

## **Safeguarding Policy**

### **Introduction**

Caveat Solicitors are committed to protecting our clients and their children, young people and adults. We recognise the right of every individual to be kept safe and protected from harm and believe everyone has a responsibility to promote the welfare of all children, young people and adults, to keep them safe and to practise in a way that protects them. This policy shall apply to all staff, volunteers, students or anyone working on behalf of Caveat Solicitors and we seek to ensure that Caveat Solicitors undertakes its responsibilities effectively in this regard and will respond to concerns appropriately.

This policy is intended to protect individuals who receive any service from us, including those who are the children of adults who may receive services from us. Under this policy, the term children shall mean any person who is under eighteen years of age.

Caveat Solicitors will give equal priority to keep all children, young people and adults safe regardless of their age, disability, gender, gender reassignment, race, religion or belief, sex, or sexual orientation. We also recognise that some people are additionally vulnerable because of the impact of discrimination, previous experiences, their level of dependency, communication needs or other issues.

### **Recognition of abuse or neglect**

Abuse and neglect are forms of maltreatment of a person. Adults, young people and especially children can be vulnerable to different forms of abuse and harm.

Harm could consist of a single act or multiple acts. Somebody may abuse or neglect a person by inflicting harm, or by failing to act to prevent harm. A person may be abused in a common/ family or in an institutional or community setting, by those known to them or by a stranger.

A vulnerable person can be put at risk of harm through a wide range of circumstances and behaviour including actions, inadequate policies, procedures and failures to act such as those set out below :

- physical, emotional or psychological abuse
- sexual abuse
- domestic abuse
- neglect
- grooming and exploitation
- bullying and cyberbullying
- trafficking and modern slavery
- female genital mutilation (FGM)

## **Safeguarding Principles**

Caveat Solicitors is committed to ensure that any individual who comes into contact with our services is properly safeguarded. We will seek to keep children, young and vulnerable people safe by:

- valuing, listening to and respecting them
- appointing a nominated child protection lead for children and young and vulnerable people, and a safeguarding officer.
- providing effective management for staff and volunteers through supervision, support, training and quality assurance measures so that all staff and volunteers know about and follow our policies, procedures and behaviour codes confidently and competently
- recording, storing and using information professionally and securely, in line with data protection legislation and guidance
- making sure that children, young people and their families know where to go for help if they have a concern using our safeguarding and child protection procedures to share concerns and relevant information with agencies who need to know, and involving children, young people, parents, families and carers appropriately
- building a safeguarding culture where staff and volunteers, children, young people and their families, treat each other with respect and are comfortable about sharing concerns.

Every person under this policy holds responsibility for remaining alert and aware of possible safeguarding risks to individuals and take positive steps to maintain the safety and wellbeing of individuals engaging with us as an organisation as follows:

- understanding the duty to report specific concerns (and understanding how this interplays with confidentiality ( see below))
- reporting concerns expeditiously and appropriately
- being familiar with and understanding safeguarding and protection procedures
- ensuring all staff and volunteers understand and follow the safeguarding and child protection procedures
- ensuring children, young people and their families know about the organisation's safeguarding and child protection policies and what to do if they have a concern
- building a safeguarding culture where staff, volunteers and individuals know how they are expected to behave and feel comfortable about sharing concerns.

## **Confidentiality**

The duty of confidentiality is covered in paragraph 6.3 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019, which requires that:

‘You keep the affairs of current and former clients confidential unless disclosure is required or permitted by law or the client consents.’

A similar duty applies to firms (paragraph 6.3 of the SRA Code of Conduct for Firms)

Principle 7 of the SRA Principles requires solicitors to act in the best interests of each client.

Paragraphs 3.1 and 3.4 respectively of the Code of Conduct for Solicitors, RELs and RFLs states:

‘You only act for clients on instructions from the client, or from someone properly authorised to provide instructions on their behalf. If you have reason to suspect that the instructions do not represent your client’s wishes, you do not act unless you have satisfied yourself that they do.

However, in circumstances where you have legal authority to act notwithstanding that it is not possible to obtain or ascertain the instructions of your client, then you are subject to the overriding obligation to protect your client’s best interests.’

And

‘You consider and take account of your client’s attributes, needs and circumstances.’

## **Data Protection Act 2019**

The Data Protection Act 2019 and General Data Protection Regulation do not prevent you from disclosing information to safeguard a person from serious harm and falls within the exceptional circumstances when data can be disclosed.

Money Laundering Regulations and Anti- Terrorism legislation set out the circumstances when disclosure must occur. Disclosure can also occur to prevent a crime being committed, such as a family member informing you of their intention to assist in the client’s suicide or euthanise them.

## **Confidentially and Data Protection**

All personal information we may process relating to adults, young people and children, shall be processed and stored in accordance with our data protection privacy policy

## **Disclosure to safeguard your client**

The duty of confidentiality has to be weighed against the duty of care to protect the client in their best interests. It would be out of place if you could not disclose information which you hold to safeguard a vulnerable client from harm and then be criticised for breaching the client's confidentiality. However, the following would need to be considered when assessing whether you can act or what action should be taken :

- Whether the client is a child and not in a position to take steps to protect themselves.
- Whether the client has capacity to consent to disclosure of confidential information
- Whether the client has capacity but because of their circumstances they are not in a position to take steps to protect themselves from harm, for example they are acting under the undue influence, duress or coercion of another person.
- Whether the client lacks capacity and is not in a position to take steps to protect themselves from harm.
- The nature of the safeguarding concern and seriousness of risk of harm happening to the client in the event of no action being taken. For example, if there is a risk to the person's life, immediate action should be taken, or whether other people such as children could also be at risk.

## **Capacity to consent to disclosure**

It will be necessary to assess whether the vulnerable person has mental capacity to consent to the disclosure of your concern and whether you can nevertheless disclose because the law permits or requires you to disclose.

A capacity assessment of the client's ability to consent to the disclosure of information and for action to be taken is governed (for people aged 16 years or over) by the Mental Capacity Act 2005 (MCA 2005).

The MCA 2005 sets out a number of principles for its application, the first three of which act as a starting point for assessing capacity:

- A person must be assumed to have capacity, unless it is established that they lack capacity – Section 1(2)
- A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success – Section 1(3)
- A person is not to be treated as unable to make a decision merely because they make an unwise decision – Section 1(4)

The MCA 2005 Code of Practice provides a comprehensive explanation of how these principles are applied.

Section 2(1) of the MCA 2005 sets out the following two stage test for establishing a lack of capacity:

(1) the person is unable to make a specific decision at the time it needs to be made

(2) because they have an impairment or disturbance that affects the way their mind or brain works

An impairment or disturbance in the mind or brain can be temporary or fluctuate and the relevant time for establishing whether one exists is the time the decision needs to be made.

For a person to lack capacity to make the decision must be established on the balance of probabilities that they are unable:

- to understand the information relevant to the decision, or;
- to retain the information, or;
- to use or weigh up the information as part of the process of making the decision, or
- to communicate the decision (whether by talking, sign language, or any other means).

Most importantly, section 3(4) states that the information relevant to a decision includes information about the reasonably foreseeable consequences of deciding one way or the other or failing to make a decision. This may include understanding the available options, any alternatives and that they have a choice.

### **Steps to take when responding to a safeguarding concern**

The concern may be raised by the vulnerable client, someone else on their behalf or by those working in your organisation.

Where the concern is raised by the vulnerable person:

- Arrange to speak with them in a 'safe place', where they can speak openly.
- Listen carefully to what they tell you, get a clearer picture.
- Give the person your time and your attention: do not stop the person freely recalling significant events.
- Explain that steps can be taken to make them safer, and what these steps might be.
- Explore whether they have any immediate protection needs.
- Explain that you cannot promise not to speak to others about the information they have shared.
- Explain that you will speak to your Allocated Safeguarding Officer.
- Reassure them that they will be involved in decisions about what will happen next.
- Report the concern to your Safeguarding Officer
- Make an accurate record of the concern

In addition where any child makes a disclosure relating to harm or abuse to an adult, it is important for that adult to:

- listen calmly and carefully, showing that their views are taken seriously
- provide an appropriate and honest level of reassurance
- avoid interrogating children or asking probing, intrusive and/or leading questions

- avoid making false promises regarding secrets and confidentiality with the child (because any concern of abuse/harm must be shared with an Allocated Safeguarding Officer and any subsequent safeguarding referral)
- refer all relevant information to an available Allocated Safeguarding Officer as soon as practicable afterwards, and by no later than the end of the day Upon receipt of any safeguarding concern, an Allocated Safeguarding Officer shall consult with any other relevant persons and will make any appropriate referrals to the relevant authorities, such as the applicable Local Authority, Children's Services or Police

### **Immediate action to ensure safety**

Immediate action may be necessary at any time when working with vulnerable people, which may include:

- Contacting the police by dialling 999
- Calling an ambulance by dialling 999 or making arrangements for the vulnerable client to be taken to the nearest Accident and Emergency Department where emergency medical attention can be secured.
- Contacting the Forced Marriage Unit by telephoning 020 7008 0151 (Monday to Friday: 09.00 to 17.00) or out of hours: 020 7008 1500 (ask for the Global Response Centre) or email: [fmfco.gov.uk](mailto:fmfco.gov.uk), where you believe a marriage is being planned in respect of a person who does not consent or lacks capacity to consent to a marriage
- You can contact the NSPCC if concerns relate to a child [help@nspcc.org.uk](mailto:help@nspcc.org.uk) NSPCC Helpline 0808 800 5000

The management and oversight of all safeguarding matters is allocated to:

Designated Person for Safeguarding Name: Rehana Choudhry - Contact Number: 020 3249 1177 - [rehana@caveatsolicitors.com](mailto:rehana@caveatsolicitors.com)

Deputy Designated Person for Safeguarding Name: Niral Patel - Contact Number: 020 3429 1177 – [niral@caveatsolicitors.com](mailto:niral@caveatsolicitors.com)