



# Safeguarding Vulnerable Adults Guidelines for Elder Mediators

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### Acknowledgements

The following Safeguarding Vulnerable Guidelines are a sister document to the EMIN Code of Ethics which can be accessed at:  
<https://elder-mediation-international.net/code-professional-conduct/>

In drafting these Guidelines EMIN has drawn on policies and guidelines from different organisations and services across different jurisdictions and the following two documents, in particular: The Canadian Centre for Elder Law, *A Practical Guide to Elder Abuse and Neglect Law in Canada*, 2011; and The Health Service Executive of Ireland, *Safeguarding Vulnerable Persons at Risk of Abuse National Policy and Procedures* 2014.

EMIN invites individuals and organisations involved with issues of ageing and/or elder care to draw on this document and asks that you quote the source and include a link to the EMIN web site at <https://elder-mediation-international.net>.

We welcome and encourage ongoing input in relation to these guidelines. Comments and/or queries can be forwarded to the Chairperson of the Ethics Committee at [ethics@elder-mediation-international.net](mailto:ethics@elder-mediation-international.net)

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## 1: Introduction

Elder Mediation is a person-centred process, grounded in the principles of self-determination, quality of life and the intrinsic value of each participant.

Elder Mediation training is designed to increase the Elder Mediator's awareness, recognition and responses to adult mistreatment, and their knowledge of legal reporting requirements and procedures for their respective jurisdiction. It is intended to heighten sensitivities and build mediator empathy, compassion, patience, and capacity, while cultivating a deep understanding of the grief issues that often present in Elder Mediation.

Adults have the right to feel safe, valued, and respected and so Elder Mediators engage in a continuous assessment for indicators of vulnerability (please refer to *Section 4: Preventative Measures* below). Where vulnerabilities are identified, the Elder Mediator actively supports the vulnerable adult, directly and/or indirectly, to ensure that their civil and constitutional rights are protected, so far as possible.

Capacity is presumed unless proven otherwise. Adults have the right to refuse or accept services or programs - whether or not that decision is considered wise by others. If capacity is proven to be lacking, the Elder Mediator must take appropriate measures to ensure that the voice of the vulnerable adult is included and respected in any decisions that may affect them.

The Elder Mediator has specialized training in recognising and managing imbalances or abuses of power and providing support to vulnerable adults, and in the ethical and legal issues around abuse and neglect. While Elder Mediators may have a diversity of education and training, they must refer to other professionals for special services and assessments.

They should be knowledgeable of available programs and services, and of experts and community supports to support vulnerable adults and their families and to enable appropriate referral and/or reporting in cases of suspected or known abuse.

Recognized programs of elder abuse training, delivered by experts in the field, is an essential element of Elder Mediation training.

### 1.1 Purpose and Scope of Guidelines

The purpose of these Safeguarding Vulnerable Adults (SVA) Guidelines is to enable a consistent and appropriate approach by EMIN Certified Elder Mediators to ensure that vulnerable adults are supported and enabled in the Elder Mediation process and protected from actual and potential abuse.

These Guidelines apply to all EMIN certified Elder Mediators and should be followed in tandem with the EMIN Code of Ethics to guide and inform Elder Mediators in practice.

## 2: Definitions and Descriptions

EMIN understands that different jurisdictions may have specific definitions in relation to relevant terms and that these jurisdictional terms may differ from EMIN definitions. Where this is the case, the jurisdictional definition will apply to Elder Mediators practicing in that jurisdiction. Where there is no jurisdictional-specific definition of a term, the EMIN definition will apply.

### 2.1 Abuse and Elder Abuse

Abuse may be defined as any act, or failure to act, which results in a breach of a vulnerable person's human rights, civil liberties, physical or mental integrity, dignity or general well-being, whether intended or through negligence, including sexual relationships or financial transactions to which the person does not or cannot validly consent, or which are deliberately exploitative. Abuse involves an abuse or misuse of power and may take a variety of forms.

The World Health Organization<sup>1</sup> defines elder abuse as a single or repeated act, or lack of appropriate action, occurring in any relationship where there is an expectation of trust that causes harm or distress to an older person.

There are several forms of elder abuse, any or all of which may be perpetrated as the result of deliberate intent, negligence or lack of insight and ignorance. A person may experience more than one form of abuse at any one time.

The following are the main categories/types of abuse:

- **Physical abuse** includes any inappropriate physical contact – including pushing, slapping, hitting, kicking – misuse of medication, restraints or inappropriate sanctions.
- **Sexual abuse** includes any form of unwelcomed verbal, non-verbal or physical conduct of a sexual nature or sexual acts to which the vulnerable person has not freely consented, and may consist of acts, requests, gestures or the display of written words or other media.
- **Psychological abuse** includes emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.
- **Financial or material abuse** includes theft, fraud, exploitation, pressure in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- **Neglect and acts of omission** includes ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life such as medication, adequate nutrition, clothing and heating or cooling (depending on climate).

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<sup>1</sup> Reference: WHO Ageing and Life Course at [http://www.who.int/ageing/projects/elder\\_abuse/en/](http://www.who.int/ageing/projects/elder_abuse/en/)

- **Discriminatory abuse** includes ageism, racism, sexism, that based on a person's disability, and other forms of harassment, slurs or similar treatment.
- **Institutional abuse** may occur within residential care and acute settings including nursing homes, acute hospitals and any other in-patient settings, and may involve poor standards of care, rigid routines, inadequate responses to complex needs or poor medical / clinical care.

## 2.2 Ageism

Ageism is the stereotyping, prejudice or discrimination against people on the basis of their age. It is widespread and an insidious practice that has harmful effects on the quality of life and wellbeing of older adults.

Ageist ideas are often ingrained and systemic and can inhibit people's objectivity and inform decisions at the individual and family level, the organization and community level, and at government and societal levels.

## 2.3 Elder Mediation

Elder Mediation is a focused, respectful process – usually multi-party, multi-issue and intergenerational - whereby a trained Elder Mediator facilitates discussions focusing on present strengths and assists participants in exploring any issues or concerns to enhance the quality of life and wellness of the older person(s), while respecting the needs of each participant. This form of mediation often involves many people related to the issues, including family members, caregivers, organizations, agencies and a variety of service providers and networks.

Elder Mediation is based on a wellness model that promotes a person-centred approach for all participants; it is mindful of the older person(s) while respecting the rights of each person participating. Through the Elder Mediation lens, aging is viewed as part of a continuing process of development and change, rather than just a period of physical and cognitive decline.

## 2.4 Elder Mediator

An Elder Mediator is a person who is professionally trained and certified in Elder Mediation theories and practices including its preventive and wellness aspects. The Elder Mediator facilitates communication among the participants and assists them toward mutually beneficial outcomes.

## 2.5 Empowerment

Empowerment means actively upholding the right to self-determination of the vulnerable adult and / or the older person by using proactive interventions to enable their voice and to ensure that their wishes and preferences are understood and honoured.

## 2.6 Safeguarding

Safeguarding means to prevent harm and reduce the risk of abuse or neglect, including self-neglect, of adults with care and support needs in a manner that supports the individual in having control over how they live their lives and which enhances their quality of life on a physical, emotional, intellectual, social or spiritual level.

## 2.7 Self-neglect

Self-neglect is the inability or unwillingness to provide for oneself the goods and services needed to live safely and independently or to perform essential self-care tasks.

## 2.8 Vulnerable adult

For the purposes of these Guidelines, a vulnerable adult is an adult who may be vulnerable to abuse due to a compromised capacity on their part to guard themselves against harm or exploitation. A person's capacity may be compromised due to many reasons, for example, due to a particular diagnosis or due to the nature of their relationship with a family member. It must not be assumed that an adult with a disability, or an older adult, is necessarily vulnerable. However, it is important to identify any added risk factors that may increase a person's vulnerability.

Context and/or individual circumstances may contribute to vulnerability to abuse.

# 3. The Role of the Elder Mediator in Safeguarding Vulnerable Adults

The role of the Elder Mediator is to enable and empower all of the participants in the elder mediation process and to promote wellbeing through preventative measures. The role of the Elder Mediator in safeguarding vulnerable adults in the elder mediation process has a number of elements including:

- 3.1 To actively promote the dignity and quality of life, and the human and civil rights, of the vulnerable adult
- 3.2 To be aware of, and adhere to, any relevant jurisdictional procedures and/or protocols in relation to safeguarding vulnerable adults – particularly in relation to the reporting of suspected and/or identified abuse of a vulnerable adult.
- 3.3 To embed preventative measures and strategies in the elder mediation process so as to safeguard vulnerable adults from future abuse and/or abusive practices.
- 3.4 To fully comply with the EMIN Code of Ethics and these EMIN SVA Guidelines to ensure the safeguarding of vulnerable adults from all forms of abuse and, where the jurisdictional SVA requirements exceed those of EMIN, to work in accordance with those requirements.

## 3.1 Boundaries of the Elder Mediator Role

As the Elder Mediator must not provide expert advice within the elder mediation process – financial, legal, clinical etc. – they should be aware of community resources appropriate for referral. For example, where capacity or abuse assessment is required, the Elder Mediator should refer on to an appropriate service or process rather than potentially compromise their role as Elder Mediator, so that they can continue or reconvene the elder mediation process, where appropriate.

### 3.2 Clarity and Transparency

At the outset of the Elder Mediation process, the Elder Mediator must make it clear to all participants in the mediation that confidentiality does not apply to information that discloses actual or potential abuse of vulnerable adults and that they, as Elder Mediators, are not neutral in issues of abuse.

The Elder Mediator should refer to the EMIN Code of Ethics and SVA Guidelines in their Agreement to Mediate and, if there are any particular SVA jurisdictional requirements that exceed EMIN requirements, these too should be referred to in the Agreement to Mediate and discussed with the participants at the outset of the process.

### 3.3 Where Abuse is Identified or Suspected

Where an Elder Mediator is informed of, or suspects, the possible abuse of a vulnerable adult:

- They should listen carefully if a vulnerable adult or third party describes or discloses apparent abuse.
- They should use appropriate questions to surface issues and/or explore the situation
- They should observe, listen for and ask about risk factors for abuse
- They are bound to step out of a neutral role and to act to protect the vulnerable adult in the event that they become aware of abuse or suspected abuse.
- They have a duty – in many jurisdictions a statutory duty – to report past and present abuse, and threats of future abuse or harm, of a vulnerable adult.
- If they become aware of, or suspect, abuse of a vulnerable adult, they should terminate the mediation, without naming the abuse, and contact the appropriate service or authority to ensure the protection of the vulnerable adult. Where appropriate, and where the elder mediator has appropriate education and training to mediate in matters concerning the lower end of abuse, they may adapt their process to continue with the elder mediation. See *Section 4: Preventative Measures* below for further information.
- They must ensure that any agreements reached in a case involving abuse are products of genuine agreement and not merely the product of financial or psychological vulnerability.

### 3.4 SVA Guiding Principles

The following guiding principles underpin the role of the Elder Mediator in supporting vulnerable adults in Elder Mediation.

#### 3.4.1 Respect for the vulnerable adult

Respect for the personal values, priorities, goals and lifestyle choices of the vulnerable adult.



### 3.4.2 Self-determination

Vulnerable adults have the right to make decisions, including choices others might consider risky or unwise. The Elder Mediator must find appropriate ways to include the voice of the vulnerable adult in any decisions that that may impact them.

### 3.4.3 Confidentiality and privacy rights

In most situations, you should seek consent before sharing another person's personal information or taking action on their behalf.

### 3.4.4 Counter ageism

Ageism is often at the heart of abuse or neglect and can present in Elder Mediation in explicit and implicit ways. Elder Mediators counter ageism by modelling respect, inclusion and equality and ensuring the voice of the older person is heard and respected.

### 3.4.5 Uphold rights

An appropriate response to abuse, neglect, or risk of abuse or neglect should respect the legal and civil rights of the older adult, while addressing the need for support, assistance, or protection in practical ways.

### 3.4.6 Be informed

The Elder Mediator should have a good working knowledge of elder abuse, neglect, and exploitation and be knowledgeable of the warning signs. (See *Section 4: Preventative Measures* below). They must also be knowledgeable of any relevant jurisdictional requirements.

### 3.4.7 Do no harm

'Do no harm' is to avoid additional risks to the vulnerable adult through our action or inaction as an Elder Mediator, thus the focus is on outcome rather than intention of action or inaction. 'Do no harm' means taking a step back from an intervention to look at the broader context including the involvement of relevant stakeholders to mitigate potential negative effects and encourage positive effects on the dignity and wellbeing of the vulnerable adult.

Harm can result from the lack of action and so, in Elder Mediation, doing no harm requires lifelong learning on the part of the Elder Mediator so that they are equipped to appropriately support and enable the participants to make informed decisions that promote the quality of life and wellbeing of the vulnerable adult.

## 4. Preventative Measures

### 4.1 Aim of preventative measures

The aim of these preventative measures is to ensure the safety and dignity of vulnerable adults both during and outside of the Elder Mediation process, especially in relation to caregiving and support and in their day-to-day relationships and activities.

## 4.2 Measures to Detect and Prevent Elder Abuse

### 4.2.1 Creating a 'frame' and opportunities

Creating an environment or frame where all participants and, in particular, the vulnerable adult, can express themselves freely and safely and supporting them in voicing feelings of unease or fear or concerns about harm or abuse.

### 4.2.2 Treating the vulnerable adult with dignity while providing security and safety

Treating the vulnerable adult with dignity while taking account of their wishes, abilities, and needs in a person-centred approach, while also respecting the needs of the other participants and adopting an attitude and behaviour that supports all participants in feeling safe and secure within the process.

### 4.2.3 Observing

Observing the behaviour of the vulnerable adult and of all the participants and their interactions. This requires being on the outlook for signs of unease, anxiety, fear or shame on the part of the vulnerable adult, and signs of harm done or of abuse including verbal, physical, and cognitive or emotional signs.

### 4.2.4 Questioning and clarifying

When signs at the lower end of the harm or abuse scale are visible and the vulnerable adult does not or cannot address or express their concerns, questioning them sensitively and individually about how they feel about the situation and the behaviour of the involved persons and participants may be required or/and undertaking further clarifications depending on the situation.

### 4.2.5 Intervening to provide or (re)establish security and dignity during mediation

Intervening in order to ensure, as far as possible, or to (re)establish the security, safety and dignity of the vulnerable adult if signs at the lower end of the harm or abuse scale or lack of dignity or safety become visible and apparent.

### 4.2.6 Checking the suitability of the case for mediation

During the initial conversations, exploring the concerns of each participant to establish if the case is suitable for mediation.

### 4.2.7 Formally intervening to stop elder abuse and (re)establish security and dignity

In cases where there are visible signs of elder abuse or harm to a vulnerable adult at the higher end of the scale, the mediator is required, under EMIN policy, to report the case and to initiate the formal or legal procedures as required in their jurisdiction. Where they can do so without jeopardising the safety of the vulnerable adult, the Elder Mediator should stop the mediation, or they may continue without the abusive person(s) present if appropriate and in the interests of the vulnerable adult.

### 4.2.8 Engaging others

To generally prevent elder abuse, EMIN encourages other private and professional support- and caregivers who engage with vulnerable adults to draw on these preventative measures as appropriate.

### 4.3 Elder Abuse Warning Signs (red flag Indicators)

#### 4.3.1 Preamble

Abuse of vulnerable adults takes many different forms and types. Signs of elder abuse can be difficult to recognise and may be similar to symptoms of dementia or frailty of the elderly person. Some signs and symptoms of elder abuse do overlap with symptoms of mental deterioration, but that does not mean they should be dismissed.

There are warning signs to look for if elder abuse is suspected. The following sampling of warning signs can help the Elder Mediator to decide if the case needs to be referred for a professional abuse assessment.—It is important that Elder Mediators work in a network and have access to a resource team where trusted experts can be called upon for specialised expertise.

Please note, the following samples of red flag issues are not a diagnostic instrument. There are warning signs to help the Elder Mediator to decide if a vulnerable adult may have suffered abuse and, if so, to identify which experts and/or authorities the case should be referred to by the Elder Mediator.

The Elder Mediator should refer a case to appropriate experts and/or health professionals for a professional abuse assessment if the Elder Mediator has reason to suspect that medium to high-level abuser may have occurred.

In severe elder abuse cases the Elder Mediator must inform social and/or jurisdiction services or the police without delay.

##### 4.3.1.1 Physical abuse warning signs

- Vulnerable person's self-report
- Unexplained signs of injury, such as bruises, welts, wounds, or scars, especially if they appear symmetrically on both sides of the body
- Open cut wounds, abrasions and injuries, especially untreated ones in various stages of healing
- Signs of being restrained, such as abrasions or rope marks on wrists
- Broken eyeglasses or frames
- Hair pulled out
- Burns
- Bite marks or wounds
- Broken bones, sprains or dislocations
- A report of drug overdose or an apparent failure to take medication regularly

##### 4.3.1.2 Psychological/emotional abuse warning signs

- The vulnerable person is upset/agitated
- The vulnerable person is withdrawn / non-responsive

- The vulnerable person appears scared, or you have reasonable cause to believe them to be scared
- The vulnerable person rocks, sucks fingers or a cloth, murmurs to themselves
- The vulnerable person exhibits (other) unusual behavior
- Persons present show threatening, belittling, or controlling behaviour towards the vulnerable person

#### **4.3.1.3 Sexual abuse warning signs**

- Bruises around breasts or genitals
- Unexplained vaginal or anal bleeding
- Torn, stained, or bloody underclothing
- Difficulty walking / sitting
- Detected sexually transmitted disease

#### **4.3.1.4 Elder neglect warning signs**

- Body odour / unwashed / dirty body
- Faecal / urine odour in the home / accommodation
- Unsanitary living conditions, soiled flat, clothes, bedding
- Bugs in the flat / house (Lice, Fleas, Roaches, Rodents)
- Scalded skin from urine
- Untreated physical problems, such as bed sores
- Malnutrition / dehydration / unusual weight loss
- Lack of medical care
- Failure to provide medication
- Lack of essential equipment or devices
- Failure to provide essential services and basic care
- Inappropriate clothing / unsuitable clothing or bedding for the climate
- Inadequate heating / cooling
- Unsafe living conditions and environment (faulty electrical wiring, other fire hazards)
- Lock / chains on interior doors

#### **4.3.1.5 Financial exploitation and fraud warning signs**

- Vulnerable person's self-report
- Unexplained disappearance of money, possessions, credit cards or cheque books

- Financial activity undertaken without the vulnerable person's knowledge or permission, such as withdrawals from banks and ATM's, purchases, bank transfers
- Unnecessary services, goods or subscriptions have been purchased
- New or additional names on signature card(s) and bank accounts
- Unpaid bills even if adequate funds are there
- Forged signatures for transactions
- Suspicious changes to wills, power of attorney and/or in banking habits
- Sudden or unexplained changes in the financial situation of the vulnerable person

#### 4.3.1.6 Healthcare fraud or abuse warning signs

- Vulnerable person's self-report
- Duplicate billings for the same care or medical service or device
- Evidence of inadequate care and support when bills are paid in full
- Provision of unnecessary services, care or support
- Poorly trained staff deployed who cannot provide adequate and or needed care, support or services
- Inadequate responses to questions about care of the elderly vulnerable person and/or related persons due to lack of training, knowledge or expertise of the deployed staff

## 5. Jurisdictional Considerations

The reporting requirements of suspected or known abuse or neglect of a vulnerable adult varies across jurisdictions.

Many jurisdictions have mandatory reporting requirements where abuse of a vulnerable adult is suspected or known to have occurred, or where a vulnerable adult is believed to be at risk of abuse. However, there are differences in relation to who is required to report abuse/suspected abuse, the context of the abuse/suspected abuse, the type and/or level of abuse that requires reporting, the ability of the adult to protect themselves, and the capacity of the adult to make a decision in relation to the proposed reporting of abuse.

In most jurisdictions, an adult is considered mentally capable unless the contrary is established in accordance with the provisions of the relevant jurisdictional requirements. Significantly, adults with capacity have a right to make decisions that will affect them, even where that decision involves living with, or associating with, someone who may be abusive.

For example, under Irish law, it is a criminal offence to withhold information in relation to a serious offence against a vulnerable adult. However, there are various defences to the withholding of such information, including where the vulnerable adult has made the

person aware of their wish for the local authorities not to be informed, provided the vulnerable adult is 'capable of forming a view on the matter'.

## 6. Conclusion

Intervening to protect a vulnerable adult while respecting the autonomy and independence of a person who may be in need of protection is central to the EMIN Standard.

Elder Mediators are bound to take a person-centred approach in practise that upholds the rights of all participants in the process, in particular the vulnerable adult, to self-determination, dignity and quality of life. The EMIN Code of Ethics explicitly recognises the ethical and human right of each person to make choices for themselves. Therefore, the consent of the vulnerable adult should be sought prior to the reporting of a known or suspected offence against them. If the adult is unable to give informed consent, discussion should take place, where appropriate, with their caregiver/guardian and medical or social work services. A person is presumed to have capacity to make decisions in relation to themselves unless they have been assessed by an expert as being unable to do so, and they have a right to make decisions that may be considered against their best interest, even if this means that they remain at risk.

However, the Elder Mediator is not neutral in issues of abuse and a person in an abusive relationship may need support and assistance in order to consider leaving or reporting an abusive relationship. Elder Mediation is, at its heart, an enabling process. So, while the Elder Mediator must respect and honour the right of the vulnerable adult to self-determination, they are required to actively support them or their representative to identify resources and to explore their options. However, if you have reason to believe that serious abuse has taken place or is likely to take place, EMIN Elder Mediators are required to formally report the abuse.