**UWIC**

**Protection of Vulnerable Adults**

**Policy and Procedure**

**Policy Owner: Dean of Students**

**Policy Approved: July 2009**

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**Version: 1**

**PROTECTION OF VULNERABLE ADULTS POLICY AND PROCEDURE**

**Section 1: Policy and Statutory Framework**

**Scope**

This policy deals with the protection of Vulnerable Adults (as defined below). A separate policy covers Child Protection (under 18s). Complaints unrelated to abuse must be made through the UWIC Complaints Procedure. Criminal Records Bureau check requirements for staff are governed by separate guidance issued by Human Resources.

The provisions in this policy are linked to the In Safe Hands Guidelines and 2004 Inter-Agency Policy and Procedures for Responding to Alleged Abuse and Inappropriate Care of Vulnerable Adults in South Wales These can be accessed via the Adult Protection Website; www.swapforum.org.uk

**Policy Statement**

* UWIC holds as one of its highest priorities the health, safety and welfare of all vulnerable adults involved in courses or activities which come under the responsibility of UWIC.
* UWIC has a duty to ensure that staff fulfil their responsibilities to prevent abuse of vulnerable adults and to report any abuse discovered or suspected.
* Disability disclosure is promoted in UWIC’s admissions procedures and students are offered several opportunities to disclose or seek advice on disability issues, before and during induction. Students may also disclose at any point during their studies. However, earlier disclosure facilitates swifter support.
* UWIC will advise all parents/ guardians/ carers of vulnerable adults of the existence of UWIC's Protection of Vulnerable Adults Policy and Procedure, and the fact that this may require cases to be referred to investigative agencies in the interests of the vulnerable adult.
* UWIC will work with appropriate local agencies, and in particular Local Authorities’ Social Services Departments, to ensure that vulnerable adults are safeguarded through the effective operation of UWIC's procedure.
* UWIC recognises that any vulnerable adult can be subject to abuse and all allegations of abuse will be taken seriously and treated in accordance with UWIC procedure.
* UWIC recognises that it is the responsibility of all staff to act upon any concern no matter how small or trivial it may seem.
* UWIC recognises its responsibility to implement, maintain and regularly review the procedures that are designed to prevent or notify suspected abuse.
* UWIC is committed to supporting, resourcing and training those who work with, or who come into contact with, vulnerable adults and to providing appropriate supervision.
* UWIC will take steps to identify a vulnerable adult and will provide additional supervision measures, in response to individual needs, as identified by risk assessments and such students will come under the provisions of this policy.

**Statutory Framework**

The Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) Regulations 2002 require employers to carry out Criminal Record Bureau Checks before employees are allowed to come into contact with vulnerable adults. UWIC is required under this legislation to apply for an enhanced disclosure from the Criminal Records Bureau where staff are identified as working with such vulnerable adults. A vulnerable adult is defined (under the Protection of Vulnerable Adults Regulations 2002) as:

*'a person aged 18 or over who is receiving services of a type listed in paragraph (2) below and in consequence of a condition of a type listed in paragraph (3) below has a disability of a type listed in paragraph (4) below.*

*(2) The services are –*

*(a) accommodation and nursing or personal care in a care home;*

*(b) personal care or nursing or support to live independently in his own home;*

*(c) any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body;*

*(d) social care services; or*

*(e) any services provided in an establishment catering for a person with learning difficulties.*

*(3) The conditions are –*

*(a) a learning or physical disability;*

*(b) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or*

*(c) a reduction in physical or mental capacity.*

*(4) The disabilities are –*

*(a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions;*

*(b) severe impairment in the ability to communicate with others; or*

*(c) impairment in a person's ability to protect himself from assault, abuse or neglect.’*

*The Inter-agency policy and procedures referred to above define a vulnerable adult as follows: (p15 :5.7) ‘A person who is 18 years of age or over and who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him/herself; or is unable to take care of him/herself, or unable to protect him/herself against significant harm or serious exploitation’’*

*The procedures offer further guidance on what constitutes significant harm:*

*“ill treatment including sexual abuse and forms of ill treatment that are not physical); the impairment of physical, emotional, social and or behavioural development (inter-agency guidelines p 28)*

*The seriousness and extent of abuse are not always clear when a concern is first raised and factors to consider are:*

* *The frailty or vulnerability of the person involved.*
* *The nature and extent of the abuse.*
* *The length of time or frequency of the abuse.*
* *The impact on the vulnerable adult*
* *The risk of repeated or escalating acts.*

The guidelines define abuse as follows: (pps15-22)

* Physical abuse (includes hitting, slapping, pushing, kicking, misuse of medication, undue restraint or inappropriate sanctions.
* sexual abuse (includes rape and sexual assault or sexual acts to which the vulnerable adult has not or could not consent and/or was pressured into consenting
* psychological abuse (includes threats of harm or abandonment, humiliation, verbal or racial abuse, isolation or withdrawal from services or supportive networks
* financial abuse (includes theft, fraud, pressure around wills, property or inheritance, misuse or misappropriate of benefits)
* neglect and or acts of omission(includes failure to access medical care or services, negligence in the face of risk taking, failure to give prescribed medication, poor nutrition or lack of heating)
* institutional abuse (this can take place within both residential or community settings and relates to standards of care and practice)
* racial and homophobic abuse(whilst not classed as an individual category of abuse these need to be noted in situations where the victim perceives abuse to have been racist or homophobic in its intent)
* domestic abuse where the community care criteria apply.
* self neglect/harm – where there is a lack of mental capacity

Vulnerable adults include:

People with learning disabilities, mental health problems, older people and disabled people may fall within this definition, particularly when their situation is complicated by additional factors such as:

* Physical frailty
* Chronic illness
* Sensory impairment
* Challenging behaviour
* Social problems
* Emotional problems
* Poverty
* Homelessness
* Substance abuse

The Disability Discrimination Act 2005 requires educational providers to not treat a disabled person (defined under Part 1 of the DDA) less favourably and to make reasonable adjustments as required. UWIC provides a comprehensive Disability Service to students and applicants who declare a disability, dyslexia or medical condition. Students are advised regarding support options that are available and relevant support is co-ordinated on their behalf. Where appropriate external agencies may form part of the support package.

In the case of students defined as vulnerable, risk assessments form part of the service undertaken and relevant staff will be informed, as appropriate, ideally within two weeks of the date of the risk assessment. This is done in the full knowledge of the individual and where possible with their involvement. Further information on disability support is available from the UWIC website or Student Services.

UWIC will keep its policy and procedures on protection of vulnerable adults under review to take account of any new Government legislation, regulations or best practice documents to ensure that staff are kept fully up to date with their responsibilities and duties with regard to the safety and well-being of vulnerable adults.

**Section 2: Procedures**

The purpose of these guidelines is to ensure that the rights of vulnerable adults are protected. Where UWIC identifies that a vulnerable adult has enrolled, the Disability Service will assess the support needs of the individual and carry out necessary risk assessments.

Health and Safety considerations are addressed as part of this process, with reasonable adjustments being made where appropriate.

Members of staff who will be engaging with the vulnerable adult on a regular basis are made aware of relevant issues by the Disability Service.

Training on compliance with statutory and local requirements relating to the reporting of concerns will be offered through UWIC’s Staff Development programme for all staff.

**1. Procedural steps (Guidelines replicated from Inter-Agency Policy and Procedures for Responding to Alleged Abuse and Inappropriate Care of Vulnerable Adults in South Wales (2004)**

1. Where a disclosure of alleged abuse is made the member of staff receiving the allegations should:

**Guidelines for dealing with a report of abuse made by a vulnerable adult**

When listening to a vulnerable adult:

* allow them to speak without interruption
* never trivialise or exaggerate the issue
* never make suggestions
* never coach or lead the vulnerable adult in any way
* reassure the vulnerable adult, let them know you are glad they have spoken up and that they are right to do so
* always ask enough questions to clarify your understanding, do not probe or interrogate - no matter how well you know the vulnerable adult - spare them having to repeat themselves over and over
* be honest - let them know that you cannot keep this a secret, you will need to tell someone else.
* try to remain calm - remember this is not an easy thing for them to do
* do not show your emotions - if you show anger, disgust or disbelief, they may stop talking; this may be because they feel they are upsetting you or they may feel your negative feelings are directed towards them
* let them know that you are taking the matter very seriously
* make the vulnerable adult feel secure and safe without causing them any further anxiety

1. Ensure the individual understands that confidentiality cannot be guaranteed where there is a risk of another individual being abused and that if there is a risk of others being abused, UWIC has a legal obligation to report instances of alleged abuse to the Cardiff Social Services Department PoVA team;
2. Explain that the number of people involved will be kept to a minimum, that information will be disclosed on a need to know basis and that the person reporting will always be kept informed of action taken;
3. Make it clear to the person reporting the abuse that if the allegation should result in a criminal prosecution, then nothing that the victim or witnesses say can remain confidential;
4. In the case of a vulnerable adult reporting apparent abuse, listen carefully to him/her, using the adjacent guidelines:

i) Take accurate notes of:

* dates
* times
* facts
* observations
* Date and names of those present at the meeting must also be recorded

Additionally:

* Ensure immediate medical attention if necessary.
* Avoid making comments other than expressing understanding
* Listen patiently and carefully and stay calm
* Where relevant be careful not to destroy evidence
* Do not question or interview the person, or ask them to repeat the account, as this may lead to confusion and may jeopardise later proceedings;
* If you do need to ask for clarification you should ask questions such as. “What happened here”, ”how did this happen” etc. rather than “who did this”.
* Advise the person that you will take the next steps in the POVA policy
* Immediately inform the relevant designated person.

**Always remember – never delay in reporting your concerns, to ensure that a proper investigation takes place. Do not worry about being mistaken. It is better to have discussed your concerns with somebody who has the experience and responsibility to make an informed assessment and take positive action**

* 1. At the end of the discussion*, if there appears to be a risk of others being abused*, the account *must be passed to the Designated Person.* The Designated Person for each School/Unit is listed in Appendix 1. The designated person MUST then contact the appropriate Local Authority Social Services Department.

iii) If there does not appear to be a risk to others, when considering issues of confidentiality it is important to bear in mind that personal information can be disclosed only **with the individual’s consent, or where there is an overriding public interest or justification for doing so.**

1. In determining whether an individual has capacity to give informed consent, the following factors should be considered:
2. Mental capacity is a legal concept. It is the ability at that point in time to understand, retain and use the information required to make an informed decision on a specific issue and understand the consequences. It is also necessary to be able to communicate this decision.
3. Adults are presumed to have mental capacity until it has been assessed they do not.
4. All reasonable steps must be taken to help the adult to make those decisions which they are able to. This includes being creative in the way in which information is given to the adult in an accessible form.
5. An adult must not be treated as being unable to make a decision just because they make an unwise choice. Lack of mental capacity will be decided using the assessment as defined by the Mental Capacity Act 2005. Thorough multi-disciplinary assessments should set out the reasons upon which their judgement is based. They should address carers’ views of the adult’s mental capacity.
6. Where it is not clear whether the vulnerable adult can make an informed choice, the Designated Person should arrange an assessment from an appropriately qualified professional, through the Disability Service Manager.
7. Where it appears that an offence has been committed against a vulnerable adult who does not have the mental capacity to make an informed choice, the Designated Person must make a referral to Social Services.
8. In determining whether there is an overriding justification for disclosing despite the objection of a vulnerable adult who has the mental capacity to make an informed consent, this must be for one of the following reasons:

- Prevention or Detection of Crime, or

- The Public Interest

- The vital interests of an individual

The decision regarding whether to disclose and the reasons for reaching the decision must be recorded in writing.

The Designated Person will be responsible for recording essential information about each case and for collecting reports and notes as appropriate. All records must be passed to the office of the Dean of Students (or Head of Human Resources where a member of staff is accused), for secure storage at the end of UWIC’s involvement.

Any detailed information about an allegation will be confined to those employees involved, relevant managers and Designated Persons (where necessary) and (if not involved in the allegations), with the consent of the person concerned, the parents or guardians of the vulnerable adult. The Designated Person will be responsible for referral to external agencies, at the earliest practicable opportunity.

The staff reporting the allegations will be kept informed of the progress of the case on a 'need to know' basis.

**2. Allegations of abuse against a member of staff**

There are occasions when a vulnerable adult may accuse members of staff of abuse. In such cases, the member of staff receiving the allegation should inform the Designated Person, who will notify the Head of Human Resources immediately following the referral to Social Services. The Head of Human Resources will liaise with Social Services regarding appropriate action, including possible police involvement, prior to initiating any internal investigation/action.

*NB – This must not delay the process or any referral to Social Services.*

**3. Senior Members of Staff with Responsibility**

1. **Lead Responsibility**

This role will be fulfilled by the Director of Operations, who will be responsible for:

* Overseeing any referral by a Designated Person to the relevant authorities;
* Ensuring that Designated Persons maintain a proper record of any referral, complaint or concern ( even where this does not lead to a referral);
* Ensuring that Designated Persons maintain appropriate liaison with external agencies and ensure that staff, parents, partner organisations and learners are aware of the policy;
* Ensuring that all staff undertake training at the appropriate level on a regular basis;

The Dean of Students will be responsible for advising on the operation of the policy and will support Designated Persons in the discharge of their responsibilities under this policy.

1. **The ‘Designated Person’**

The Designated Person for each School/Unit is listed in Appendix 1 and will be trained to follow internal procedures involved in reporting abuse and to observe legal requirements.

**4. The Role of the Designated Person**

1. To provide support to staff potentially involved in the operation of the policy by:
2. Ensuring training needs are established and in service training needs of staff are notified to the Staff Development Manager;

ii) Ensuring all staff in the School or Unit know who the Designated Person is;  
ii) Ensuring that all staff know that concerns about abuse or possible abuse

are to be brought to the Designated Person or in his/her absence to the Director of Operations;

1. To discuss the situation with the appropriate Local Authority including advice and discussion regarding whether a formal referral for the protection of vulnerable adults is required.
2. To act as the contact for agencies needing to contact the School/Unit about protection of vulnerable adults matters;
3. To identify the need for support that any employee may have when subject of/involvement in allegations of abuse and liaising with the Head of Human Resources to ensure that the employee is aware of support mechanisms available;

1. To maintain confidential records of all action taken in respect of any case involving allegations of abuse;
2. To ensure that all enquiries from parents are referred to the appropriate Local Authority Department;

If the Designated Person in the School or Unit is the subject of an allegation, the staff member informed of/identifying the alleged abuse must refer to the Director of Operations, who will fulfil the role of the Designated Person. If no Designated Person can be contacted, a direct referral must be made to the appropriate Local Authority Social Services Department.

Where a member of staff reporting alleged abuse is concerned that insufficient/inappropriate action has been taken in respect of an allegation, reference should be made to the UWIC Whistle Blowing Code of Practice.

**5. Dissatisfaction with investigation/way in which complaint was handled**

If any person wishes to complain about the way in which the matter was handled, they may make a complaint under the Complaints procedure, or issue a grievance under the Grievance Procedure. Members of Trade Unions have the right to consult their unions and Human Resources will also offer advice on options open to members of staff. Students may also wish to take advice from UWICSU.

**6. Confidentiality**

Confidentiality and trust should be maintained, subject to the legal duty to make a referral (Point 4). Staff must act on the basis that the safety of the vulnerable adult is the overriding concern. The vulnerable adult should be informed at the earliest possible stage of the disclosure that the information will be passed on. All conversation regarding a vulnerable adult should always be held in private.

UWIC complies with the requirements of the Data Protection Act 1998, which allows for disclosure of personal data where this is necessary to protect the vital interests of a vulnerable adult.

**Whatever happens, staff should always be open and honest with the vulnerable adult if they intend to take the case further.**

If staff have any concerns about the progress of the case or have any other concerns these should be discussed with the Designated Person, although they always retain the right to consult trade union or legal advisors, subject to relevant Data Protection legislation regarding the privacy of others.

**7. The Role and Responsibilities of Counsellors**

1. Referrals to Counsellors

Counselling for anyone except the vulnerable adult may, in these circumstances, be provided by UWIC’s Counselling services. Counselling for the vulnerable adult must be arranged through Social Services, whilst counselling for students and staff will be provided by the Student Counselling services and counselling services provided by Human Resources, respectively.

If the person concerned does not wish to see a counsellor, their wish must be respected. It may be more appropriate for the person to seek counselling in the future. However, the staff member reporting the abuse may themselves wish to talk through their recent experience with the counsellor.

**8. Advocates**

A vulnerable adult or their carer may request that the vulnerable adult is supported by an advocate during any investigation. This will be arranged in consultation with Social Services and the Police, if appropriate. Members of staff may request representation from recognised trade unions, friends, relatives, legal advisors or with the agreement of Human Resources, other sources. Students may seek representation from UWICSU, friends, relatives, or legal advisors.

1. **Acknowledgements**

A number of sources of public information have been used in the preparation of this policy, including guidance documents published by the NHS, ARC, Mencap and In Safe Hands (WAG, 2000).

**CODE OF BEHAVIOUR RELATING TO THE PROTECTION OF VULNERABLE ADULTS FOR UWIC STAFF**

1 UWIC recognises that it is not practical to provide definitive instructions that would apply to all situations at all times whereby staff come into contact with vulnerable adults and to guarantee the protection of both vulnerable adults and staff.

2 However, below are the standards of behaviour required of staff in order to fulfil their roles within UWIC. This code should assist in the protection of both vulnerable adults and members of staff.

3 These guidelines also apply to volunteers who work in an unpaid capacity in UWIC premises.

4 **Staff must:**

* implement the Vulnerable Adult Protection Policy and Procedures at all times

5 **Staff should not:**

* engage in rough, physical games including horseplay with vulnerable adults other than organised sporting activities that form part of the curriculum;
* allow or engage in inappropriate touching of any kind;
* provide personal care including toileting, unless an agreed plan is in place, identifying need;
* physically restrain a vulnerable adult unless the restraint is to prevent physical injury of the vulnerable adult/other vulnerable adults/visitors or staff. **In all** **circumstances physical restraint must be appropriate and reasonable, otherwise** **the action can be defined as assault.**
* Engage in conduct that would be construed as bullying, discrimination or harassment within the meaning of the UWIC Bullying and Harassment Policy;
* have vulnerable adults on their own in a vehicle. Where circumstances require the transportation of vulnerable adults in their vehicle, another member of staff/ volunteer must travel in the vehicle. Also it is essential that there is adequate insurance for the vehicle to cover transporting vulnerable adults. In extreme emergencies (for medical purposes) where it is essential to transport a vulnerable adult with only one person accompanying them, an ambulance should be called.
* spend time alone with a vulnerable adult on his/her own, outside of the normal academic guidance/personal tutorial/classroom situation (with the exception of counsellors in a counselling session). If staff find themselves in a situation where they are alone with a vulnerable adult outside these parameters, they should try to ensure that they can be clearly observed by others. Counsellors are available to discuss personal issues and such issues should be referred to them.
* engage in a personal relationship with a vulnerable adult student, or a vulnerable adult who becomes a student, beyond that appropriate for a lecturer/ student relationship.

6 **Implications for staff**

Staff who breach any of the above conditions may be subject to disciplinary proceedings. If an allegation against a member of staff has occurred then following any Social Services or police investigation, if there is any allegation of misconduct, an investigation will be carried out in accordance with the staff disciplinary procedure for dealing with such allegations against staff; copies of this procedure are available from Human Resources. The investigating officer will be required to liaise with the Designated Person in the case to clarify if s/he has any relevant records relating to the allegation.

**Appendix 1**

**Designated Persons**

Dr Andy Miles Cardiff School of Sport

Jacquie Lee Cardiff School of Health Sciences

Trish Evans Cardiff School of Education

Richard Waring Cardiff School of Art and Design

To be confirmed Cardiff School of Management

Louise Griffin Communications, Marketing and Student Recruitment

(Ref: Widening Access/First Campus)

Rob Cummings Student Services

(Ref: Other Units)