adults and child protection was reviewed during the three day site visit and is deemed as sufficient in relation to general basic awareness. As this is the only available training on site for staff relating to safeguarding the reviewer raised concern with the Learning and Development lead that local information is not provided as part of the training. The training does not cover how to make an alert and refers staff to review organisational policy. The national e-learning packages enable clinical and nursing staff to achieve level 2 training for child protection in accordance with statutory requirements.
- 5.5 The reviewer was informed that information relating to local safeguarding process is contained within the current safeguarding segment of the induction training. The reviewer would like to note that this is a 'one off' 20 minute session, and if staff have worked within the organisation for several years they may not be aware of changes to local process. It is also of note to the reviewer that multiple staff spoken to as part of the review commented that safeguarding was not covered at their induction training which occurred recently.
- 5.6 Both Mental Capacity Act and Deprivation of Liberty Safeguards e-learning packages were reviewed. Both packages are deemed as inadequate to enable staff to implement the Act into clinical practice. The Mental Capacity Act package contained out of date information informing staff that Deprivation of Liberty Safeguards would be introduced in 2009. The reviewer also identified inaccuracies with one of the test question in which it gave the same outcome irrelevant of which answer the participant selected.
- 5.7 The Deprivation of Liberty Safeguards package contained on the National system was developed by the Royal Collage Psychiatry. On reviewing the package it soon became obvious to the reviewer that it was developed for medical staff who were to undertake the mental health aspect of the assessment process. As the package develops it covers aspects of the 'mini mental' test for memory recall and identifies the process to

undertake this. It is clear to the reviewer this is the reason the medical staff explained this as being the process for assessing capacity.

## **6. Policy**

- 6.1 Throughout the process all policies associated with the safeguarding portfolio were reviewed.
- 6.2 The safeguarding adult policy received ratification in March 2013 and is listed for review in April 2016. Section 2.4 identifies that any member of staff who believes that an adult is suffering from or at risk of harm, should always report his/her concern to Careline (Local Authority call centre), social work department and inform the named nurse for vulnerable adults. This could cause conflict with staff as section 3.6 states:
- Alert your line manager or senior nurse on call, and complete a safeguarding referral form.
  - Alert the Named Nurse.
  - Report concern to hospital social work department who will contact Careline.
- 6.3 On discussing the process with the hospital social work team, it appears that this process could delay the alert to Careline as the staff member raising the alert must liaise with the hospital social worker, prior to the information being logged with Careline. As the social worker was neither a witness to the concern or informed of the concern directly by the adult at risk they may then need to return to the staff member for additional information.
- 6.4 The safeguarding adult policy requires review as it does not account for the changes in safeguarding legislation introduced with the Care Act 2014. It also contains incorrect information relating to the Named Doctor for Safeguarding Adults. The safeguarding Children and Young Adults policy was updated October 2013 and is next for review November 2015. The Named Nurse details require updating.
- 6.5 The Mental Capacity Act policy and procedure was issued in October 2009 with a review date September 2010. The information within the policy is limiting and would not support full implementation of the Act into clinical practice. Section 18 within the policy (Deprivation of Liberty Safeguards) is inaccurate. It refers to the Primary Care Trust being supervisory body, and this ceased to function following the introduction of the Health and Social Care Act in April 2013. The level of detail contained within the policy in relation to Deprivation of Liberty Safeguards would not support staff to identify a potential deprivation, reduce the impact of the restraint or make an application to ensure the deprivation is legal.
- 6.6 The use of restraints in critical care policy was last issued in April 2012 and due a review in October 2013. This policy would imply that the use of mittens are the only forms of restraint available with the organisation as they are the only form identified

within a restraint policy. The assessment tool contained within the restraint policy, does not comply with the wider aspects of the Mental Capacity Act 2005.

- Question 5: If no to 3 (patient has capacity to consent to the use of mittens). Does the patient have a nominated next of kin who can provide consent?

6.7 This concern was raised directly to the Assistant Director of Nursing during the debrief on the 11<sup>th</sup> September. Within legislation, no one can provide consent to an individual over the age of 18 unless they are a registered power of attorney or court appointed deputy for welfare.

## **7. Documentation**

- 7.1 Liverpool Heart and Chest Hospital NHS Foundation Trust implemented an electronic patient record across its hospital site in June 2013. The system does not contain a specific safeguarding pathway, and staff report documentation of a safeguarding concern is inconsistent. When asked where a concern would be recorded staff reported it is likely to be documented within the patient notes section. As there is no flagging system to identify this has occurred, unless this information is verbally handed over the information may be lost. This is a particular concern when patients may be transferred to multiple wards during an admission.
- 7.2 Mental capacity assessment and best interest decision tool is paper based and contained at the back of the policy. During the walkabout staff were questioned in relation to completion of this documentation and staff were not aware there was a paper based assessment form as they reported they would document an assessment within the patient note. Although this is a record of the assessment, the quality of assessment would not be auditable. The Assistant Director of Nursing for Surgery, Anaesthesia and Critical Care (Named Nurse for Adult Safeguarding), informed the reviewer that a request had been made to the Electronic Patient Record (EPR) department to develop an electronic version of a capacity assessment and best interest decision tool to be used within the electronic patient record. On speaking to the Clinical Systems Manager, this work stream is on hold until the current organisational Mental Capacity Act policy and supporting documentation has received review to ensure the EPR team develop an appropriate form.
- 7.3 Form 1 (applying an urgent authorisation) and form 4 for (standard application) for deprivation of liberty safeguards are not easily accessible to staff, which could lead to a delay in making the application and the organisation may be deemed to be illegally depriving a person of liberty due to the lack of authorisation.

## Appendix 1

### **Liverpool Heart and Chest Hospital NHS Foundation Trust Safeguarding External Review Terms of Reference**

1. **Outline:** Liverpool Heart and Chest Hospital NHS Foundation Trust have commissioned an external review of safeguarding provision across the organisation. The reviewer has received a request to consider the following aspects:

#### 1.1 Safeguarding Adults and Children

- Policy;
- Process for escalation to Assistant Director Nursing;
- Closure of escalations;
- Key Performance Indicator associated to training;
- Link with Named Nurse – Adults;
- Link to Lead Clinician and Named Nurse – Children;
- Attendance at Safeguarding Adult Board;
- Attendance at Safeguarding Children's Board;
- Role of Safeguarding Lead Nurse / Doctor and training requirements.

#### 1.2 Learning Disabilities and Safeguarding

- Learning Disabilities and Safeguarding;
- Identification of need on PAS;
- Use of Learning Disability hospital passport;
- Care Partner programme – support mechanism for patients;
- Identification of need / support pre admission;
- Specific training requirements.

#### 1.3 Mental Capacity Act / Mental Capacity Act Deprivation of Liberty Safeguards

- Training compliance;
- Legislative requirements and impact on organisation;
- Escalation process of concerns;
- Identified MCA lead.

2. There are many aspects to be considered during a formal review of safeguarding provision within a NHS organisation. During the pre-visit stage, the reviewer will commit to review and have consideration of the following:

2.1 The statutory duties that apply to Liverpool Heart and Chest Hospital NHS Foundation Trust in relation to safeguarding children, adults and The Mental Capacity Act;

2.2 The Local Safeguarding Children's Board and Safeguarding Adult Board policy and procedures;

2.3 The organisational structure in relation to safeguarding;

- 2.4 Any overarching safeguarding strategy, safeguarding training strategy and relevant organisational policies and procedures E.g. safeguarding children and adults, Mental Capacity Act, Mental Capacity Act Deprivation of Liberty Safeguards, safeguarding supervision;
- 2.5 Organisational safeguarding annual report and internal data collected in relation to referrals for advice, alerts to the Local Authority, and attendance at external meetings E.g. Local Safeguarding Boards (children and adults), subgroups or Local Authority strategy meeting / case conferences;
- 2.6 The Named Nurse resource available in the organisation in relation to both Adults and Children.
3. On consideration of the both the requirements of the review and the documentation identified above the reviewer is asked to:
  - 3.1 Provide a strategic independent assessment across all aspects of safeguarding within Liverpool Heart and Chest Hospital;
  - 3.2 Identify the accessibility of the safeguarding service to, and the extent to which the service meets the needs of patients, carers, staff and external safeguarding partners;
  - 3.3 Undertake appropriate meetings and consultations of the current approach to safeguarding with organisational staff across all levels and departments, partners and stakeholders in community and local government sectors;
  - 3.4 Make practical and evidence based recommendations on the future potential configuration and delivery of safeguarding services across Liverpool Heart and Chest Hospital NHS Foundation Trust;
  - 3.5 Identify, at an early stage, potential areas of concern or specific priorities;
  - 3.6 Prepare a report incorporating analysis, findings and recommendations.
4. The reviewer will not be in a position to consider the financial implications of any recommendations identified during the process of the independent review of Liverpool heart and Chest Hospital NHS Foundation.
5. Proposed time scale:
  - 5.1 The reviewer is proposing to allocate 3 days to interview staff at Liverpool Heart and Chest Hospital NHS Foundation Trust. (Tuesday 9<sup>th</sup> - Thursday 11<sup>th</sup> September 2014);
  - 5.2 At the end of the 3<sup>rd</sup> day, time will be allocated to offer initial feedback to the executive team;
  - 5.3 A report will be submitted to the Director of Nursing by the 1<sup>st</sup> November 2014, offering full analysis of identified safeguarding processes, and practical recommendations for consideration by the executive team.

## Appendix 2

# Liverpool Heart and Chest Hospital

NHS Foundation Trust

## Safeguarding Review

Deborah Ward

All meetings to take place in Committee Room 1

agenda

### 9th September 2014

- |         |  |
|---------|--|
| 10.00am | Joan Mathews<br>(Head of Governance)   |
| 11.00am | Clare Pratt<br>(Deputy Director of Nursing)  |
| 1.30pm  | Lisa Salter<br>(Assistant Director of Nursing SACC / Safeguarding Adults Lead)             |
| 2.30pm  | Carolyn Cowperthwaite<br>(Assistant Director of Nursing C&CM / Safeguarding Children Lead) |
| 3.30pm  | Linda Phippard<br>(Social Worker)  |

### 10th September 2014

Morning with Learning & Development (Val Walsh & Danielle Symeou)

- |         |   |
|---------|---|
| 11.00am | Focus Group with Ward Staff             |
| 12.00pm | Focus Group with Specialist Nurses      |
| 2.00pm  | Lisa Gurrell<br>(Customer Care Manager) |

### 11th September 2014

- |         |  |
|---------|--|
| 9.00am  | Helen Martin<br>(Governance & Safety Lead) |
| 10.00am | Community Nurses                           |

11.00am	Focus Group with Specialist Nurses
1.00pm	Sue Gunson, Helen Smith & Tracey Forshaw (CCG Safeguarding Leads)



## **Appendix 3**

### **Standard Questions**

1. What does safeguarding mean to you?
2. Are you aware of any current policies or processes you can use to support safeguarding?
3. What currently works well?
4. What do you think could be improved?
5. Who would you contact for support with adult safeguarding concerns?
6. Who would you contact for support with child protection issues?
7. How does the Mental Capacity Act affect policy and procedures within the hospital / wider trust?
8. What are the signs of deprivation of liberty?

## **Appendix 4**

### **Job Roles / Ward Area's Which Participated in Review**

- Deputy Director of Nursing
- Medical Director
- Assistant Director of Nursing for Surgery, Anaesthesia and Critical Care
- Assistant Director of Nursing for Cardiology and Chest Medicine
- Head of Governance
- Team Manager / Head of Electronic Patient Records
- Hospital Social Worker
- Customer Care Manager
- Tissue Viability Lead
- Governance and Safety Lead
- Clinical Nurse Specialist's
- Knowsley Community Services
- Maple Ward staff
- Holly Ward staff
- Birch Ward staff
- Elm Ward staff
- Amanda Unit staff
- Cedar Ward staff
- Oak Ward staff
- Post Operative Critical Care Unit staff
- Intensive Care Unit staff
- Coronary Care staff
- Main reception

A range of staff roles and grades participated with the review, which included:

- A porter,
- Reception staff,
- Health care assistants,
- Staff nurses
- Ward sisters
- Ward managers
- A pharmacist
- A trainee doctor
- A YR2 doctor
- A specialist registrar
- Tissue Viability specialist
- Cancer Nurse Specialists
- Cystic Fibrosis Nurse
- Physiotherapists
- Occupational Therapist
- Community staff nurses