

The Ecclesia and Vulnerable Adults

25th October 2018

The earlier notes have been superseded by a Government Document “Safeguarding and Protecting people for charities and Trustees which widens charity responsibility for vulnerable adults.

See www.gov.uk/guidance/safeguarding-duties-for-charity-trustees

Safeguarding adults at risk

Safeguarding adults at risk means protecting their right to live in safety and free from abuse and neglect.

Safeguarding duties for adults at risk apply to any charity working with anyone aged 18 or over who:

- has needs for care and support (whether or not the local authority is meeting any of those needs) and
- is experiencing, or is at risk of, abuse or neglect as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

An adult at risk of abuse may:

- have an illness affecting their mental or physical health have a learning disability
- suffer from drug or alcohol problems
- be frail

Superseded 15th October 2018

These quotes are taken from the Department of Health Regulated Activities (adults) Leaflet September 2012. Please obtain and review a copy. This is for guidance only and should not be taken as formal legal advice.

The view is that if the Ecclesia is in a non-commercial relationship with the individual, then there is no Regulated Activity and this legislation does not apply.

The leaflet states:

“General Points

1. Regulated activity continues to exclude any activity carried out in the course of family relationships, and personal, non-commercial relationships.
 - a) Family relationships involve close family (e.g. parents, siblings, grandparents) and relationships between two people who live in the same household and treat each other as family.
 - b) Personal, non-commercial relationships are arrangements where either no money changes hands, or any money that does change hands is not part of a commercial relationship (for example, gifting a friend money for petrol after they have driven you to the hospital), and the arrangement is made between friends or family friends.”

It is important therefore that the Ecclesia or its members does not enter into a commercial relationship as a Community Group with individuals.

For information, this is taken from the Leaflet.

“The definition of regulated activity for adults from 10th September 2012 will identify the activities provided to any adult which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time.

This means, for example, anyone providing personal care to an adult is in regulated activity irrespective of whether that occurs in, say, a hospital, a care home, a day care centre, a prison or in sheltered housing.

- An adult is a person aged 18 years or over.
- A person whose role includes the day to day management or supervision of any person who is engaging in regulated activity, is also in regulated activity.
- A worker employed for another purpose who volunteers, or is designated, to be that organisation’s first aider is not in regulated activity. For example, a person who works in a department store whose role includes being a first aider is not engaging in regulated activity.
- Members of peer support groups (for example, Alcoholics Anonymous), are not in regulated activity, even if the group is directed or supervised by a health care professional.

Does the Ecclesia or its members provide personal Care on a Commercial Basis?

Providing Health Care

1. Anyone who provides an adult with physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of the adult’s age, illness or disability, is in regulated activity.
2. Anyone who prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting and supervision, is in regulated activity.
3. Anyone who trains, instructs or provides advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability, is in regulated activity.

There is one exception to this. Excluded from regulated activity is any physical assistance provided to an adult in relation to the care of their hair when that assistance relates only to the cutting of the adult’s hair. This is to ensure that hairdressers who cut the hair of patients and residents in hospitals and care homes are not engaging in regulated activity.

A volunteer who prepares and serves a meal to an adult in their own home (but does not feed the adult) is not engaging in regulated activity. To be engaged in regulated activity you must provide physical assistance to the person, for example spoon feeding that person, or you must be prompting and supervising (for example, prompting and supervising a person with

dementia, because without it they would not eat), or training or instructing (for example, teaching a person who has suffered a stroke to eat using adapted cutlery).

Assistance with general household matters

Anyone who provides day to day assistance to an adult because of their age, illness or disability, where that assistance includes at least one of the following, is in regulated activity:

- managing the person's cash,
- paying the person's bills, or
- shopping on their behalf.

Illustrative examples:

A volunteer who collects shopping lists and the cash to pay for the shopping from older adults' homes, who then does the shopping on their behalf, would be engaging in regulated activity.

A befriender who helps a disabled person compile their weekly shopping list is not in regulated activity.

Conveying

Any drivers and any assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, are in regulated activity. **The driver does, or the person assists in, such conveying on behalf of an organisation and for the purpose of enabling the adult to receive services.** The meaning of health care, relevant personal care and relevant social work are discussed above.

Conveying does not include licensed taxi drivers or licensed private hire drivers, and does not include trips taken for purposes other than to receive health care, personal care or social work (for example, trips for pleasure are excluded).

Illustrative examples:

- a) A person who volunteers to take an adult to and from their GP appointment on behalf of a community group is in regulated activity. It would not matter if that person knows, or is friends with, the adult they were taking to the appointment if the conveying is on behalf of the group.
- b) A friend who takes their neighbour to a hospital appointment would not be in regulated activity, as this is a personal relationship.

But see General Points 1 a) and b) above.

Regulated activity continues to exclude any activity carried out in the course of family relationships, and personal, non-commercial relationships.

2. Other Legislation

The Disability Discrimination Act has been superseded by the Equality Act 2010 which is more all-embracing and is concerned with a lot more than just the building environment.

If you are providing goods, facilities or services to the public or a section of the public, or carrying out public functions, or running an association and you find there are barriers to

disabled people in the way you do things, then you must consider making adjustments (in other words, changes).

If those adjustments are reasonable for you and your Ecclesia to make, then you must make them. It also means that you must show that you have considered how to mitigate obstacles if it is unreasonable to meet new building standards fully.

Good policy documents covering health and safety, food hygiene, fire escape and the like, will be aids to demonstrate compliance, if mitigation of obstacles is the only reasonable route to take.

It is no longer just about physical disabilities that relate to access, it is about giving every building user (member or visitor) an equal opportunity of benefiting from the things you do, lighting and colour contrasts for the visually impaired, auditory facilities for those with hearing defects, ensuring there is no 'florescent flicker' to mitigate epileptic seizures.

It covers every aspect of equal opportunity that can be conceived, save, for the moment, a few exemptions relating to gender and sexuality for religious bodies.

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Christadelphian Support Network UK