

Policy/Procedure Name:	External Care Providers supporting students at Treloar (including offsite activities)		
Policy/Procedure Number:	SMT077		
Date of Approval:	May 2018		
Effective Date:	May 2018		
Revised Date:	April 2021		
Review by Date:	April 2023		
Policy/Procedure Author:	Head of Safeguarding		
Policy/Procedure Owner:	Principal		
Management Committee Approved By:	SMT		
Governor Committee (where appropriate) Approved By:	NA		
For Action By:	All Staff		
For Information to:	All Staff		
Approval requested to upload on the Treloar Website:	Yes <input type="checkbox"/> (tick if requested)		
Who is carrying out EIA?	Head of Quality	Date of EIA?	17 <sup>th</sup> June 21
Have we shown due regard for the 9 protected characteristics within the policy/procedure?	Yes x No <input type="checkbox"/>		
Are all opportunities to promote equality taken within the policy/procedure?	Yes x No <input type="checkbox"/>		
Refer Policy/Procedure to EDI Co-ordinator for further assessment	No X		

## Policy/ Procedure Aim –

To detail the responsibilities of Treloar’s in relation to regulated activity<sup>1</sup> carried out by people who are not commissioned by Treloar’s (for example, where family members or carers engaged by students provide care on the premises).

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<sup>1</sup> [The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(legislation.gov.uk\)](http://legislation.gov.uk)

## Rationale for Policy/Procedure

This policy is necessary because Treloar's at times arranges services outside core business. On occasions service users need to bring in their own carers. These "Carers" may be family, friends or paid carers or health care professionals who have no contractual relationship with Treloar's. For simplicity and ease of understanding we will use the term "Carers" throughout this document.

Reasons for this may include (but not limited to):

- A student with complex facilitated communication requiring significant transition before Treloar staff are able to support communication
- A student with a complex health need met by a specialist health provider that otherwise prevents them from accessing education
- A student receiving a personal budget as part of their EHCP providing for a level of personally funded provision.

The service users, or customers, if the arrangements have been made through a third party (eg parent), are responsible for these Carers at all times. If Carers cannot be supervised by Treloar staff when contact with Treloar students is possible, Treloar's will need confirmation that Carers have been subject to an Enhanced Child and Adult Workforce DBS. This will need to be shown to a senior member of Treloar staff and recorded on the Single Central Register, which is managed by HR.

Treloar's is not responsible for the activities of these Carers other than where safe practice or the normal business of the school and college is compromised.

Parents (or other informal carers) will often provide care for Treloar students when visiting. This is acceptable to Treloar's provided that the student and parent/carer are happy with this arrangement. Carers will be treated as partners in the care of a student. Treloar's accepts no responsibility for the care provided but will raise concerns about unsafe care as necessary. Carers should not use medical equipment (including hoists) except under the guidance of Treloar Staff. If support or training is needed in order to safely use equipment or facilities provided at Treloar then the external carers should request this in advance so that appropriate training or information can be provided.

Any agreement should be transparent, and all major parties (e.g. student, Treloar's, family, Local Authority, CCG) should be in agreement prior to commencement.

## Policy/Procedure Details

### **Principles underpinning this policy:**

Treloar's is a School and College for students with physical disabilities.

As part of our vision of "enabling education for disabled young people" Treloar's is committed to working creatively to overcome barriers to education.

This may at times involve working with other providers or Carers to enable students to receive education at Treloar's that they may otherwise not have access to.

All care provided to students at Treloar should be safe and regulated appropriately. This policy aims to support that.

### Informal care:

This policy looks to set out how Treloar's works with external providers engaging in Regulated Activity with Treloar students, it does not apply to family members and friends who may at times support students and provide informal care.

NICE Guidance<sup>2</sup> talks about the importance of working with Carers as "expert partners" in care, with valuable skills and knowledge, and that we should:

"... work in partnership with carers and treat them as a valued member of the care team around the person being cared for, with the person's consent. "

Where students (and their Carers) wish for family or informal Carers to support them with practical care tasks we will look to support this, including providing students with the opportunity for privacy, unless clearly demonstrated that it is not in their best interests.

Staff will equally be mindful of informal Carers' needs for support at times, and if advice or information is needed will provide Carers with contact details of Treloar professionals (e.g MDT members) or challenge behaviour that could expose students to risk of harm.

### Regulation:

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 list a range of activities that if carried out must be regulated, in order to ensure that those providing Health and Social Care services do so to a high standard, and with appropriate accountability. Regulated activities taking place at Treloar's (under either CQC or Ofsted registrations) include:

- Personal care
- Accommodation for persons who require nursing or personal care
- Nursing care
- Treatment of disease, disorder and injury

This also directs providers where responsibility for care and treatment is shared to ensure that timely care planning takes place to ensure the health, safety and welfare of service users (HM Government, n.d.)<sup>3</sup>

Regulated activities cannot be "dual registered", for example with both Ofsted and the Care Quality Commission.<sup>4</sup> Guidance is clear that there cannot be double accountability for the same activity, although it is appropriate for organisations such as Treloar's to hold different registrations for different activities.

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<sup>2</sup> [Recommendations | Supporting adult carers | Guidance | NICE](#)

<sup>3</sup> HM Government, n.d. *The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014*. [Online] Available at: <https://www.legislation.gov.uk/ukdsi/2014/978011117613/regulation/12> [Accessed 07 April 2021].

<sup>4</sup> [The scope of registration \(cqc.org.uk\)](#)

This policy is with regards to clarifying “hosting arrangements” as per The scope of registration (cqc.org.uk):

Where an activity is carried on by provider A but is hosted by provider B, then provider A will need to register, regardless of its host. For example, independent providers of health care or personal care in prisons must register, not the host prison. Similarly, the operator of a private dialysis unit in the grounds of an NHS hospital will need to register in its own right as a provider if it carries on a regulated activity – not the hospital.

However, in these situations we advise hosts to set out the extent of their role in formal agreements with the service provider (for example, through a contract or service level agreement). If the boundary of responsibilities is unclear, hosts may sometimes end up de facto being responsible for activities taking place in premises that are under their control, in the absence of anyone else being responsible for them.

This policy therefore will consider how Treloar’s arranges and manages such relationships.

It should be noted that under the Scope of Registration there are exemptions from registration in a number of key circumstances, with the following being of particular relevance to this policy:

- Where a person, or a related third party on their behalf (e.g. someone with parental responsibility, a deputy or a trust), makes their own arrangement for nursing care or personal care, and the nurse or carer works directly for them and under their control without an agency or employer involved in managing or directing the care provided

Whilst these persons may not be registered with the CQC in their work, we will apply the same governance in terms of setting out a contract, as we consider this most appropriate to make sure that students are safe, and that there is clear understanding between persons about any responsibilities or risks.

Where activity is overseen, directed, supervised or paid for by Treloar use of this policy is **not** appropriate, and would be considered to come under the scope of Treloar registration, unless agreed otherwise by the CQC.

This policy does not consider subcontracted services paid for or arranged by Treloar’s, please see [Treloar Contractor Safeguarding Procedure](#) for details.

### **Contract:**

For any regulated activity (e.g. personal care) taking place at Treloar’s, but not conducted by a Treloar employee or volunteer, there should be a clear contract in place setting out where responsibilities lie.

This is important to ensure that students are safe, and that all are aware of lines of responsibility and how to raise concerns. It also includes a framework to give all confidence that appropriate background checks have been completed, and that all are aware of their safeguarding responsibilities whilst at Treloar’s.

## **Key Responsibilities**

### **Chief Executive**

The chief executive has overall responsibility for matters of liability at Treloar's, and will ensure that any "hosting arrangement" meets the approval of Treloar's insurers when notified.

### **Principal**

The Principal is responsible for ensuring compliance with this policy and should be informed of any proposed arrangement.

The Principal has the authority to refuse, suspend or terminate any agreement. Should the Principal do so they will inform all parties of the reason for doing so.

### **Department managers**

The Manager who arranges the service provided by Treloar's must ensure that suitable arrangements are in place. They must ensure that all relevant policies, including Safeguarding, Health and Safety and other aspects of safe practice are included in the contract and accepted by all parties involved. The manager shall also ensure that the Carer receives an appropriate induction and signs within the contract provided that they have read and understood this information (for example, fire evacuation information, signing in arrangements).

### **Commissioning person (the person or organisation paying for the service):**

Any contract should set out who is responsible for commissioning and/or paying for any service, as the commissioner will be responsible for ensuring that the service meets any standards required.

As the majority of Treloar students have an Education Health and Care Plan (EHCP) this would ordinarily be the home Local Authority of the student, or the Clinical Commissioning Group (CCG) where needs are primarily health needs.

The customer must adhere to the contract. The customer is responsible for the standard of care provided by any Carer who accompanies the service user whilst participating in any activity organized through Treloar's, whether on-site or not.

### **Head of Admissions, Funding and Contracts**

Treloar's Head of Admissions, Funding and Contracts will look to identify any potential hosting or shared care arrangements during the admission and assessment process.

If such arrangements are being considered they will request that this be formally set out in any EHCP, and ensure that a contract is drawn up in line with this policy prior to admission.

## Treloar staff

Treloar staff working with the student are responsible for delivering the agreed service and ensuring all visitors are familiar with emergency procedures.

Treloar staff must keep records of any care or support provided in line with Treloar policies. Where any tasks are “shared” in any way, for example medication being given by external Carers during the daytime and by Treloar staff when staying overnight, it is recommended that the contract set out how information will be shared to reduce chance of communication errors impacting on student care or welfare. External Carers will **not** ordinarily have access to Treloar systems and this should be factored in. A physical “handover” meeting to discuss any required information is recommended in such circumstances.

Treloar staff are responsible for following normal safeguarding and incident reporting procedures if they have concerns regarding any visitor, regardless of the contractual arrangement. Carers as well as the person being cared for could be subject to safeguarding concerns as a result of abuse. Abuse may occur as a result of deliberate intent, negligence, and ignorance or as a result of omissions of care. If abuse is suspected staff are responsible for escalating any concerns about students and / or Carers at risk in their care, in accordance with Treloar’s Safeguarding Children and Adults with Support Needs Policy.

For the sake of clarity, any Safeguarding concerns should be reported as soon as possible using the Safeguarding number – 07825 262 418, with action being taken immediately to ensure the safety of all concerned.

## Procedure

1. Treloar assessment of student need to take place – either at admission, or as a review prompted by a change in need.
2. If a complex need is identified, the initial premise should be that Treloar will attempt to meet this need, and will consider recruitment, training or other methods to try to do so.
3. If it is not possible for this need to be met by Treloar then discussion to be had with student, parent (if appropriate) and Local Authority regarding this policy, and whether all feel that an external person is appropriate to meet this need.
4. A contract (see template below) should be drawn up covering responsibilities and sharing of information
5. This Contract should be reviewed by all parties, signed and dated.
6. If all are in agreement that this is safe and appropriate, and all checks have been completed then this provision may begin
7. This agreement should be regularly reviewed to ensure that the care provided is effective, and that it is in the best interests of the student

## Training Requirements

None.

## Communication Requirements

How will the Policy/procedure be communicated:	Through Management meetings, SharePoint
Who will ensure the above communication is carried out::	By Head of Safeguarding
Do the changes made to this policy/procedure affect any other policies/procedures? If yes, has this been communicated to the policy/procedure author/owner	No

## Monitoring and Review

The policy will be reviewed biannually and monitored through normal contract monitoring arrangements and incident reporting

## Links to other related policies, procedures or documents (internal)

- Safeguarding Children and Adults with Support Needs
- Whistleblowing Policy
- Treloar's contractor safeguarding procedure

## Revision History

Listed below is a brief audit trail, detailing amendments made to this policy procedure in last 4 years

Page/para No.	Brief description of the change(s)	Change made by	Date
Throughout	Significant re-write of policy to bring in line with regulation	Ben Baxter	07.04.2021

**IMPORTANT NOTES:**

It is essential for those with designated responsibilities to familiarise themselves with the sources of information, referred to above.

Policy documents describe mandatory minimum standards and will be subject to audit and review. Line managers are required to ensure suitable and sufficient arrangements are in place to meet policy requirements, including the provision of information and instruction to staff.

## Sample Contract

This document is a written agreement between Treloar's, [STUDENT] and [CARE PROVIDER], establishing who is responsible for personal care and/or meeting of medical needs whilst [STUDENT] is attending Treloar's.

This contract only applies to [STUDENT] and does not allow for any provider to carry out activities with any other student unless separate agreements are in place.

Student Name	
Date of Birth	

Local Authority of [STUDENT]	
Key Funding Contact (must also be in agreement with arrangement)	

External Care Provider Name (or if a Personal Assistant, the name of the person who directs and controls any regulated activity, i.e. a parent or student as applicable)	
CQC Registration number (or other relevant professional registration)	

Date of agreement	
Review Dates (Minimum termly):	

### Provision to be provided to [STUDENT] by Treloar's:

Education	<i>e.g. teaching classroom learning support</i>
Health	<i>e.g. medicines responsive nursing support</i>
Social Care	<i>e.g. Personal care eating and drinking support</i>

### Provision to be provided to [STUDENT] by [CARE PROVIDER]:

Health	<i>e.g. medication administration suctioning</i>
Social Care	<i>e.g. Personal care eating and drinking support</i>

It is a condition that any person who is or will be employed or engaged by the Contractor –

- is aware of and utilises the Treloar Safeguarding Children and Adults with Support Needs Policy in the provision of the Service

- shall have received regular safeguarding training in line with Hampshire Safeguarding Children Partnership or Safeguarding Adults Board requirements

Who is responsible for care provided by [CARE PROVIDER]?	
Who will manage concerns/complaints about care provided by [CARE PROVIDER]?	
Who is responsible for providing training to [CARE PROVIDER] to meet needs of [STUDENT]?	
DBS check information from [CARE PROVIDER STAFF] received on [See below for template]:	
Treloar Safeguarding policy provided to [CARE PROVIDER] on:	
Treloar Complaints policy provided to [CARE PROVIDER] on:	
Treloar Whistleblowing policy provided to [CARE PROVIDER] on:	
Induction information provided to [CARE PROVIDER] by [TRELOAR MANAGER].  Consisting of:  Fire evacuation information [... List other information as per contractor]	
What training is required for [CARE PROVIDER] with regards to equipment or facilities at Treloar?  Who will provide this, and when will this happen?	

Person in agreement:	Signature (or signature of witness)	Date:
[TRELOAR PRINCIPAL]		
[STUDENT]		
[PERSON WITH PARENTAL RESPONSIBILITY FOR STUDENT UNDER 18]		
Responsible person for [CARE PROVIDER]		
Key contact at [LOCAL AUTHORITY]		

**PLEASE NOTE:** The Treloar Principal has the authority to refuse, suspend or terminate any agreement. Should the principal do so they will inform all parties of the reason for doing so if permitted to do so.

## Safeguarding section of standard contract

### THE AGREEMENT

#### SAFEGUARDING AND BACKGROUND CHECKS

In the interests of safeguarding children and vulnerable adults, any person arranging for persons to work on Treloar premises will ensure that sufficient background checks and enhanced Disclosure and Barring Service (DBS), formerly Criminal Records Bureau (CRB), checks are undertaken for any of its employees that attend site regularly.

Persons who have not had a DBS or CRB clearance must be escorted on site at all times and will not be permitted to work unsupervised. Further details are included below.

The manner and scope of the background check, as well as the employer's internal communication or other use of the results is a matter within the sole discretion of the employer, provided, however, that any such background checks shall include an Enhanced Disclosure and Barring Service (DBS) or an Enhanced Criminal Records Bureau (CRB) check which indicates that there is no information that suggests that an employee is unsuitable to work with **children or vulnerable adults**.

This check is to be carried out by the person's employer (if self-employed, by Treloar's with costs to be charged to the individual) of all individuals who will carry out Services on Treloar's site. Treloar's is unable to carry out DBS checks on behalf of employers. More information is available at <http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/> or DBS General Enquiries 0870 – 90 90 811.

Prior to commencement, the employer must provide Treloar's with the following information regarding any individual who will or may work on site. (see letter template below)

- a) Name (including supplier/agency name if the person is subcontracted)
- b) CRB/DBS number
- c) CRB/DBS issue date
- d) The name and designation of the person in the organisation that agreed suitability to work with children and vulnerable adults and the date the original form was sighted.

Personnel who have not had an Enhanced DBS or Enhanced CRB clearance must be escorted on site at all times and will not be permitted to work unsupervised.

The employer agrees that it will not assign any person to perform the Services under this agreement where the DBS or CRB disclosure indicates that they present safety or security risks. In this instance the employer is required to contact Treloar's to discuss whether the offences disclosed affect whether the worker should be allowed on the Treloar's site. The Treloar's contracting Officer will liaise with the Head of Safeguarding, Head of HR or their nominated deputies who will make the decision.

Any other consideration discovered during the background check that could be a potential concern should be communicated to Treloar's before utilising such a person.

Above information will be recorded in the Single Central Record in a format that complies with the Data Protection Act 2018 and GDPR 2018, and will be shown to regulators as required.



## Equality Impact Assessment (EIA) - Stage 1

<b>Name of Policy / Function/Decision</b>	Care Providers – External Contracts				
<b>Name of Assessor / Author /Lead</b>	Jo Cox				
<b>Start Date</b>	17 <sup>th</sup> June 2021				
<b>This EIA is being undertaken because it is:</b>	<ul style="list-style-type: none"> <li>• A result of a policy revision</li> </ul> Oth				
<b>Screening</b>					
<b>Does the policy affect employees, students or other stakeholder groups? Could the impact be significant to that group of people?</b>					N
<b>Is it a major policy with a significant effect on how our core business is delivered?</b>					N
<b>Does it involve a significant commitment of resources?</b>					N
<b>Does it relate to an area where there are known inequalities (e.g. gender pay gap, hate crime, accessibility of IT)</b>					N
If the answer to any of these questions is 'YES' then continue to complete Equality impact assessment. If you are unsure about the answer to any of these questions please contact EDI Co-ordinator or Head of Quality for further support.					
<b>Has the screening identified the policy as having relevance to the any of the following groups?</b>					
Age	N	Disability	Y	Sexual Orientation	N
Race	N	Sex/Gender	N	Religion or Belief	N
Gender Reassignment	N	Pregnancy or Maternity	N	Marriage or civil partnership	N
Have we shown due regard for the 9 protected characteristics within the policy/procedure/decision?				Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Are all opportunities to promote equality taken within the policy/procedure/decision?				Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Have we stated how we will monitor the implementation and impact of this policy/decision?				Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>Date of Screening</b>					17 <sup>th</sup> June 2021
<b>Approval by EDI</b>					Jo Cox
<b>Refer Policy/Procedure to EDI Co-ordinator for further Stage 2 Assessment (if required)</b>					Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>