



# **Safeguarding Adults West and North Yorkshire and York Multi-Agency Policy and Procedures**

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Safeguarding Adults from Abuse and Neglect

Produced by:

The West and North Yorkshire and York Safeguarding Adults Project  
Group

On behalf of:

- Bradford Safeguarding Adults Board
- Calderdale Safeguarding Adults Board
- Kirklees Safeguarding Adults Board
- Leeds Safeguarding Adults Board
- North Yorkshire Safeguarding Adults Board
- Wakefield Safeguarding Adults Board
- York Safeguarding Adults Board

# Contents

<b>PART ONE: POLICY</b>	<b>1</b>
1. Adults at risk and abuse .....	2
1.1 Description of an adult at risk .....	2
1.2 Aims of safeguarding adults .....	3
1.3 Abuse .....	3
1.3.1 Physical abuse .....	3
1.3.2 Domestic violence .....	4
1.3.3 Sexual abuse .....	4
1.3.4 Psychological abuse .....	4
1.3.5 Financial and material abuse .....	5
1.3.6 Modern slavery.....	5
1.3.7 Discriminatory abuse.....	5
1.3.8 Neglect and acts of omission .....	5
1.3.9 Organisational abuse .....	6
1.3.10 Self-neglect .....	6
1.4 Patterns of abuse .....	7
1.5 Who might commit abuse? .....	7
1.5.1 Abuse by another adult at risk.....	8
1.5.2 Abuse by and of unpaid carers.....	8
1.5.3 Abuse by 'persons in positions of trust' .....	8
1.5.4 Abuse by children.....	9
2. Principles and Values .....	10
2.1 Principle 1: Empowerment.....	10
2.2 Principle 2: Protection .....	10
2.3 Principle 3: Prevention .....	11
2.4 Principle 4: Proportionality.....	11
2.5 Principle 5: Partnerships .....	11
2.6 Principle 6: Accountability.....	11
3. Prevention 12	
3.1 Responsibilities of organisations, employees and volunteers.....	12
4. Roles of Safeguarding Partners .....	16
4.1 Safeguarding Adults Boards (SABs) .....	16
4.2 Local authorities .....	16
4.3 Clinical commissioning groups (CCG) .....	17
4.4 Police .....	18
4.5 NHS England.....	18
4.6 Crown Prosecution Service (CPS) .....	19
4.7 Fire and Rescue Service .....	20
4.8 Housing and Housing Related Support Organisations .....	20
4.9 The Coroner .....	20
4.10 The Probation Service .....	21
4.11 Care Quality Commission (CQC) .....	21

4.12	Healthwatch.....	22
4.13	Community, voluntary and private sector providers.....	22
4.14	Responsibilities of all organisations.....	23
5.	Specialist Support Services And Linked Agendas.....	24
5.1	Specialist support services.....	24
5.1.1	Court of Protection.....	24
5.1.2	Office of the Public Guardian (OPG).....	25
5.1.3	Deprivation of Liberty Safeguards (DoLS).....	25
5.1.4	Trading Standards Service.....	27
5.1.5	Department of Work and Pensions (DWP).....	27
5.2	Linked agendas.....	28
5.2.1	Domestic violence and abuse.....	28
5.2.2	Forced marriage.....	29
5.2.3	Honour-based violence.....	29
5.2.4	Modern slavery.....	30
5.2.5	Prevent agenda: exploitation by radicalisers who promote violence.....	30
5.2.6	Hate crime.....	31
5.2.7	Anti-social behaviour.....	32
5.2.8	Multi-Agency Public Protection Arrangements (MAPPA).....	32
5.2.9	The Health and Safety Executive (HSE).....	33
5.2.10	Safeguarding children and young people.....	34
5.2.11	Prisons and approved premises.....	34
6.	Commissioning.....	36
6.1	Commissioning governance.....	36
6.2	Commissioned services.....	36
6.3	Personal budgets and self-directed care.....	37
7.	Managing Safeguarding Arrangements.....	38
7.1	Making safeguarding personal.....	38
7.2	Mental capacity.....	39
7.2.1	Principles of the Mental Capacity Act 2005.....	39
7.3	Risk assessment and management.....	40
7.4	Safeguarding Plan.....	40
7.5	Support for those involved within the safeguarding adults procedure.....	41
7.5.1	Involving the adult at risk.....	41
7.5.2	Independent advocacy.....	42
7.5.3	Independent Mental Capacity Advocates (IMCAs).....	42
7.5.4	Witness support and special measures.....	43
7.5.5	Victim support.....	43
7.5.6	Keeping families and others concerned informed and supported.....	44
7.5.7	Responsibilities to those who are alleged to have caused harm.....	44
7.6	Information sharing.....	45
7.7	Equality and diversity.....	46
7.8	Duty of care.....	47
7.9	Defensible decision making.....	47

<b>PART TWO: PROCEDURE</b>	<b>48</b>
8. Safeguarding Adults Procedure.....	49
8.1 Introduction to the safeguarding adults procedure .....	49
8.2 Designated roles within the safeguarding adults procedure .....	50
8.3 Summary of safeguarding responsibilities .....	53
<b>Section A</b>	<b>56</b>
9. Raising a Concern.....	57
9.1 Who can raise a concern?.....	57
9.2 Guidance for organisations.....	59
9.2.1 Guidance for employees and volunteers .....	59
9.2.2 In an emergency or out of hours .....	59
9.2.3 Whistle-blowing – Public Interest Disclosure Act 1998.....	60
9.3 Role of the Safeguarding Concerns Manager .....	60
9.3.1 Gather information .....	63
9.3.2 Take action to ensure the immediate safety of the adult at risk.....	63
9.3.3 Deciding whether to report an incident to the police.....	64
9.3.4 Preserving evidence.....	64
9.3.5 Deciding whether to raise a safeguarding concern .....	65
9.3.6 Mental capacity to consent.....	65
9.3.7 Raising a Safeguarding Concern without the consent of the adult at risk .....	66
9.3.8 Document the incident and any actions or decisions taken.....	67
9.3.9 Ensure key people are informed .....	67
9.3.10 Provide support for the person identifying the concern .....	67
9.4 How to raise a safeguarding concern .....	68
<b>Section B</b>	<b>71</b>
10. Initial Enquiry.....	72
10.1 Duty to make enquiries.....	72
10.1.1 Assessments and the duty to make enquiries and assessments .....	73
10.1.2 Causing Initial Enquiries to be made .....	73
10.2 Agree desired outcomes .....	75
10.3 Confirm causes for concern.....	75
10.3.1 Gather information .....	75
10.3.2 Risk assessment .....	76
10.4 Confirming causes for concern: specific considerations:.....	77
10.4.1 Poor practice or abuse .....	77
10.4.2 Organisational abuse .....	77
10.4.3 Relatives and unpaid carers.....	78
10.4.4 Abuse of one ‘adult at risk’ by another .....	79
10.4.5 Repeat allegations .....	79
10.4.6 Self-neglect .....	79
10.5 Agree action to be taken .....	80
10.5.1 Risk to others, including children.....	81
10.5.2 Mental capacity and consent.....	81
10.5.3 Undertaking safeguarding responses without consent.....	82

10.6	Initial Enquiry – Decisions and Further Actions .....	83
10.6.1	Immediate safeguarding arrangements.....	83
10.6.2	Deciding whether to report an incident to the police.....	83
10.6.3	Safeguarding response Option: Issues resolved after Initial Enquiries .....	84
10.6.4	Safeguarding response Option: Risk Management Response.....	85
10.6.5	Safeguarding response Option: Formal Enquiry .....	86
10.6.6	Safeguarding response not required .....	87
10.6.7	Recording the outcomes of the Initial Enquiries .....	87
10.6.8	Who should be informed of the decision .....	87
<b>Section C</b>		<b>88</b>
11.	Risk Management Response .....	89
11.1	Agreeing actions to be taken.....	89
11.2	Risk to others, including children.....	90
11.3	Review Actions.....	90
<b>Section D</b>		<b>91</b>
12.	Strategy.....	92
12.1	Purpose of the Strategy Discussion or Meeting.....	92
12.2	Deciding whether to hold a Strategy Meeting or Discussion .....	93
12.3	Who should be involved in a Strategy Discussion/Meeting .....	93
12.3.1	Involving the adult at risk.....	94
12.4	Deciding whether to proceed to a Formal Enquiry.....	94
12.5	Safeguarding Formal Enquiry plan .....	95
12.6	Additional guidance on coordinating multi-agency responses.....	95
12.7	Determining the Safeguarding Enquiry Officer .....	96
12.8	Assessment of risk and safeguarding planning .....	97
12.8.1	Agreeing actions with the adult at risk.....	97
12.8.2	Agreeing actions in relation to a 'person in a position of trust'.....	98
12.9	Recording and sharing information.....	99
12.10	Distribution of Strategy Discussion/Meeting minutes.....	99
12.11	Types of enquiries/investigations or risk assessment and agency responsible..	100
13.	Formal Enquiry .....	101
13.1	Purpose of a Formal Enquiry.....	101
13.2	Risk Assessment and Safeguarding planning .....	101
13.3	Role of the Safeguarding Enquiry Officer .....	101
13.4	Enquiry activities .....	101
13.5	Principles of fairness .....	102
13.6	Amendments to the Formal Enquiry Plan.....	103
13.7	Planning interviews .....	103
13.8	Medical treatment and examination.....	103
13.9	Delays with the Formal Enquiry.....	104
13.10	Standards of proof.....	104
13.11	Compiling the Safeguarding Formal Enquiry report.....	104

14. Case Conference.....	106
14.1 Case Conference Meeting or Discussion .....	106
14.2 Case Conference Discussion .....	107
14.3 Case Conference Meeting.....	107
14.4 Invitations to Case Conference Meetings.....	107
14.4.1 Involving the adult at risk.....	108
14.4.2 Involving the person or organisation alleged to have caused harm.....	109
14.5 Role of legal representatives at a Case Conference Meeting .....	109
14.6 Information provided through the Safeguarding Enquiry Officer's report.....	110
14.7 Case conclusions .....	110
14.7.1 Case conclusion for each type of abuse.....	111
14.7.2 Overall case conclusion .....	111
14.7.3 Case Conference Discussion decision making .....	112
14.7.4 Case Conference Meeting decision making .....	112
14.8 Assessment of risk and safeguarding planning .....	113
14.8.1 Agreeing a Safeguarding Plan with the adult at risk.....	113
14.8.2 Agreeing actions in relation to a 'person in a position of trust'.....	114
14.9 Action to be taken if the person causing harm is also an adult at risk .....	114
14.10 Case Conference minutes.....	115
14.11 Case Conference Discussion/Meeting minutes timescales: .....	116
14.12 Feedback to the Person Raising a Safeguarding Concern.....	116
14.13 Decision hold a Review Meeting .....	116
15. Review.....	117
15.1 Purpose of the Review .....	117
15.2 Who should attend .....	117
15.3 Actions required during the Review .....	117
15.4 Agreeing actions with the adult at risk .....	118
15.4.1 Risk to others, including children.....	118
15.5 Recording and feedback .....	118
16. Exiting the Safeguarding Adults Procedure .....	119
16.1 Duty to make enquiries fulfilled.....	119
16.2 Actions on exiting the safeguarding adults procedure .....	119
16.3 Record keeping and confidentiality.....	120
17. Complaints.....	121
18. Safeguarding Adults Review .....	121
19. Appendices:.....	122
19.1 Appendix A: Information required when Raising a Safeguarding Concern.....	122
19.2 Appendix B: Safeguarding adults contact points .....	124

(Each content heading is a hyperlink)

## Foreword

The West Yorkshire and North Yorkshire Multi-Agency Safeguarding Adults Policy and Procedure were introduced in April 2014, and marked the beginning of a new relationship and shared commitment to work together to achieve the best possible outcomes for adults at risk across the region.

Joint working across the region has enabled us to share best practice and develop better ways of working to support people in our communities who are at risk of abuse and neglect. From December 2015 we are fortunate to welcome York Safeguarding Adults Board to our joint approach, introducing shared multi-agency policy and procedures for West and North Yorkshire and York. This marks a shared commitment to share learning, expertise and to develop practice across a wider region to the benefit of those at risk of abuse and neglect.

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about working together to support people to make decisions about the risks they face in their own lives, and protecting those who lack the mental capacity to make these decisions.

The Care Act 2014 has now placed safeguarding adults on a statutory footing with new duties and responsibilities. This provides us with an opportunity to review our approach across the region, bring our learning into practice, and to focus on ensuring the adult at risk is always at the centre of our work to support them.

Safeguarding adults is however far more than a set of guidance or procedures; it is all we do in all our work, in our practice, and our communities to prevent abuse and promote the well-being of people with care and support needs. It includes the preventative work of our care and health services, the support of our neighbourhoods and communities, the courage of everyone who has 'blown the whistle', and the actions of every individual who looks out for the welfare of their friends and neighbours.

The multi-agency policy and procedure sets out the framework for how agencies respond to allegations of abuse and neglect, but they sit alongside all the support and work across the region to prevent abuse and neglect from occurring.

Bradford Safeguarding Adults Board



Calderdale Safeguarding Adults Board



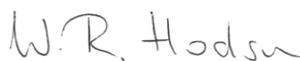
Kirklees Safeguarding Adults Board



Leeds Safeguarding Adults Board



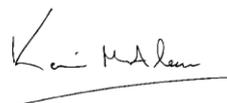
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North Yorkshire Safeguarding Adults Board



York Safeguarding Adults Board



## Glossary and acronyms

**Abuse** is a violation of an individual's human and civil rights by any other person or persons. It can take many forms, including physical, sexual, emotional/psychological, financial, neglect, discriminatory, organisational abuse. It may also include domestic violence, modern slavery and self-neglect.

**ADASS - Association of Directors of Adult Social Services** is the national leadership association for directors of local authority adult social care services.

**Adult At Risk** means an adult at risk of abuse or neglect. This is usually an adult who has care and support needs, and who is unable to protect themselves from abuse or neglect because of their care and support needs. In a small number of cases, it may include an adult with support needs, such as an unpaid carer of someone with care and support needs.

**Advocacy** is taking action to help people say what they want, secure their rights, represent their interests and obtain services they need. The adult at risk may be represented by a friend or family member in relation to a safeguarding concern, or where appropriate the local authority may arrange for an independent advocate. An independent advocate may work or volunteer for a commissioned independent advocacy service.

**Carer** refers to unpaid carers, for example, relatives or friends of the adult at risk. Paid workers, including personal assistants, whose job title may be 'carer', are called 'staff' within this policy and procedure.

**Case Conference Discussion** may take place where a Case Conference Meeting is not required. It is held to discuss the findings of the Formal Enquiry and to put in place a Safeguarding Plan. This can take place in a number of ways, including a face to face meeting, by telephone or by email.

**Case Conference Meeting** is a multi-agency meeting that may be held to discuss the findings of a Formal Enquiry and to put in place a Safeguarding Plan.

**Concern** describes an awareness of risk. A safeguarding adults concern is an awareness of the risk of abuse or neglect faced by an adult who is unable to protect themselves from that abuse or neglect due to their care and support needs

**Clinical Governance** is the framework through which the National Health Service (NHS) improves the quality of its services and ensures high standards of care.

**CPA - Care Programme Approach** requires health trusts, in collaboration with social care services, to put in place specified arrangements for the care and treatment of people with mental health problems in the community.

**CPS - Crown Prosecution Service** is the government department responsible for prosecuting criminal cases investigated by the police in England and Wales.

**CQC - Care Quality Commission** is responsible for the registration, regulation and inspection of health and social care services in England.

**DASM - Designated Adults Safeguarding Manager** is a role filled within the safeguarding adults procedure with responsibility for coordination and management oversight of allegations relating to an employee, volunteer or student.

**Disclosure and Barring Service** is the public body set up to help prevent unsuitable people from working with adults with care and support needs or with children. The Disclosure and Barring Service keeps a list of people who are not allowed to work with adults with care and support needs.

**DoLS - Deprivation of Liberty Safeguards** are a legal safeguard for people who cannot make decisions about their care and treatment when they need to be cared for in a particularly restrictive way. They apply to people in care homes or hospitals when they are deprived of their liberty.

**EDT - Emergency Duty Teams** are social services teams that respond to out-of-hours concerns, where intervention is required to protect a child or adult at risk, and where it would not be safe or appropriate to delay that intervention until the next working day.

**Eligibility** is the entitlement, based on level of care and support needs, to the provision of care and support services by a local authority. The decision to carry out a safeguarding enquiry does not depend on the person's eligibility, but should be taken wherever there is reasonable cause to think that a person with care and support needs is experiencing, or is at risk of, abuse or neglect.

**Enquiry** is the process of gathering information to determine what action should be taken in the case of an adult who is at risk of abuse or neglect. This could involve a wide range of responses, from a simple discussion with the person to a more complex Formal Enquiry.

**Enquiry Duty** the duty on the local authority to make enquiries to establish if any action is required in the case of an adult at risk.

**Formal Enquiry** is the process of establishing the facts and gathering evidence in relation to a safeguarding concern. A Safeguarding Coordinator will be appointed to oversee the Formal Enquiry, this will involve Strategy Discussions/Meetings to plan the enquiry, and a Case Conference Discussion or Meeting to review the findings and establish the need for a Safeguarding Plan.

**Initial Enquiry** is initial response of the local authority after a concern of abuse or neglect has been raised. It involves gathering information to determine what action, if any, should be taken. The subsequent action may involve a Formal Enquiry or Risk Management Response.

**HSE - Health and Safety Executive** is a national independent regulator that aims to reduce work-related death and serious injury across workplaces.

**IDVAs - Independent Domestic Violence Advisers** are trained support workers who provide assistance and advice to victims of domestic violence.

**IMCAs - Independent Mental Capacity Advocates** are a legal safeguard for people who lack the mental capacity to make specific important decisions, including making decisions about where they live, serious medical treatment, safeguarding adults, care reviews and Deprivation of Liberty Safeguards (DoLS). IMCAs are mainly instructed to represent people where there is no one independent of services, such as a family member or friend, who is able to represent the person.

**Informed Consent** is the voluntary agreement of a person who has mental capacity to a course of action based on an adequate knowledge of the purpose, nature, likely effects and risks of that intervention, including the likelihood of its success and any alternatives to it.

**Large Scale Enquiry** is the term used to describe the response within the safeguarding adult procedure where a number of adults are at risk from the same source of risk. This may be required, for example, where there are concerns about how a service provider is caring for a number of its service users.

**MAPPAs - Multi-Agency Public Protection Arrangements** are statutory arrangements for managing sexual and violent offenders.

**MARAC - Multi-Agency Risk Assessment Conference** is the multi-agency forum that manages high-risk cases of domestic violence, stalking and 'honour'- based violence.

**Mental Capacity** is the ability to make a decision about a particular matter at the time the decision needs to be made.

**NHS - National Health Service** is the country's publicly funded healthcare system.

**OPG - Office of the Public Guardian**, supports the Public Guardian in registering enduring powers of attorney, lasting powers of attorney and supervising Court of Protection appointed deputies.

**Organisation Alleged to Have Caused Harm** is an organisation that is alleged to be responsible for abuse or neglect experienced by an adult at risk.

**PALS - Patient Advice and Liaison Service** is an NHS service created to provide advice and support to NHS patients and their relatives and unpaid carers.

**Person Alleged to Have Caused Harm** is a person who is alleged to be responsible for abuse experienced by an adult at risk.

**Person in a position of trust** refers to an employee, volunteer or student who works with adults with children or adults with care and support needs.

**Person Raising a Concern** is the person who reports a concern to the multi-agency safeguarding adults contact point that an adult is being, has been, or is at risk of being abused or neglected. This could be the person themselves, a member of their family, an unpaid carer, a member of staff or any other person. Within an organisation, this will usually be the Safeguarding Concerns Manager.

**Public Interest** is determined by balancing the rights of the individual to privacy with the rights of others to protection.

**Raising a Concern** describes the action of reporting concerns and allegations of abuse or neglect to the multi-agency safeguarding adults contact point. Sometimes described as Raising a Safeguarding Concern. Within an organisation, safeguarding concerns should be discussed with the Safeguarding Concerns Manager or Safeguarding Adults Lead in the first instance, unless to do so would cause an undue delay.

**Risk Management Response** is the term given to the range of safeguarding actions that may be appropriate to respond to a safeguarding adults concern. This approach is undertaken when a Formal Enquiry is not required, but there are actions needed to safeguard the adult or others from abuse or neglect.

**Safeguarding Adults** is used to describe all work to help adults at risk stay safe from abuse. It replaces the term 'adult protection'.

**Safeguarding Adults Lead** is the title given to the member of staff in an organisation who is given the lead for safeguarding adults. The role may be combined with that of Safeguarding Concerns Manager, depending on the size of the organisation.

**Safeguarding Adults Concern** is an awareness of the risk of abuse or neglect faced by an adult who is unable to protect themselves from that abuse or neglect due to their care and support needs. Within an organisation, concerns should be discussed with the Safeguarding Concerns Manager or Safeguarding Adults Lead. 'Raising a concern' describes the action of reporting concerns and allegations into the multi-agency safeguarding adult contact point.

**Safeguarding Concerns Manager** is the person within an organisation to whom any member of staff (or volunteer) should report their concerns. The Safeguarding Concerns Manager will decide whether to report the concerns to the multi-agency safeguarding adults contact point.

**Safeguarding Coordinators** are professionals within adult social care, who have overall responsibility for managing the safeguarding arrangements. The Safeguarding Coordinator will work to ensure the wishes and desired outcomes of the adult at risk are sought and considered throughout the safeguarding procedure. This includes the decision as to how concerns should be managed for example: whether the multi-agency safeguarding adults procedure should be followed, managing the safeguarding adults Strategy Discussion/ Meeting, overseeing the Safeguarding Plan, the Formal Enquiry and convening the Case Conference Discussion/Meeting.

**Safeguarding Enquiry Officer** is a member of staff from Adult Social Care or a Service Provider who makes Formal Enquiries into the safeguarding concern. This may include collating information from others who have undertaken enquiry activities, however it will be the role of the Safeguarding Enquiry Officer to produce a written Formal Enquiry Report for the Safeguarding Coordinator and the subsequent Case Conference Discussion or Meeting.

**Safeguarding Plan** is a record of the arrangements to safeguard the adult at risk within a Formal Enquiry. The plan should be agreed with the adult at risk, taking into consideration their wishes and desired outcomes.

**SAB - Safeguarding Adults Board** is the statutory board within a local authority area that provides strategic leadership for safeguard adults. Its objective is to help and protect adults at risk of abuse and neglect in its area, by co-ordinating and ensuring the effectiveness of what each of its members does. The local authority, police and NHS clinical commissioning groups are all required to be members of the SAB.

**Safeguarding Adults Review** is a review into the death or serious harm of an adult at risk. It is undertaken by a Safeguarding Adults Board (SAB) when it is suspected that abuse or neglect has played a part in the death or harm to the person and there is reasonable cause for concern about how the SAB, its members or others worked together to safeguard the adult.

**SI - Serious Incident** is a term used by NHS England. It is defined as an incident that occurred in relation to NHS-funded services resulting in serious harm or unexpected or avoidable death of one or more patients, staff, visitors or members of the public.

**Strategy Discussion** is a discussion between relevant organisations and parties in order to agree how to proceed with a Formal Enquiry. This will include assessing risk, agreeing interim safeguarding arrangements and planning enquiries. This can be held in a number of ways, including a face to face meeting, by telephone or by email.

**Strategy Meeting** is a multi-agency meeting with the relevant individuals, including the adult at risk where they wish to be involved, to agree how to proceed with the Formal Enquiry. This will include assessing risk, agreeing interim safeguarding arrangements and planning enquiries, and coordinating enquiries with disciplinary proceedings, criminal proceedings or other investigations.

**Target Timescales** establish standards of practice within the procedure that should be achieved where possible. Target timescales are not performance indicators: the time taken to respond to issues of abuse and neglect depends on a range of factors including the needs of the adult at risk, and the nature, seriousness and complexity of the allegation, but they provide useful targets to aim for that are achievable in many cases.

**Vital Interest** is a term used within this procedure to describe actions critical to prevent serious harm or distress or in life-threatening situations.

## Introduction

The Safeguarding Adults Multi-Agency Policy and Procedure for West and North Yorkshire and York provide the framework for safeguarding adults with care and support needs from abuse and neglect.

Safeguarding works to support people in how they choose to live their lives. Central to our support is the need to ensure the adult at risk is leading any decision making about their own welfare. In the event that a person lacks mental capacity to make these decisions, then the decisions must be made in their best interests with due regard to their wishes, feelings, beliefs and values and in accordance with the Mental Capacity Act 2005.

Safeguarding adults requires organisations to work closely together, in partnership, to support and safeguard adults at risk of abuse and neglect. Strong partnerships are those whose work is based on an agreed policy and Strategy, with common definitions and a good understanding of each other's roles and responsibilities.

This Multi-Agency Safeguarding Adults Policy and Procedure seek to promote strong partnerships arrangements by:

- providing a framework for multi-agency working and partnership
- providing a framework for recognising and taking action to prevent the abuse of adults at risk
- defining the responsibilities of partner organisations in responding to safeguarding adult concerns/allegations
- providing common values, principles and practice that underpin the safeguarding of adults at risk
- identifying the different types of abuse, signs, symptoms and indicators
- setting standards of practice that safeguard adults at risk.

## Local implementation

Each West and North Yorkshire and York Safeguarding Adults Board has adopted this policy and procedure ensuring consistency of approach across the region.

Each local Board will however have additional supporting policies, procedures, guidance and forms that support this Multi-Agency Safeguarding Adults Policy and Procedure.

These can be accessed from their respective websites.

Bradford	Click <a href="#">here</a> for the safeguarding adults pages on <a href="http://www.bradford.gov.uk">www.bradford.gov.uk</a>
Calderdale	Click <a href="#">here</a> for the safeguarding adults pages on <a href="http://www.calderdale.gov.uk">www.calderdale.gov.uk</a>
Kirklees	Click <a href="#">here</a> for the safeguarding adults pages on <a href="http://www.kirklees.gov.uk">www.kirklees.gov.uk</a>
Leeds	<a href="http://www.leedssafeguardingadults.org.uk">www.leedssafeguardingadults.org.uk</a>
North Yorkshire	Click <a href="#">here</a> for safeguarding adults pages on <a href="http://www.northyorks.gov.uk">www.northyorks.gov.uk</a>
Wakefield	Click <a href="#">here</a> for the safeguarding adults pages on <a href="http://www.wakefield.gov.uk">www.wakefield.gov.uk</a>
York	<a href="http://www.safeguardingadultsyork.org.uk">www.safeguardingadultsyork.org.uk</a>

## Structure

This report is divided into two parts:

### **Part One: Policy**

The policy section establishes the scope and guiding principles of the procedure, as well as the responsibilities of organisations and individuals. It includes sections relating to:

- adult at risk and abuse
- safeguarding principles and values
- prevention
- roles of safeguarding partners
- specialist support services and linked agendas
- responsibilities within commissioning
- responsibilities in managing safeguarding arrangements

### **Part Two: Procedure**

The procedure section details the actions required of individuals and organisations to respond to suspected or actual abuse of an adult at risk. Actions within the procedure should be informed by the policy.

## Review

If any person identifies areas of omission or potential improvements to this Multi-Agency Safeguarding Adults Policy and Procedure, please email your comments to:

[feedback.safeguardingadultswypp@kirklees.gov.uk](mailto:feedback.safeguardingadultswypp@kirklees.gov.uk)

All comments and suggestions received will be considered within subsequent reviews

# **Safeguarding Adults**

## **West and North Yorkshire and York Multi-Agency Policy and Procedure**

### **PART ONE: POLICY**

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### **1. Adults at risk and abuse**

#### **1.1 Description of an adult at risk**

Where a local authority has reasonable cause to suspect that an adult (aged 18 years or more) in its area (whether or not ordinarily resident there) —

- has needs for care **and** support (whether or not the authority is meeting any of those needs),
- is experiencing, or is at risk of, abuse or neglect, and
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case and, if so, what and by whom.<sup>1</sup>

The decision to carry out a safeguarding enquiry does not depend on the person's eligibility for local authority services but upon the criteria stated in this section.

Unpaid carers will sometimes have care and support needs of their own. However, sometimes unpaid carers will only have support needs. In these circumstances this Multi-Agency Policy and Procedure may still be used as a proportionate response to the concerns where appropriate, using its duty to promote wellbeing.<sup>2</sup> This may be appropriate, for example, if an unpaid carer experiences intentional or unintentional harm from the adult they are trying to support.<sup>3</sup>

Within this policy, an adult at risk is someone who falls within this description. An adult at risk *may* therefore be a person who, for example:

- is an older person who is frail due to ill health, physical disability or cognitive impairment
- has a learning disability
- has a physical disability and/or a sensory impairment
- has mental health needs including dementia or a personality disorder
- has a long-term illness/condition
- misuses substances or alcohol
- is an unpaid carer such as a family member/friend who provides personal assistance and care to adults and is subject to abuse
- lacks mental capacity to make particular decisions and is in need of care and support

This list will not be exhaustive.

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<sup>1</sup> Care Act 2014: Section 42

<sup>2</sup> Care Act 2014: Section 1

<sup>3</sup> Care and Support, Statutory Guidance: Paragraph 14.35

## **1.2 Aims of safeguarding adults**

The aims of safeguarding adults are to:

- stop abuse or neglect wherever possible
- prevent harm and reduce the risk of abuse or neglect to adults with care and support needs
- safeguard adults in a way that supports them in making choices and having control about how they want to live
- promote an approach that concentrates on improving life for the adults concerned
- raise public awareness so that communities as a whole, alongside professionals play their part in preventing, identifying and responding to abuse and neglect
- providing information and support in accessible ways to help people understand the different types of abuse, how to stay safe and how to Raise a Concern about the safety and wellbeing of an adult; and
- address what caused the abuse or neglect.

## **1.3 Abuse**

Abuse of an adult at risk, as defined in paragraph 1.1, can take many forms. The following list is not exhaustive, but rather is illustrative of the kinds of abuse that might be experienced.

### **1.3.1 Physical abuse**

Examples of physical abuse include: hitting, slapping, pushing, kicking, misuse of medication, illegal restraint or inappropriate physical sanctions.

#### Restraint

Unlawful or inappropriate use of restraint or physical interventions and/or unlawful deprivation of liberty is physical abuse.

Someone is using restraint if they use force, or threaten to use force, to make someone do something they are resisting, or where a person's freedom of movement is restricted, whether they are resisting or not. Restraint covers a wide range of actions. It includes the use of active or passive means to ensure that the person concerned does something, or does not do something they want to do, for example, the use of key pads to prevent people from going where they want to within a closed environment.

Use of restraint can be justified to prevent harm to a person who lacks mental capacity, as long as it is a proportionate response to the likelihood and seriousness of the harm.

There is a distinction to be drawn between restraint, restriction and deprivation of liberty. A judgement as to whether a person is being deprived of liberty will depend on the particular circumstances of the case, taking into account the degree of intensity, type of restriction, duration, the effect and the manner of the implementation of the measure in question. In extreme circumstances unlawful or inappropriate use of restraint may also constitute a criminal offence.

Providers of health and social care must have in place internal operational procedures covering the use of physical interventions and restraint, incorporating best practice guidance and the Mental Capacity Act, Mental Capacity Act *Code of Practice* and the Deprivation of Liberty Safeguards (DoLS).

### **1.3.2 Domestic violence**

Examples of domestic violence include psychological, physical, sexual, financial, emotional abuse; as well as so called ‘honour’ based violence, forced marriage and female genital mutilation.

Many people think that domestic abuse is about intimate partners, or abuse of women by men, but it may also be caused by wider family members, and committed by women towards men and in same sex relationships, as made clear in the Home Office definition:

“An incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse... by someone who is or has been an intimate partner or family member regardless of gender or sexuality”.<sup>4</sup>

### **1.3.3 Sexual abuse**

Examples of sexual abuse include - rape and sexual assault or sexual acts to which the adult at risk has not consented, or could not consent or was pressured into consenting. Sexual acts would include being made to watch sexual activity.

Sexual abuse is not confined to issues of consent, the following factors should also be considered:

- Any sexual relationships or inappropriate sexualised behaviour between a member of staff and a service user are always abusive and should lead to disciplinary proceedings.
- A sexual act between a care worker and a service user with a mental disorder is also a specific criminal offence under Sections 38–42 of the Sexual Offences Act 2003.

### **1.3.4 Psychological abuse**

Examples of psychological/emotional abuse include - threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal from services or supportive networks.

This is behaviour that has a harmful effect on the person’s emotional health and development or any actions that result in:

- mental distress
- the denial of basic human and civil rights such as self-expression, privacy and dignity
- negating the right of the adult at risk to make choices and undermining their self-esteem

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<sup>4</sup> Home Office (2013) Guidance: Domestic Violence and Abuse

- isolation and over-dependence that has a harmful effect on the person's emotional health, development or well-being

Psychological/emotional abuse can result from other abusive acts and therefore may occur as a result of or alongside other types of abusive behaviour.

### **1.3.5 Financial and material abuse**

Financial and material abuse is a crime. It is the use of a person's property, assets, income, funds or any resources without their informed consent or authorisation. It includes:

- theft
- fraud
- internet scamming
- coercion in relation to an adults financial affairs or arrangements, such as wills, property, inheritance or financial transactions
- exploitation or the misuse or misappropriation of property, possessions or benefits
- the misuse of an enduring power of attorney or a lasting power of attorney, or appointeeship

### **1.3.6 Modern slavery**

Modern slavery includes human trafficking, forced labour and domestic servitude. Traffickers and slave masters use the means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhuman treatment.

### **1.3.7 Discriminatory abuse**

Examples of discriminatory abuse include - abuse based on a person's race, gender, gender identity, age, disability, sexual orientation or religion; or other forms of harassment, slurs or similar treatment or hate crime/hate incident.

Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunity to some groups or individuals. It can result from situations that exploit a person's vulnerability by treating the person in a way that excludes them from opportunities they should have as equal citizens, for example, education, health, justice and access to services and protection.

### **1.3.8 Neglect and acts of omission**

Examples of neglect and acts of omission include - 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 and heating.

Neglect and acts of omission concern the failure of any person who has responsibility for the care of an adult at risk to provide the amount and type of care that a reasonable person would be expected to provide.

Neglect and acts of omission can be intentional or unintentional.

Intentional acts involve:

- wilfully failing to provide care
- wilfully preventing the adult at risk from getting the care they need
- being reckless about the consequences of the person not getting the care they need

If the individual committing the neglect or acts of omission is aware of the consequences and the potential for harm to result from the lack of action(s), then it is intentional in nature. Wilful neglect can be a criminal offence.

Unintentional neglect or acts of omission could result from a unpaid carer failing to meet the needs of the adult at risk because they do not understand their needs, or may not know about services that are available or because their own needs prevent them from being able to give the care the person needs. It may also occur if the individual is unaware of or does not understand the possible effect of their lack of action on the adult at risk.

### **1.3.9 Organisational abuse**

Whenever any form of abuse is caused by an organisation, it may be organisational abuse. Organisational abuse includes neglect and poor practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one's own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.

### **1.3.10 Self-neglect**

Self-neglect covers a wide range of behaviours, such as neglecting to care for one's personal hygiene, health or surroundings and includes behaviours such as hoarding.<sup>5</sup>

Where a person lacks mental capacity in relation their care and support needs, decisions should be made in the person's best interests as required under the Mental Capacity Act 2005. However, if a person has mental capacity in relation to their care and support needs, or where issues of capacity are or have been difficult to assess, a response within the safeguarding adults procedure may sometimes be appropriate.

This should be considered where:

- a person is declining assistance in relation to their care and support needs, and
- the impact of their decision, has or is likely to have a substantial impact on their overall individual wellbeing

This will be those situations where usual attempts to engage the person with necessary support have been unsuccessful, and a significant risk of harm remains. It will also often, but not always, be those cases where a multi-agency response is required to respond to the concerns. Further guidance is included in Section 10.4.6.

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<sup>5</sup> Care and Support, Statutory Guidance: Paragraph 14.17

There may also be occasions where a person lacks mental capacity, but there are complex circumstances that prevent actions being taken in the person's 'best interests', and a response within the safeguarding adults procedure is appropriate and proportionate to the concerns.

#### **1.4 Patterns of abuse**

Abuse can take place in any context. It may occur when an adult at risk lives alone or with a relative; it may also occur within nursing, residential or day care settings, within hospitals or other places previously assumed safe, or in public places.

Patterns of abuse may reflect very different dynamics, such as:

- serial abuse in which the someone seeks out and 'grooms' individuals. Sexual abuse sometimes falls into this pattern as do some forms of financial abuse.
- long term abuse – may occur in the context of an ongoing relationship such as domestic violence between partners or generations or persistent psychological abuse
- opportunistic abuse - such as theft occurring because money or jewellery has been left lying around
- self-neglect – where a person declines support and assistance with their care and support needs impacting on their individual wellbeing.

Abuse may consist of:

- a single or repeated acts
- an act of commission or omission
- multiple acts, for example, an adult at risk may be neglected and also being financially abused

Abuse may be intentional or unintentional. A number of abusive acts are crimes and informing the police must be a key consideration.

#### **1.5 Who might commit abuse?**

This procedure is relevant to all incidents of abuse, regardless of who has committed them. Anyone might be responsible for abuse, including:

- a member of staff, a proprietor or service manager
- a member of a recognised professional group
- a service user, or other adult at risk
- a volunteer
- a member of a community group such as place of worship or social club
- a spouse, relative, member of the person's social network or an unpaid carer
- a child, including the person's own son or daughter
- a neighbour, member of the public or stranger; or
- a person who deliberately targets adults at risk in order to exploit them

### **1.5.1 Abuse by another adult at risk**

It is the nature of the incident and its impact, rather than the nature of the relationship between those concerned that are the important factors in determining the need for the safeguarding adults procedure to be followed. Where such an incident occurs within a service, for example where both people are living in a care setting, the risk of harm may be compounded by the emotional distress of living with an abusive person.

The safety of the adult at risk will be of primary importance. However, where the person causing harm is also an adult with care and support needs, there may also be ongoing responsibilities for their welfare. Consideration may be required as to how their care and support needs are being provided for, and whether the incident reveals unmet needs. Such an assessment should be undertaken separately from the person experiencing abuse.

It will be necessary for such an assessment to consider:

- whether the person causing the harm is able to understand his/her actions
- whether actions reflects unmet needs of the person causing the harm
- the risk that the person causing the harm will further abuse the adult at risk or others
- the support/care needs of that individual

### **1.5.2 Abuse by and of unpaid carers**

A response within this Multi-Agency Safeguarding Adults Policy and Procedure may be required in the following circumstances:

- An unpaid carer may experience intentional or unintentional harm from the adult they are trying to support or from professionals and organisations they are in contact with.
- An unpaid carer may intentionally or intentionally harm or neglect the adult they support on their own or with others.<sup>6</sup>

When a safeguarding concern is raised regarding a relative or unpaid carer, consideration should be given to the specific circumstances, the nature of the issues and the appropriate proportionate response.

The decision should consider an outcome which supports or offers the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship. Responses should ordinarily seek to support the continuation of family and caring relationships where this is consistent with the wishes and desired outcomes of those concerned.

### **1.5.3 Abuse by 'persons in positions of trust'**

The term 'persons in positions of trust' refers to an employee, volunteer, or student (paid or unpaid) who works with adults with care and support needs.

In the event a 'person in position of trust' is alleged to have abused an adult with care and support needs, or may pose a risk of abuse to an adult with care and support needs, it is

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<sup>6</sup> Care and Support, Statutory Guidance: Paragraph 14.35

essential that the concerns are appropriately reported and responded to within this Multi-Agency Safeguarding Adults Policy and Procedure.

The following concerns must be reported to the local authority:

- A 'person in a position of trust' has or is alleged to have abused an adult with care and support needs
- A 'person in a position of trust' has behaved (or is alleged to have behaved) towards another adult in a way that indicates that they may pose a risk of harm to an adult with care and support needs. This could include situations involving an investigation into a criminal offence, even if the victim is not a person with care and support needs
- A 'person in a position of trust' has behaved (or is alleged to have behaved) towards children in a way which means they may pose a risk of harm to adults with care and support needs.

These concerns could emerge from the persons home and personal life or circumstances, as well as within their work.

The Designated Adults Safeguarding Manager (DASM) for the local authority will provide coordination and management oversight of concerns, to ensure that the risks posed by a 'person in position of trust' are managed appropriately. The Local Authority DASM will work with the organisation responsible for the work of the 'person in a position of trust' and other relevant parties to achieve this. Refer to the separate Practice Guidance: Role of Designated Adults Safeguarding Manager for further information.

Where an organisation has its own appointed DASM, such as the Police or clinical commissioning groups, they should also be informed as appropriate and in accordance with internal procedures. This however is an addition to informing the Local Authority DASM.

The organisation responsible for the employee, volunteer or student may also need to:

- Invoke its disciplinary procedure
- Undertake enquiries on behalf of the local authority, providing evidence of their findings as required.
- Consider the need to make a referral to the Disclosure and Barring Service
- Consider the need to refer the concerns to the relevant professional group under the relevant code of conduct for the profession
- Report the concerns to the police, if a crime is suspected
- Inform the Care Quality Commission (regulated care providers)
- Provide the relevant DASM(s) with demonstrable assurance that appropriate actions in relation to any identified risks are being undertaken
- Keep the relevant DASM(s) informed of actions and decision undertaken

#### **1.5.4 Abuse by children**

If an adult at risk is being abused by a child (including their own child), the response should involve the local authority children's services and domestic violence and abuse services as appropriate, in order to respond to the risks of harm.

## **2. Principles and Values**

This Multi-Agency Safeguarding Adults Policy and Procedure is founded on the following safeguarding principles and values that govern how the safeguarding adults procedure should be implemented. These principles and values are based upon national guidance on achieving good outcomes for adults at risk.

### **2.1 Principle 1: Empowerment**

Empowerment is the principle that adults should be in control of their lives and consent is needed for decisions and actions designed to protect them.

The purpose of safeguarding is to enable people to live a life free from abuse and neglect. It is therefore vital that if someone has mental capacity and is able to make their own decisions that they maintain control and that professionals support their decision-making throughout the process. This includes:

- working towards the outcomes the person wants
- listening to the individual and ensuring their voice is heard
- taking actions with a person's consent, unless there is a clear justification for acting contrary to the person's wishes, such as for reasons of public interest or lack of mental capacity as detailed within the procedure
- ensuring the adult receives support to participate in all decisions about them (for example, with the support of friends/family/advocacy, personal assistants, translators) and due regard is given to issues of accessibility, equality and diversity
- enabling people to make informed decisions (for example, sharing assessments of risk, sharing information on available support options to reduce those risks, and providing support to weigh up risks and solutions)
- respecting the choices and decisions that people make
- allowing people to change their mind if their views or circumstances change

In the event that a person is without the mental capacity to make a particular decision for themselves, a best interests decision should be made in line with the Mental Capacity Act 2005 and Code of Practice. The adult should continue to be involved to the fullest extent possible, and decision making must recognise their wishes, feelings, beliefs and values and ensure that they are appropriately represented.

### **2.2 Principle 2: Protection**

The safeguarding adults procedure provides a framework by which adults can be supported to safeguard themselves from abuse, or protected, where they are unable for reasons of mental capacity to make decisions about their own safety. Assessments of mental capacity and best interest decisions in relation to those without mental capacity must always be in accordance with the Mental Capacity Act 2005 and Code of Practice.

Protection encompasses each and every person's duty of care and/or moral responsibility to act upon suspicions of abuse within the context of this procedure; and ensure that adults at risk as citizens receive the protection afforded to them in law.

### **2.3 Principle 3: Prevention**

Prevention of abuse is the primary goal and members of the public, agencies, service providers, individual employees or volunteers and communities all have a role in preventing abuse from occurring. Prevention involves promoting awareness and understanding and supporting people to safeguard themselves from the risk of abuse. This includes helping people to identify and make informed decisions about risks and develop forward plans that keep them safe.

Prevention also refers to the actions of organisations to ensure they have systems in place that minimise the risk of abuse. Prevention is associated with a broad range of responsibilities and initiatives; each associated with making safeguarding adults a core responsibility within the context of providing high quality services. More information about prevention is detailed in Section 3.

### **2.4 Principle 4: Proportionality**

The principle of proportionality concerns the responsibility to ensure that responses to safeguarding concerns are proportional to assessed risk and the nature of the allegation/concern. Proportionate decisions need to take into account the principles of empowerment and protection.

This principle of proportionality is also encompassed within the Mental Capacity Act 2005, where a person lacks mental capacity to make a particular decision, it must be made in the person's 'best interests'. This includes the responsibility to consider if the outcomes can be achieved in a way that is 'less restrictive of the person's rights and freedoms'.

### **2.5 Principle 5: Partnerships**

Partnership means working together to prevent and respond effectively to incidents or concerns of abuse.

Partnership means working together effectively to support the adult at risk in making informed decisions about identified risks of harm and helping them to access sources of support that keep them safe. Partnership also includes working with relatives, friends, unpaid carers or other representatives such as advocates as partners, as appropriate, to achieve positive outcomes for the adult at risk.

Partnership also means working cooperatively with other agencies to prevent, investigate and end abuse. Statutory, private, voluntary and specialist or mainstream services and their representatives should be considered partners within this procedure.

### **2.6 Principle 6: Accountability**

The principle of accountability involves transparency and decision making that can be accounted for. This involves each individual and organisation fulfilling their duty of care, making informed defensible decisions, with clear lines of accountability. It involves organisations, staff (and volunteers) understanding what is expected of them, recognising and acting upon their responsibilities to each other, and accepting collective responsibility for safeguarding arrangements.

### 3. Prevention

Whilst the safeguarding adults procedure focuses on responding to potential abuse, its prevention must always be the primary objective. Members of the public, staff, volunteers and organisations all have a role in preventing abuse.

Members of the public can help prevent abuse by encouraging people they are concerned about to recognise risks, to seek support, to access services they need. This might be by helping friends or family members to recognise abuse or to plan ahead as to how they manage their finances and affairs. This could also involve helping people to access information and advice or to understand their rights and responsibilities.

#### 3.1 Responsibilities of organisations, employees and volunteers

Prevention is associated with a broad range of responsibilities and initiatives; each associated with making safeguarding adults a core responsibility when providing services. Best practice in prevention includes six key characteristics within organisations providing care, support or treatment or other services to adults at risk:



Adapted from DoH 2011, Safeguarding Adults: The Role of Health Services

#### Safeguarding: a strategic objective

Prevention involves active service planning to minimise the risk of abuse:

- safeguarding should be a clear aim of every organisation; it should be at the heart of practice and service delivery at every level of the organisation
- there should be a system of leadership and accountability to ensure that safeguarding systems are in place
- safeguarding arrangements are focused on the needs and desired outcomes of the adult at risk

#### Leadership, staff and culture

Prevention includes leadership that:

- sets safeguarding strategies, objectives and priorities
- provides support and guidance to employees and volunteers
- provides for accountability in achieving safeguarding adults responsibilities, learning and improvement.

- prevention involves a safe and appropriately skilled workforce:
- best practice in relation to safe recruitment and retention is adhered to, including the requirements of the Disclosure and Barring Service (DBS)
- there are consistent staff teams and agreed staffing numbers are provided
- practice is consistent, there is good communication between members of staff
- staff and volunteers understand issues of empowerment and person/patient centred practice
- staff and volunteers have a clear understanding of important concepts such as choice, capacity, consent, privacy and dignity
- staff and volunteers have the skills, experience and aptitude to work with particular client groups
- staff and volunteers have read and understood the agency's safeguarding policy and procedure

Prevention involves training on required practice areas:

- staff and volunteers are provided with safeguarding training at a level commensurate with their roles
- wider training needs, such as those relating to Deprivation of Liberty Safeguards (in hospitals and care homes) and the Mental Capacity Act are identified and provided for
- other training needs are identified and provided for

Prevention involves a culture of learning and improvement:

- staff and volunteers are open to new ways of working, new ideas and initiatives
- there is openness and transparency – all staff and volunteers are listened to
- the service is working towards continuous improvement
- quality is prioritised and measured

Prevention involves a safeguarding culture where:

- the users of the service are the primary concern
- staff and volunteers are attuned to risks of neglect, harm and abuse
- staff and volunteers are able and feel able to raise their concerns with managers
- staff and volunteers understand their roles and responsibilities around safeguarding
- colleagues can challenge each other's practice
- safeguarding issues form part of supervision, team meetings and service development

### Partnerships

Prevention involves working with partners to prevent, respond or end abuse:

- the organisation should have a safeguarding policy and procedure that is consistent with this multi-agency safeguarding adults policy and procedure
- safeguarding arrangements are personalised to the wishes and desired outcomes of the adult at risk

- staff should understand their responsibilities to work with partner agencies to safeguard adults at risk
- staff should understand their responsibilities to work with adults at risk/service users, unpaid carers and others involved in their care as partners
- the needs of unpaid carers are recognised within assessments, enabling their needs, alongside the person they care for, to be recognised and provided for.
- there is learning from other agencies as to good practice

### Systems and processes

Prevention involves having effective systems and processes in place:

- there is a safeguarding policy and procedure that has been tailored to the needs of their service users and the nature of their organisation
- operational guidance is in place that addresses important aspects of health or social care practice and safeguards adults from abuse
- links are in place with complaints, serious incident, patient safety, disciplinary and governance processes as appropriate
- services have a 'Whistle Blowing' Policy in line with The Public Interest Disclosure Act 1998
- assessments of mental capacity and 'best interest' decisions are undertaken (and recorded) as required in accordance with the Mental Capacity Act
- hospitals and care homes have policies in relation to Deprivation of Liberty Safeguards (DoLS)

### Person centred services

Prevention involves ensuring service users are the primary concern of the organisation:

- services support people to be in control of decisions about their own lives
- services support people to recognise abuse, know how to seek advice and report concerns
- services support people to identify, assess and make informed decisions about situations of risk
- responses to concerns of abuse should take into consideration the wishes and desired outcomes of the adult at risk
- services support people to understand and exercise their rights and understand how to make complaints
- services recognise vulnerability and act to safeguard individuals
- relatives/unpaid carers are supported to understand their rights; their needs are recognised and are supported in fulfilling their role
- service users and unpaid carers are informed of and assisted with preventative safeguarding measures such as Lasting Power of Attorney and Advanced Decisions
- service user (and unpaid carer) experiences shape service provision
- information is provided for all service users and unpaid carers on how to report abuse and make complaints
- services recognise and provide for people's communication needs and support

Safeguarding measures are understood, assured and improved

Prevention involves the organisation assessing the effectiveness of its practice and learning from its experience:



- policies and procedures are kept under continual review
- services strive for continual development, learning from incidents occurring and Safeguarding Adults Reviews within the partnership
- safeguarding processes are assured through governance processes, whereby incidents, patterns, trends are identified and actions taken accordingly.

**ROLES OF SAFEGUARDING PARTNERS****4. Roles of Safeguarding Partners****4.1 Safeguarding Adults Boards (SABs)**

It is a statutory requirement of the Care Act 2014 for each local authority to establish a safeguarding adults board to help and protect adults with care and support needs from abuse and neglect in its area.

Each safeguarding adults board must include the local authority that established it, relevant clinical commissioning groups and the police. It may however also include a range of statutory and non-statutory agencies and organisations according to local needs and arrangements. Each partner has a duty to cooperate in the exercise of its functions to safeguard people in its area.

Safeguarding adults boards provide strategic direction to the development of safeguarding adults work in its area. Their legal duties include:

- Arranging for a Safeguarding Adults Review to achieve learning and practice improvements where relevant criteria have been met
- Publishing, each year, a strategic plan which sets out its objectives and what each member is doing to implement that plan.
- Consulting with the local Healthwatch organisation for its area and involving the community in determining its strategic plan
- Publishing an annual report setting out what it has done, and what its members have done, to achieve its objectives
- Sending a copy of its annual report to the Chief Executive of the local authority, the local policing body, the Chair of the Health and Wellbeing Board, and the local Healthwatch organisation for its area.
- Members have a duty to supply information as requested for the purpose of assisting or enabling the board to exercise its functions.

Boards work to ensure that organisations individually and collectively prioritise the prevention of abuse, develop effective systems and practices to respond to abuse, promote awareness, develop workforce training initiatives and achieve continual learning and improved practice. Boards also work to ensure that safeguarding adults is integrated into other community initiatives and services and has links with other relevant inter-agency partnerships.

Each board has its own constitution/memorandum of understanding. Its Chair will depend on local arrangements. It might be a Director of Adult Social Services, an assistant director, a senior elected member, or where partner agencies have agreed, be an independent chair. Board members from partner organisations should have a lead role in their organisation with regard to safeguarding adults arrangements and be of sufficient seniority that they can represent their organisation with authority, make multi-agency agreements and take issues back to their organisation for action.

**4.2 Local authorities**

Local authorities are statutory members of safeguarding adults boards. The Care Act 2014, implemented April 2015 places upon them specific legal duties.

## ROLES OF SAFEGUARDING PARTNERS

Each local authority must:

- consider the wellbeing of both unpaid carers and the person they are caring for during assessments of need. Wellbeing is defined as including the protection of abuse and neglect. During such assessments the local authority must consider whether it would be possible to provide information, or support that prevents abuse or neglect from occurring. Where this is necessary the local authority should make arrangements for providing it.
- set up the Safeguarding Adults Board (SAB) with core membership from the local authority, the police and clinical commissioning groups.
- make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide what action should be taken in the adult's case
- receive the findings of any enquiry and determine with the adult what, if any, further action is necessary
- arrange, where appropriate and proportionate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adults Review (SAR) where the adult has 'substantial difficulty in being involved in the process and where there is no other appropriate adult to help them.
- have a Designated Adults Safeguarding Manager(s) responsible for the management and oversight of individual complex cases and coordination where allegations are made or concerns raised about an employee, volunteer or student, paid or unpaid.
- Cooperate with its partners in achieving its objectives (each of whom has a duty to cooperate with the local authority)

### 4.3 Clinical commissioning groups (CCG)

Clinical commissioning groups (CCGs) are NHS organisations set up by the Health and Social Care Act 2012 to organise the delivery of NHS services in England. They are statutory members of Safeguarding Adults Boards

Clinical commissioning groups commission a range of health and care services including:

- Planned hospital care
- Urgent and emergency care
- Rehabilitation care
- Community health services
- Mental health and learning disability services

Clinical commissioning groups work with patients and health and social care partners (e.g. local hospitals, local authorities, local community groups etc.) to ensure services meet local needs.

Clinical commissioning groups provide strategic leadership, ensuring the wider NHS network has established systems and processes to safeguard adults effectively. This includes promoting safeguarding adults as a core element of local clinical governance arrangements, establishing local standards, monitoring the effectiveness of local systems, promoting and embedding joint working, delivering key messages and supporting the NHS network to promote and deliver effective safeguarding systems, practices and resources.

Clinical commissioning groups must have a Designated Adults Safeguarding Manager(s) responsible for the management and oversight of individual complex cases and coordination where allegations are made or concerns raised about an employee, volunteer or student, paid or unpaid.

#### **4.4 Police**

The police are statutory members of safeguarding adults boards.

Many forms of abuse amount to criminal offences. Whilst the duty of care in respect of safeguarding rests with all services, the prevention, identification, investigation, risk management and detection of criminal offences against adults at risk is a fundamental role of the police service.

Criminal investigations will take precedence over other forms of enquiry, but safeguarding planning will need to be undertaken in parallel. The police coordinate criminal investigations with wider safeguarding responses. This requires partnership, effective communication and cooperation, making the best use of each organisations skills and expertise in order to achieve safe, effective and timely outcomes for the adult at risk.

The police service must have a Designated Adults Safeguarding Manager(s) responsible for the management and oversight of individual complex cases and coordination where allegations are made or concerns raised about an employee, volunteer or student, paid or unpaid.

#### **4.5 NHS England**

The general function of NHS England is to promote a comprehensive health service so as to improve the health outcomes for people in England. NHS England discharges its responsibilities by:

- allocating funds to, guiding and supporting CCGs, and holding them to account, and;
- directly commissioning primary care, specialised health services, health care services for those in secure and detained settings, and for serving personnel and their families, and some public health services.

The mandate from Government sets out a number of objectives which NHS England is legally obliged to pursue. The objectives relevant to safeguarding are:

Objective 13 - NHS England's objective is to ensure that Clinical Commissioning Groups (CCGs) work with local authorities to ensure that vulnerable people, particularly those with learning disabilities and autism, receive safe, appropriate, high quality care.

Objective 23 - NHS England's objective is to make partnership a success. (This includes, for example, demonstrating progress against the Government's priority of continuing to improve safeguarding practice in the NHS)

## ROLES OF SAFEGUARDING PARTNERS

NHS England is required to:

- ensure that the health commissioning system as a whole is working effectively to safeguard adults vulnerable to abuse or neglect, and children;
- act as the policy lead for NHS safeguarding, working across health and social care, including leading and defining improvement in safeguarding practice and outcomes;
- provide leadership support to safeguarding professionals – including working with Health Education England (HEE) on education and training of both the general and the specialist workforce;
- ensure the implementation of effective safeguarding assurance arrangements and peer review processes across the health system from which assurance is provided to the Board;
- provide specialist safeguarding advice to the NHS;
- lead a system where there is a culture that supports staff in raising concerns regarding safeguarding issues;
- ensure that robust processes are in place to learn lessons from cases where children or adults die or are seriously harmed and abuse or neglect is suspected;
- appropriately engage in the local safeguarding boards and any local arrangements for safeguarding both adults and children, including effective mechanisms for LSCBs, SABs and health and wellbeing boards to raise concerns about the engagement and leadership of the local NHS.

As a commissioner of health services, NHS England also needs to assure itself that the organisations from which it commissions have effective safeguarding arrangements in place.

In addition, in relation to primary care NHS England is responsible for ensuring, in conjunction with local CCG clinical leaders, that there are effective arrangements for the employment and development of named GP/named professional capacity for supporting primary care within the local area.

### **4.6 Crown Prosecution Service (CPS)**

The CPS is the principle public prosecuting authority for England and Wales and is headed by the Director of Public Prosecutions. The CPS has produced a policy on prosecuting crimes against older people which is equally applicable to adults at risk, who may also be vulnerable witnesses.

Support is available within the judicial system to support adults at risk to enable them to bring cases to court and to give best evidence. If a person has been the victim of abuse that is also a crime, their support needs will need to be identified by the police, the CPS and others who have contact with the adult at risk. Witness Care Units exist in all judicial areas and are run jointly by the CPS and the police.

The CPS has a key role in making sure that special measures are put in place to support vulnerable or intimidated witnesses to give their best evidence. They are available both in the Crown and Magistrate Courts. These include the use of trained intermediaries to help

## ROLES OF SAFEGUARDING PARTNERS

with communication, screens and arrangements for evidence and cross-examination to be given by video link.<sup>7</sup>

### 4.7 Fire and Rescue Service

The Fire and Rescue Service visit adults at risk in various settings, including their own homes when responding to incidents or when carrying out a fire safety visit.

Where personnel have a concern about an adult at risk they will need to inform their line manager who may need to consider Raising a Safeguarding Concern.

Staff and volunteers from other agencies are not expected to be fire safety experts. However, they should be aware of the potential risk and advise the local fire station so that they may contact the occupier to arrange for a home fire safety visit with the consent of the occupier.

### 4.8 Housing and Housing Related Support Organisations

Housing organisation staff are in the position to identify tenants who are vulnerable and are at risk of abuse, neglect and exploitation.

Housing related support organisations provide housing and support services for adults with a wide range of needs. The quality of their service is regulated through the Quality Assessment Framework, which includes standards that they must meet with regard to safeguarding adults from abuse.

In addition to recognising the risks of abuse and raising safeguarding concerns, housing organisations will often have an important role within safeguarding planning arrangements.

### 4.9 The Coroner

Coroners are independent judicial officers who are responsible for investigating violent or unnatural or sudden deaths of unknown cause and deaths in custody, which must be reported to them. The Coroner may have specific questions arising from the death of an adult at risk. These are likely to fall within one of the following categories:

- where there is an obvious and serious failing by one or more organisations
- where there are no obvious failings, but the actions taken by organisations require further exploration/explanation
- where a death has occurred and there are concerns for others in the same household or other setting (such as a care home) or
- deaths that fall outside the requirement to hold an inquest but follow-up enquiries/actions are identified by the Coroner or his or her officers

In the above situations the local safeguarding adults board may also need to consider whether the criteria for a Safeguarding Adults Review has been met.

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<sup>7</sup> Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures, Ministry of Justice, March 2011.

## ROLES OF SAFEGUARDING PARTNERS

### 4.10 The Probation Service

The Probation Service protects the public by working with offenders to reduce re-offending and harm. It works jointly with other public and voluntary services to identify, assess and manage the risk in the community of offenders who have the potential to cause harm.

The Probation Service shares information and works in partnership with other agencies including local authorities and health services, and contributes to local Multi-Agency Public Protection Arrangements (MAPPA) to help reduce the re-offending behaviour of sexual and violent offenders in order to protect the public and previous victims from serious harm.

Transforming rehabilitation (2014) is a reform programme that changed the way offenders are managed in the community. The reforms included the introduction of a new National Probation Service and local Community Rehabilitation Companies (CRCs)

#### **National Probation Service**

The National Probation Service provides staff in prisons, provides advice to courts and works with high risk offenders and those on the national sex offender register

#### **Community Rehabilitation Companies (CRC)**

Community Rehabilitation Companies are private companies commissioned to work in regional areas across the country. This includes West Yorkshire CRC and North Yorkshire (CRC). CRC's work with medium and low risk offenders.

The National Probation Service and Community Rehabilitation Companies work with each other and their partners to reduce reoffending. Although the focus of the Probation Service is on those who cause harm, they are also in a position to identify offenders who themselves are at risk from abuse and to take steps to reduce the risk to those offenders in accordance with this Multi-Agency Policy and Procedures.

### 4.11 Care Quality Commission (CQC)

The Care Quality Commission (CQC) is the independent regulator of all health and adult social care in England, including those provided by the NHS, local authorities, private companies and voluntary organisations. Specifically this includes:

- medical and clinical treatment given to people of all ages, including treatment given in hospitals, ambulance services, mental health services and GP practices
- care provided in residential and nursing homes
- care provided in the community or in people's own homes
- services for people whose rights are restricted under the Mental Health Act
- care provided either by the NHS or by independent organisations

All health and adult social care providers are required by law to be registered with CQC and must show that they are meeting the essential standards. Registration is combined with continuous monitoring of essential standards as part of a system of regulation.

## ROLES OF SAFEGUARDING PARTNERS

Regulations under the Care Act will place a 'duty of candour' on all service providers registered with the Care Quality Commission from April 2015. The duty:

- aims to ensure transparency and honesty when things go wrong
- requires providers to tell the person when something has gone wrong as soon as possible and provide support to them
- includes giving an apology and keeping the person informed about any further enquiries.

The CQC publication 'Our Safeguarding Protocol' states that they will attend safeguarding Strategy Meetings where:

- a person or people registered with CQC to provide services are directly implicated
- urgent or complex regulatory action is indicated
- any form of enforcement action has started, or is under consideration, in relation to the service or location involved and which relates to risks to people using the service or the quality of their care

However, regardless of attendance, the CQC should receive copies of any Strategy and Case Conference Meeting minutes in relation to services they regulate.

CQC will provide relevant information to the chairs of all Strategy Meetings convened in relation to regulated services as requested. For example, information from CQC about the quality of service and regulatory track record of the provider may be useful to the chair of the meeting in determining the service provider's level of involvement in the process.

### 4.12 Healthwatch

Healthwatch is the new independent consumer champion with statutory powers to ensure the voice of the consumer is strengthened and heard by those who commission, deliver and regulate health and care services. Healthwatch operates on a national level through Healthwatch England and at a local level with a Healthwatch in each area.

Healthwatch has a statutory remit to collate evidence of service shortfalls and issues to ensure the regulators, other arms-length bodies, and government departments, respond accordingly.

Safeguarding Adults Boards have duty to consult Healthwatch in relation to its Strategic Plan each year, to help ensure that its plans reflect local needs, priorities and views.

### 4.13 Community, voluntary and private sector providers

Community, voluntary and private sector organisations will provide a diverse range of services to adults at risk. Each organisation will have an important role within this safeguarding adults procedure and provide services that will assist in both preventing and responding to abuse.

Community, voluntary and private sector organisations will need to work closely with statutory agencies, such as the police, NHS and adult social care, in the interests of adults at risk and to achieve the objectives of this procedure.

The role of community, voluntary and private sector organisations will depend on the nature of the service provided, however each of the responsibilities in Section 4.14 apply.

#### **4.14 Responsibilities of all organisations**

An organisation that provides care and support to adults at risk has responsibilities to safeguard adults at risk within this procedure.

This involves:

- actively developing service provision so as to minimise the risk of abuse occurring
- working with partner agencies to support adults at risk who have experienced abuse
- working with partner agencies to end any abuse that is occurring

All organisations that work with adults at risk must ensure that they respond to issues of abuse and neglect in accordance with this Multi-Agency Safeguarding Adults Policy and Procedure. This includes the responsibility to ensure that:

- organisations have their own internal policy and procedures, consistent with this Multi-Agency Policy and Procedure
- all staff and volunteers raise safeguarding concerns in-line with this Multi-Agency Policy and Procedure.
- appropriate senior representatives of the organisation attend and actively contribute to safeguarding Strategy Meetings (or Discussions)
- staff (and volunteers) actively contribute and participate within safeguarding Formal Enquiries carried out under this Multi-Agency Safeguarding Adults Policy and Procedure.
- Service providers need to provide details of enquiries undertaken and their findings to inform Case Conferences.
- appropriately senior representatives of the organisation attend and actively contribute to Case Conferences
- the organisation and its staff (and volunteers) work in partnership with other agencies to ensure the safeguarding planning needs of the adult at risk are met
- information is shared between agencies in accordance with information sharing policies and protocols
- the organisation keeps its own records in relation to safeguarding concerns and how these are responded to.
- the organisation participates within Safeguarding Adults Reviews where requested by the safeguarding adults board
- the organisation supports and empowers adults at risk to make decisions about their own lives within this Multi-Agency Safeguarding Adults Policy and Procedure.
- the staff teams adhere to the Mental Capacity Act and Code of Practice where an adult at risk lacks mental capacity in relation to decisions within this procedure
- the organisation supports adults at risk to end abuse and to access support that enables them to cope with the impact of what has happened.

**SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS****5. Specialist Support Services And Linked Agendas**

Alongside this Multi-Agency Safeguarding Adults Policy and Procedure are a range of related specialist support services and linked agendas that serve to protect the safety and welfare of individuals. Each of these may need to be involved in, as part of, or alongside the safeguarding adults procedure, so as to minimise the risk to either an adult at risk or another person.

**5.1 Specialist support services****5.1.1 Court of Protection**

The Court of Protection deals with decisions and orders affecting people who lack mental capacity. The court can make major decisions about health and welfare, as well as property and financial affairs, that the person lacks the mental capacity to make. The court has powers to:

- decide whether a person has capacity to make a particular decision for themselves
- make declarations, decisions or orders on financial and welfare matters affecting people who lack mental capacity to make such decisions
- appoint deputies to make decisions for people lacking mental capacity to make those decisions
- decide whether a lasting power of attorney or an enduring power of attorney is valid
- remove deputies or attorneys who fail to carry out their duties

In most cases decisions about personal welfare can be made legally without making an application to the court, as long as there is agreement reached about the decisions and they are made in accordance with the core principles set out in the Mental Capacity Act 2005 and the Code of Practice.

However, it may be necessary to make an application to the court in a safeguarding situation where there are:

- particularly difficult decisions to be made
- disagreements that cannot be resolved by any other means
- ongoing decisions needed about the personal welfare of a person who lacks mental capacity to make such decisions for themselves
- matters relating to property and/or financial issues to be resolved
- serious healthcare and treatment decisions, for example, withdrawal of artificial nutrition or hydration
- concerns that a person should be moved from a place where they are believed to be at risk
- concerns or a desire to place restrictions on contact with named individuals because of risk or where proposed safeguarding adults actions may amount to a deprivation of liberty outside of a care home or hospital
- when there is an un-resolvable dispute with the family regarding whether the adult should be in a particular placement.

## **SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS**

The Court of Protection and the Office of the Public Guardian (OPG) complement each other. The Court of Protection provides the decision making functions and the OPG provides regulation and supervision.

### **5.1.2 Office of the Public Guardian (OPG)**

The OPG was established under the Mental Capacity Act to support the Public Guardian and to protect people lacking mental capacity by:

- setting up and managing separate registers of lasting powers of attorney, of enduring powers of attorney and of court-appointed deputies
- supervising deputies
- sending Court of Protection visitors to visit people who lack mental capacity and also those for whom it has formal powers to act on their behalf
- receiving reports from attorneys acting under lasting powers of attorney and deputies
- providing reports to the Court of Protection
- dealing with complaints about the way in which attorneys or deputies carry out their duties

The OPG undertakes to notify local authorities, the police and other appropriate agencies where abuse is identified.

The OPG can carry out an investigation into the actions of a deputy, of a registered attorney (lasting powers of attorney or enduring powers of attorney) or someone authorised by the Court of Protection to carry out a transaction for someone who lacks mental capacity, and report to the Public Guardian or the court.

The OPG may be involved in safeguarding adults at risk in a number of ways, including:

- promoting and raising awareness of legal safeguards and remedies, for example, lasting powers of attorney and the services of the OPG and the Court of Protection
- receiving reports of abuse relating to adults at risk
- responding to requests to search the register of deputies and attorneys (provided free of charge to local authorities and registered health bodies)
- investigating reported concerns, on behalf of the Public Guardian, about the actions of a deputy or registered attorney, or someone acting under a single order from the court
- working in partnership with other agencies, including adult social care services and the police

### **5.1.3 Deprivation of Liberty Safeguards (DoLS)**

The Mental Capacity Act provides a framework to empower and protect people who may lack mental capacity to make certain decisions for themselves.

The Act makes it clear who can make decisions in which situations, and how they should go about this. Anyone who works with or cares for an adult who lacks mental capacity must adhere to the Mental Capacity Act.

## SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS

The Mental Capacity Act allows for care and treatment arrangements to include restrictions on a person's liberty, where it is necessary to prevent harm to a person who lacks capacity, providing that:

- it is in their best interests, and
- it is a proportionate response to the likelihood and seriousness of that harm.

However, the Mental Capacity Act does not allow for a person to be deprived of their liberty to receive care and treatment. Authorisation for a deprivation of liberty is by use of the Deprivation of Liberty Safeguards (DoLS) in hospitals and care homes, and the Court of Protection in 'domestic settings'.

On 19<sup>th</sup> March 2014, the Supreme Court established the 'Acid Test, for when a person is deprived of their liberty for purposes of Article 5 of the European Convention on Human Rights:

"The person is under continuous supervision and control and is not free to leave, and the person lacks capacity to consent to these arrangements".

In terms of a deprivation of liberty, 'continuous supervision and control' means complete and effective control of the person. Continuous does not necessarily mean every minute of the day, it is more about the overall impact on the person's life.

The following examples are likely to amount to continuous supervision and control:

- the adult needs constant or frequent supervision for their safety, or
- the adult would not be left on their own for more than a short period, even if they asked to be; or
- carers are effectively deciding all or many aspects of their daily life (e.g. when to get up and go to bed, where to sit, when to watch the television, when to eat, when and where to go out; or
- the adult need support with all or many everyday tasks (e.g. cooking, shopping, bathing) and would be stopped from trying to do them if no carer was available to help or supervise them at the time; or
- their care plan or carers impose significant restrictions on their contact with their family.

The use of physical restraint and/or use of medication to control behaviour might also indicate 'continuous supervision and control'.

'Not free to leave' does not mean that a person without mental capacity to decide about their accommodation; is deprived of their liberty, if they are prevented from going out unsupervised due to risks for their safety. These kinds of restrictions can usually be decided upon in the person's best interests under the Mental Capacity Act 2005. This may, however, indicate that the person is subject to 'continuous supervision and control'.

In terms of a deprivation of liberty, 'not free to leave' means that a person without mental capacity, to decide about their accommodation, is required to live there for a sustained period.

## SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS

For example;

- The person would not be allowed to go back to live in their family home, even if the family was happy to have them;
- The person would not be allowed to go back to live in their old home, even if it were still available for them.

It is not important whether the person has said they want to live elsewhere, or tried to leave, the relevant point is that they would be prevented from doing so, if they did.

Each individual's circumstances are unique and consideration must be given to the overall impact on the person. Because of this, there can be no definitive description of situations that amount to a deprivation of liberty. This summary should be used only as a guide for when a deprivation of liberty may be occurring and when specialist advice may be required.

In the event that a person experiences harm as a result of the appropriate DoLS authorisation process not being sought, consideration should be given to the need for implementing the safeguarding adults procedure. Local guidance may apply.

### 5.1.4 Trading Standards Service

The Trading Standards Service can help support and protect adults at risk from doorstep crime and other abusive sales practices that exploit adults at risk. Doorstep crime describes situations where rogue traders, doorstep criminals and uninvited sales people persuade vulnerable people to let them into their homes, with the intention of carrying out a theft or to carry out unnecessarily or substandard work and then pressurise consumers to part with large sums of money.

Trading Standards Services can take a range of actions, including the investigation of complaints against traders, provide people with information on their consumer rights and work with partners to develop cold calling control zones. Trading standards staff will also identify situations where it is appropriate to raise a safeguarding concern and will work with partner organisations within the safeguarding adults procedure to safeguard adults at risk.

### 5.1.5 Department of Work and Pensions (DWP)

The Department for Work and Pensions is responsible for welfare and pension policy.

People who are incapable of managing their own financial affairs may have an appointee. An appointee is fully responsible for acting on the customer's behalf in all the customer's dealings with the Department. This includes the claiming of benefits. Misuse of appointeeship will be investigated and potentially revoked by the Department of Work and Pensions. Strategy Discussions/Meetings will need to consider whether and how issues of suspected financial abuse should be reported to the Department of Work and Pensions.

**SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS****5.2 Linked agendas****5.2.1 Domestic violence and abuse**

Domestic violence and abuse is defined as:

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.<sup>8</sup> This can encompass, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional
- 'honour based violence'
- female genital mutilation
- forced marriage

The safeguarding adults procedure relate to people aged 18 years and over. If the person at risk is under 18 years of age, the safeguarding children procedure should be followed.

Domestic violence is a defined type of abuse within the safeguarding adults procedure. The LGA/ADASS (2015) Adults safeguarding and domestic abuse: A guide to support practitioners and managers, provides useful guidance on responses to domestic violence within the safeguarding adult procedure.

Responses should include specialist support from domestic violence services as required. Specialist domestic violence and abuse services provide support in relation to personal safety planning, housing options, legal options, and counselling.

In relation to high risk domestic violence cases a Multi-Agency Risk Assessment Conference (MARAC) meeting may be held. MARAC meetings include representatives of local police, probation, health, children and safeguarding adults, housing practitioners, substance misuse services, Independent Domestic Violence Advisers (IDVAs) and other specialists from statutory and voluntary sectors.

The aims of a MARAC are as follows:

- to safeguard adult victims who are at high risk of future domestic violence and abuse
- to make links with other public protection arrangements in relation to children, the perpetrator and people at risk
- to safeguard agency staff, and
- to work towards addressing and managing the behaviour of the perpetrator

Safeguarding adults services and domestic violence services need to work together to ensure the safety, protection, needs and wishes of the person at risk are met.

Domestic violence can be reported to the police. If the person has needs for care and support, and is unable to protect themselves as a result, a safeguarding concern should be raised. The police and safeguarding adults services will both work with domestic violence services for that area.

<sup>8</sup> Home Office (2013) Guidance: Domestic Violence and Abuse

## SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS

### 5.2.2 Forced marriage

Forced marriage is against the law and occurs when, one or both spouses do not consent to a marriage and some element of duress is involved. Duress might include both physical and/or emotional/psychological pressure. Forced marriage is recognised as an abuse against human rights and will also constitute abuse within the context of this Multi-Agency Safeguarding Adults Policy and Procedure if the person is also an adult at risk.

The Forced Marriage Unit is a joint initiative between the Home Office and the Foreign and Commonwealth Office providing specialist advice and guidance. The Forced Marriage Unit provides comprehensive resources and information, including the following guidance:

- Multi-Agency Practice Guidelines: Handling Cases of Forced Marriage (June 2009)
- Forced Marriage and Learning Disabilities: Multi-Agency Practice Guidelines (Dec 2010)

The guidance recommends forced marriage of an adult at risk, should be dealt with within the safeguarding adults procedure. The *One Chance Rule* is that sometimes there will only be one chance to help a person facing forced marriage, hence reference should be made with urgency to the Multi-Agency Practice Guidelines listed above.

The police should always be contacted for advice in relation to suspicions or concerns about forced marriage.

In addition, the Forced Marriage Unit provides a confidential advice and assistance for:

- those who have been forced into marriage
- those at risk of being forced into marriage
- people worried about friends or relatives
- professionals working with actual or potential victims of forced marriage

Forced marriage should be reported to the police. If the person has needs for care and support, and is unable to protect themselves as a result, a safeguarding concern should also be raised.

The Forced Marriage Unit website provides a wealth of information and guidance [www.fco.gov.uk/forcedmarriage](http://www.fco.gov.uk/forcedmarriage), together with a helpline: 020 7008 0151

### 5.2.3 Honour-based violence

So-called 'honour-based violence' is a crime or incident, which has or may have been, committed to protect or defend the perceived honour of the family and/or community.

Honour-based violence can take many forms, it is used to control behaviour within families to protect perceived cultural and religious beliefs and/or honour. Examples may include murder, fear of or actual forced marriage, domestic violence, sexual abuse, false imprisonment, threats to kill, assault, harassment and forced abortion. This list is not exhaustive.

## SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS

Women are predominantly (but not exclusively) the victims and the violence is often committed with a degree of collusion from family members and/or the community.

Honour-based violence is a crime and should be reported to the police. If the person has needs for care and support, and is unable to protect themselves as a result, a safeguarding concern should be raised.

### 5.2.4 Modern slavery

Modern Slavery can take many forms including the trafficking of people, forced labour, servitude and slavery. Any consent victims have given to their treatment will be irrelevant where they have been coerced, deceived or provided with payment or benefit to achieve that consent.

The term 'modern slavery' captures a whole range of types of exploitation, many of which occur together. These include but are not limited to:

- Sexual exploitation: This includes but is not limited to sexual exploitation and abuse, forced prostitution and the abuse of children for the production of child abuse images/videos. Whilst women and children make up the majority of victims, men can also be affected. Adults are coerced often under the threat of force, or other penalty.
- Domestic servitude: This involves a victim being forced to work, usually in private households, performing domestic chores and child care duties. Their freedom may be restricted and they may work long hours often for little pay or not pay, often sleeping where they work.
- Forced labour: Victims may be forced to work long hours for little or no pay in poor conditions under verbal or physical threats of violence to them or their families. It can happen in various industries, including construction, manufacturing, laying driveways, hospitality, food packaging, agriculture, maritime and beauty (nail bars).
- Criminal exploitation: This is the exploitation of a person to commit a crime, such as pick pocketing, shop-lifting, cannabis cultivation, drug trafficking and other similar activities
- Other forms of exploitation may include organ removal, forced begging, forced benefit fraud, forced marriage and illegal adoption.

For information and advice about, refer to the Modern Slavery Helpline: 0800 0121 700  
[www.modernslavery.co.uk/who.html](http://www.modernslavery.co.uk/who.html)

Modern slavery should be reported to the police. If the person has needs for care and support, and is unable to protect themselves as a result, a safeguarding concern should be raised.

### 5.2.5 Prevent agenda: exploitation by radicalisers who promote violence

The Government's counter-terrorism strategy as defined in the Counter Terrorism and Security Bill 2015 known as CONTEST.

Prevent is an element of this strategy. Prevent focuses on working with vulnerable individuals who may be at risk of being exploited by radicalisers and subsequently drawn

## SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS

into terrorist-related activity. Violent extremists may target vulnerable people and use charisma and persuasive rationale to attract people to their cause.

The Prevent strategy:

- responds to ideological challenge faced from terrorism and aspects of extremism, and the threat faced from those who promote these views
- provides practical help to prevent people from being drawn into terrorism and ensure they are given appropriate advice and support
- works with a wide range of sectors (including education, criminal justice, faith, charities, online and health) where there are risks of radicalisation that need to be addressed.

Channel is a key element of the Prevent strategy. It is a multi-agency approach to protect people at risk from radicalisation. Channel uses existing collaboration between local authorities, statutory partners (such as the education and health sectors, social services, children's and youth services and offender management services, the police) and the local community to identify individuals at risk of being drawn into terrorism; to assess the nature and extent of that risk; and to develop the most appropriate support plan for the individuals concerned.

Channel is about safeguarding children and adults from being drawn into committing terrorist-related activity. It is about early intervention to protect and divert people away from the risk they face before illegality occurs.

Incidents of exploitation by radicalisers who promote extreme ideas that could lead to violence should be reported to the police. If the person has needs for care and support, and is unable to protect themselves as a result, a safeguarding adults concern should also be raised.

### 5.2.6 Hate crime

Hate crime is taken to mean any crime where the perpetrator's prejudice against any identifiable group of people is a factor in determining who is victimised.<sup>9</sup> Hate crime is a form of discriminatory abuse.

Hate crimes happen because of hostility, prejudice or hatred of people due to:

- disability
- gender identity
- race, ethnicity or nationality
- religion or belief
- sexual orientation

It should be noted that this definition is based on the perception of the victim or anyone else and is not reliant on evidence. Apart from individually charged offences under the Crime and Disorder Act 1998, local crime reduction partnerships can prioritise action where there is persistent anti-social behaviour that amounts to hate crime where appropriate.

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<sup>9</sup> ACPO: Guide to Identifying and Combating Hate Crime 2000.

## SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS

The police and other organisations work together to ensure a robust, coordinated and timely response to situations where adults at risk become a target for hate crime. Coordinated action will aim to ensure that victims are offered support and protection and action is taken to identify and prosecute those responsible.

Hate crime should be reported to the local community safety initiative. If the person has needs for care and support, and is unable to protect themselves as a result, a safeguarding concern should also be raised. In the event that a person is at immediate risk, contact the police.

### 5.2.7 Anti-social behaviour

Anti-social behaviour is any aggressive, intimidating or destructive activity that damages or destroys another person's quality of life. This might, for example, include:

- persistent verbal abuse or threats
- assault or physical harassment
- racial or homophobic harassment
- graffiti, vandalism or damage to property

Anti-social behaviour teams bring together experienced staff from the local authority, police, housing and other organisations to prevent and resolve anti-social behaviour. Anti-social behaviour teams will manage incidents referred, working with the private or social housing agency concerned in addressing incidents of anti-social behaviour.

Persistent anti-social behaviour can cause significant alarm, harassment and stress. The anti-social behaviour team may assist by a range of actions, including:

- setting up mediation sessions
- referring those committing anti-social behaviour to diversionary activities and support
- using acceptable behaviour contracts to deter the person or group from persisting with their action
- securing injunctions against individuals
- use of housing legislation to address persistent incidents within a local neighbourhood
- use of anti-social behaviour orders to prevent the person or group from persisting with their activities

Anti-social behaviour should be reported to the local community safety initiative. If the person has needs for care and support, and is unable to protect themselves as a result, consideration should be given to Raising a Safeguarding Concern. In the event that a person is at immediate risk, contact the police.

### 5.2.8 Multi-Agency Public Protection Arrangements (MAPPA)

The purpose of MAPPA is to help reduce the re-offending behaviour of sexual and violent offenders in order to protect the public, including previous victims, from serious harm. It aims to do this by ensuring that all relevant agencies work together effectively to:

## SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS

- identify all relevant offenders
- complete comprehensive risk assessments that take advantage of coordinated information sharing across the agencies
- devise, implement and review robust risk management plans; and
- focus the available resources to best protect the public from serious harm

The police, probation and prison service (MAPPA Responsible Authorities) are the responsible authorities required to ensure the effective management of offenders, however NHS, social services, education and housing all have a duty to cooperate under the Criminal Justice Act (2003).

Where an offender is managed through the Multi-Agency Public Protection Arrangements, and they present a risk to an adult with care and support needs, consideration should be given to Raising a Safeguarding Concern with the local authority and involving the local authority in the multi-agency risk management plan.

### 5.2.9 The Health and Safety Executive (HSE)

The Health and Safety Executive (HSE) and Local Authorities are responsible, under Section 18 of the Health and Safety at Work Act 1974 for making adequate arrangements for the enforcement of health and safety legislation with a view to securing the health, safety and welfare of workers and protecting others, principally the public.

In relation to safeguarding adults at risk from abuse, HSE is responsible for enforcing work-related health and safety legislation in hospitals, nursing homes and day care centres.

Local authorities enforce the Health and Safety at Work Act in respect of certain non-domestic premises, including residential care homes (unless the care home is owned or substantially operated by the local authority, in which case enforcement is undertaken by HSE).

In the event that a care home has dual registration for residential and nursing, a judgement is required by the local authority and HSE according to the main activity of the service. The allocation of enforcement responsibility under the Health and Safety (Enforcing Authority) Regulations 1998 is described within its 'A-Z guide to allocation'.

The supporting role of the HSE (and local authority Health and Safety Departments) should be considered in all investigations of abuse that occur within health and care service settings. Health and safety offences are usually prosecuted by HSE, the local authority or other enforcing authority in accordance with current enforcement policy. The Crown Prosecution Service (CPS) may also prosecute health and safety offences, but usually does so only when prosecuting other serious criminal offences, such as manslaughter, arising out of the same circumstances.

Health and safety concerns should be reported to the relevant organisation. However, consideration should be given as to whether abuse or neglect is indicated, and whether a safeguarding concern should also be raised.

### **5.2.10 Safeguarding children and young people**

The Children Act 1989 provides the legislative framework for agencies to take decisions on behalf of children and to take action to protect them from abuse and neglect.

It is essential that those working to safeguard adults at risk are also aware of their responsibilities to safeguard and promote the welfare of children and young people. There will be occasions when those working with adults at risk identify risks to children and young people, and occasions when safeguarding adults and safeguarding children procedure need to operate side-by-side.

Reference should be made to the local safeguarding children procedure if there are concerns about abuse or neglect of children and young people under the age of 18.

Sometimes allegations of abuse will occur with regard to a person who is approaching the age of 18. If an allegation of abuse is made before a young person turns 18, the process of safeguarding the young person would be managed under child protection procedures. The investigation, once started, should be completed under those procedures.

Where a young person may remain at risk after the age of 18 and they would meet the criteria of an 'adult at risk' at that age, representatives from adult services may need to be invited to Strategy Meetings in order to contribute to the development of protective measures and plan for the young person's future. Once a young person turns the age of 18, protection arrangements would then be reviewed by adult services.

If an allegation of abuse is with regard to an adult at risk who has turned 18 years of age, a safeguarding concern should be raised as detailed in this Policy and Procedure. If children services have previously been involved in relation to related issues of support or concern, it may be appropriate to invite representatives from children services to attend Strategy Meetings in order to advise on relevant issues.

### **5.2.11 Prisons and approved premises**

Local authority statutory adult safeguarding duties apply to those adults with care and support needs regardless of setting, other than prisons and approved premises where prison governors and National Offender Management Service (NOMS) have responsibility. Separate guidance for prisons and probation will be published by the National Offender Management Service.

Where a local authority is made aware that an adult in a custodial setting may have care and support needs, they must carry out a needs assessment as they would for someone in the community. If someone in a custodial setting refuses a needs assessment the local authority is not required to carry out the assessment, subject to the same conditions as in the community. This does not apply if:

- the person lacks the capacity to refuse and the local authority believes that the assessment will be in their best interests; or
- the person is experiencing, or is at risk of, abuse or neglect

**Part One: Policy**

**SPECIALIST SUPPORT SERVICES AND LINKED AGENDAS**

If, in the course of their assessment of a person living in a prison or approved premises, it becomes apparent to local authority staff (or those delegated to undertake needs assessments on behalf of the local authority) that the person is at risk of abuse or neglect, the assessor must report this to the management of the prison or approved premises who will lead on any enquiries required.<sup>10</sup>

Local authority staff (or those delegated to undertake needs assessments on behalf of the local authority) must follow the safeguarding policies and procedures of custodial settings in their area<sup>11</sup>.

Local authority staff (or those delegated to undertake needs assessments on behalf of the local authority) should address any safeguarding issues in the care and support plan.<sup>12</sup> This means they will have to liaise with the prison or probation staff about any required actions identified by their enquiries to ensure that all people in custodial settings are safeguarded.

Prison and probation staff may approach the local authority for advice and assistance in individual cases although the local authority will not have the legal duty to lead enquiries in any custodial setting.<sup>13</sup>

Senior representatives of prisons and the National Probation Service, who have responsibility for approved premises may sit on the safeguarding adults board and play an important role in the strategic development of adult safeguarding locally. The Safeguarding Adults Board can act as a forum for members to exchange advice and expertise to assist prison and probation staff in ensuring that all people in custodial settings are safeguarded.

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<sup>10</sup> Care and Support, Statutory guidance: Paragraph 17.30

<sup>11</sup> Ibid, Paragraph 17.68

<sup>12</sup> Ibid, Paragraph 17.39

<sup>13</sup> Ibid, Paragraph 17.68

## **6. Commissioning**

### **6.1 Commissioning governance**

Commissioners of services should set out clear expectations of the contracted organisation and monitor compliance. Commissioners have a responsibility to:

- ensure that their contracted organisations know about and adhere to relevant registration requirements and guidance
- ensure that all documents such as service specifications, invitations to tender, service contracts and service-level agreements adhere to the multi-agency safeguarding adults policy and procedure
- ensure safeguarding adults issues are always included in the monitoring arrangements for contracts and service-level agreements
- ensure that contracted organisation managers are clear about their leadership role in safeguarding adults
- liaise with safeguarding adult leads and regulatory bodies and make regular assessments of the ability of service providers to effectively safeguard service users
- commission a service with staff that have the right skills to understand and implement safeguarding adults principles and practice
- ensure that services routinely provide service users with information in an accessible form about how to make a complaint and how complaints will be dealt with
- ensure that contracted organisations give information to service users about abuse, how to recognise it and how and to whom they can Raise a Concern
- ensure that contracted organisations regularly review incidents and take actions to address any issues identified

In addition, sector specific guidance was produced by Department of Health Safeguarding Adults: Role of NHS Commissioners (March 2011).

### **6.2 Commissioned services**

Service providers have to be open and transparent under their Duty of Candour, as required by the Care Quality Commission in relation to safeguarding and other issues. This includes a requirement to share information they hold relevant to a safeguarding enquiry. This would include witness or employee interview information relevant to the enquiry, and as needed for a Formal Enquiry report

All commissioned service providers should work within internal guidelines that are consistent with the multi-agency safeguarding adults policy and procedure. These should set out the responsibilities of staff, clear internal reporting procedure and clear procedure for reporting to the local safeguarding adults procedure.

In addition, provider organisations' internal guidelines should cover:

- a 'whistle-blowing' policy which sets out assurances and protection for staff to raise concerns
- how to work within best practice as specified in contracts

- how to meet the standards in the Health and Social Care Act 2008 (regulated activities) and the Care Quality Commission Regulations.
- how to fulfil their legal obligations under the Disclosure and Barring Service
- Mental Capacity Act
- the undertaking of enquiries if required to by the local authority
- Deprivation of Liberty Safeguards (DoLS) (*hospitals and care homes only*)
- robust recruitment arrangements
- induction and ongoing training and supervision for staff

Provider organisations should routinely provide users of their service with information on safeguarding adults and how to make a complaint.

### **6.3 Personal budgets and self-directed care**

People receiving a personal budget or a direct payment often use it to employ a personal assistant. Some personal assistants, like others in a caring capacity, could harm or abuse the person who is employing them. In such circumstances, the person who is being harmed or abused is in a difficult legal and emotional situation. Whilst perhaps dependent on their abuser for their personal care and social and emotional support, and fearful of this person, they are also the abuser's employer and expected to act in ways consistent with employment law.

Such employers may be reluctant to disclose problems of abuse as they may be fearful of having their payment suspended and losing necessary support. The fear of losing their independence and choice can leave the person in an even more vulnerable position.

Anyone who is purchasing his or her own services through the direct payments system should be made aware of the arrangements for the management of safeguarding adults in their area so that they may access help and advice through the appropriate channels.

Partner agencies providing direct payments/personal budgets need to support adults to recognise and understand risks, give information about how these risks can be managed, and contact information for support.

Recipients of direct payments/personal budgets should be supported and enabled to understand safe employment practices and how to respond to abuse by their employees or other people.

## MANAGING SAFEGUARDING ARRANGEMENTS

### 7. Managing Safeguarding Arrangements

#### 7.1 Making safeguarding personal

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances.

Organisations should always promote the adult's wellbeing in their safeguarding arrangements. People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating "safety" measures that do not take account of individual well-being, as defined in Section 1 of the Care Act 2014.

The focus of the safeguarding adults procedure is on achieving an outcome which supports or offers the person the opportunity to develop or to maintain a private life. This includes the wishes of the adult at risk to establish, develop or continue a relationship and their right to make an informed choice. Practice should involve seeking the person's desired outcomes at the outset and throughout the safeguarding arrangements, and checking whether the desired outcomes have been achieved.

Intervention should be proportionate to the harm caused, or the possibility of future harm. As well as thinking about an individual's physical safety it is necessary to also consider the outcomes that they want to see and take into account their overall happiness and wellbeing. For example, someone with mental capacity may choose to overlook a relative taking money from them when they do the shopping for the sake of their relationship with that relative, because the relationship has the overall effect (outcomes) of improving the life of the adult, including their safety, happiness and mental well-being.

The assessment of risk should be based on the fact that some risk is an inevitable consequence of life. The objective is not necessarily to eliminate risk, but to reduce risk so as to enable a person to safely maintain their independence and well-being wherever possible.

Assessments of risk should be undertaken in partnership with the person at risk, who should be supported to weigh up risks against possible solutions. People need to be able to decide for themselves where the balance lies in their own life, between living with an identified risk and the impact of any Safeguarding Plan on their independence and/or lifestyle.

It is important to listen to the adult at risk both in terms of the alleged abuse and in terms of what resolution they want. The views of the adult at risk should be taken seriously and acted upon in an appropriate manner. Individuals have a right to privacy; to be treated with dignity and to be enabled to live an independent life.

## **7.2 Mental capacity**

The law presumes that adults have mental capacity to make their own decisions. However there will be times and situations in which an individual lacks mental capacity in relation to particular decisions.

Issues of mental capacity and the ability to give informed consent are central to decisions and actions within the safeguarding adults procedure. All interventions need to take into account the ability of adults to make informed choices about the way they want to live and the risks they want to take.

The Mental Capacity Act 2005 provides a statutory framework to empower and protect people who may lack mental capacity to make decisions for themselves and establishes a framework for making decisions on their behalf. This applies whether the decisions are life-changing events or everyday matters. All decisions taken within the safeguarding adults procedure must comply with the Act. The Act says that:

“... a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or disturbance in the functioning of the mind or brain” (*Mental Capacity Act 2005*).

Further, a person is not able to make a decision if they are unable to:

- understand the information relevant to the decision or
- retain that information long enough for them to make the decision or
- use or weigh that information as part of the process of making the decision or
- communicate their decision (whether by talking, using sign language or by any other means such as muscle movements, blinking an eye or squeezing a hand)

Mental capacity is time and decision-specific. This means that a person may be able to make some decisions but not others at a particular point in time. For example, a person may have the mental capacity to consent to a simple medical examination but not to major surgery. Their ability to make a decision may also fluctuate over time.

Section 44 of the Act makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks mental capacity.

### **7.2.1 Principles of the Mental Capacity Act 2005**

The Mental Capacity Act requires that five statutory principles should be adhered to:

- an adult at risk has the right to make their own decisions and must be assumed to have mental capacity to make decisions about their own safety unless it is established that they lack mental capacity
- adults at risk must receive all appropriate help and support to make decisions before anyone concludes that they cannot make their own decisions

## MANAGING SAFEGUARDING ARRANGEMENTS

- adults at risk have the right to make decisions that others might regard as being unwise or eccentric and a person cannot be treated as lacking mental capacity for these reasons
- decisions made on behalf of a person who lacks mental capacity must be done in their best interests and should be the least restrictive of their basic rights and freedoms
- before any act is undertaken or before any decision is made on behalf of an adult at risk who lacks mental capacity, consideration must be given as to whether the same outcomes can be achieved in a way that is less restrictive on the person's rights and freedoms

In the event that a person does not have the mental capacity to consent to decisions about their own welfare, a 'best interests' decision will need to be made in line with the Mental Capacity Act and Mental Capacity Act Code of Practice.

### 7.3 Risk assessment and management

Risk assessments in relation to abuse, neglect and exploitation of people using services should be integral in all assessment and planning processes, including assessments for self-directed support and the setting up of personal budget arrangements.

Assessment of risk is a dynamic and ongoing process. It should be kept under continual review so that adjustments can be made in response to changes in the level and nature of the risk. The primary aim of a safeguarding adults risk assessment is to assess:

- current risks
- potential risks

A risk assessment will determine:

- what the actual risks are – the likelihood and seriousness of an incident occurring (or reoccurring)
- the views of the adult at risk in relation to the risk of harm
- the person's ability to protect themselves
- the factors that increase or reduce the risk of harm

### 7.4 Safeguarding Plan

The Safeguarding Plan records the agreed arrangements to manage the assessed risk. It should be drawn up in partnership with the adult at risk and with an understanding of the potential wider impact of the Safeguarding Plan on their independence, lifestyle and wellbeing. It should include consideration of the following issues:

- what support the adult at risk would like to receive
- what action can be provided to safeguard the adult at risk
- what, if any, action must be taken to protect other parties

## MANAGING SAFEGUARDING ARRANGEMENTS

- what contingency arrangements can be put in place if required
- arrangements for review

Where a person with mental capacity declines the Safeguarding Plan, all reasonable efforts should be undertaken to understand the person's reason for declining support, and to consider how the plan could be amended in light of their concerns and wishes. If a person initially declines support, they should be provided with the opportunity to change their mind, at any time. The person may need to be consulted over a period of time as relationships develop. If a person lacks the mental capacity in relation to the Safeguarding Plan, a 'best interests' decision will be required in line with the Mental Capacity Act.

### 7.5 Support for those involved within the safeguarding adults procedure

#### 7.5.1 Involving the adult at risk

Adults at risk need to be able to make informed decisions about situations in their own lives. This includes having the safeguarding adults procedure explained to them so that they know what to expect and can say how they would wish to be involved. The adult at risk should be central throughout the safeguarding adult procedure, be supported to make decisions relating to their own welfare, have opportunity to review enquiry reports and findings, and decide about their Safeguarding Plans. Sometimes consideration for the safety and welfare of others will need to be balanced with the wishes and views of the adult at risk.

In order to be fully involved, the adult at risk may need support in a variety of ways such as the help of a family member or friend, a language interpreter or other communication assistance.

Where a person has mental capacity to make decisions, the role of professionals is to support them to make informed decisions throughout the safeguarding adults procedure. If the person has a 'substantial difficulty' in participating, and has no one who can support and represent them other than in a professional capacity, then an independent advocate must be arranged where it is appropriate and proportionate to do so (see section 7.5.2). The Independent Advocate's role will be to support the person to be fully involved and participate as they would wish within the safeguarding procedure.

Where a person lacks the mental capacity, any decisions required will need to be in their best interests, involving them to the full extent possible, and taking their views, wishes, beliefs and values into account. If the adult does not have an appropriate person to represent and support them an Independent Mental Capacity Advocate must be considered (see section 7.53).

Throughout the response to the safeguarding adults concern, due regard should be given to issues of equality and diversity, and accessibility issues, such as venues and providing accessible information about the process.

### **7.5.2 Independent advocacy**

Where an adult at risk has mental capacity but they have a 'substantial difficulty' being involved in the process, and they have no one other than those acting in a professional capacity to support them, it is necessary to consider if there is a 'particular benefit' to providing them with an independent advocate. Where the provision of an independent advocate is appropriate and proportionate to the circumstances, the local authority must arrange for one to be provided.<sup>14</sup>

'Substantial difficulty' does not mean the person cannot make decisions for themselves, but refers to situations where the adult at risk needs support to understand the information given to them, or support to retain or use that information, or support to communicate their views, wishes or feelings.

The support provided by the independent advocate will depend on the needs and wishes of adult at risk. Independent advocates will take their direction from the adult at risk. Independent advocates will ordinarily be invited to relevant meetings, either accompanying the adult at risk or attending on their behalf, according to the wishes of the adult at risk.

If the adult at risk is unable to make decisions even with support, they lack mental capacity and the need for an Independent Mental Capacity Advocate should be considered instead.

### **7.5.3 Independent Mental Capacity Advocates (IMCAs)**

Where a person is unable to understand the information given to them, or to retain or use that information, or communicate their views, wishes or feelings even with support, they lack mental capacity. IMCAs can provide a form of non-instructed advocacy for people who lack mental capacity. Their role was established by the Mental Capacity Act 2005.

The local authority will need to consider whether to instruct an IMCA in the event that an adult at risk lacks mental capacity in relation to safeguarding measures required within the safeguarding adults procedure.

Safeguarding measures may include (but are not limited to):

- restrictions on contact with certain people
- temporary or permanent moves of accommodation
- increased support or supervision
- an application to the Court of Protection
- restrictions on accessing specific services and/or places
- access to counselling or psychology with the aim of reducing the risk of further abuse

The local authority or NHS body may instruct an IMCA to represent the person concerned if it is satisfied that there would be a 'particular benefit' for the person.

The role of the IMCA includes:

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<sup>14</sup> Care and Support, Statutory Guidance: Paragraph 14.10).

## MANAGING SAFEGUARDING ARRANGEMENTS

- Finding out wherever possible the person's wishes, feelings, values and beliefs
- Representing the person's best interests
- Promoting consideration of the least restrictive option
- Supporting the person through the decision making process as an independent person
- Safeguarding the rights and entitlements of the person as set out in the Mental Capacity Act, ensuring that the basic principles and the best interest checklist are being followed
- Challenging where appropriate, the decision on behalf of the adult at risk.

In safeguarding adults cases access to IMCAs is not restricted to people who have no one else to support or represent them. Therefore, people who lack mental capacity who have family and friends can still have an IMCA to support them through the safeguarding adults procedure. Local guidance may apply.

### 7.5.4 Witness support and special measures

If there is a police investigation, the police will ensure that interviews with a vulnerable or intimidated witness are conducted in accordance with 'Achieving Best Evidence in Criminal Proceedings'.

Special measures are those specified in the Youth Justice and Criminal Evidence Act 1999 and will be used to assist eligible witnesses. The measures can include the use of screens in court proceedings, the removal of wigs and gowns, the sharing of visually recorded evidence, cross-examination and re-examination and the use of intermediaries and aids to communication.

Intermediaries play an important role in improving access to justice for some of the most vulnerable people in society, giving them a voice within the criminal justice process. They help children and adults who have communication difficulties to understand the questions that are put to them and to have their answers understood, enabling them to achieve their best evidence for the police and the courts.

The Witness Service provides practical and emotional support to victims and witnesses (either for the defence or for the prosecution). The support is available before, during and after a court case to enable them and their family and friends to have information about the court proceedings, and could include arrangements to visit the court in advance of the trial.

### 7.5.5 Victim support

Victim Support is a national charity which provides support for victims and witnesses of crime in England and Wales. It provides free and confidential help to family, friends and anyone else affected by crime, which includes information, emotional support and practical help. Help can be accessed either directly from local branches or through the Victim Support helpline.

### **7.5.6 Keeping families and others concerned informed and supported**

If the adult at risk wishes, it is important that relatives and friends are involved within the safeguarding adults procedure. This will help them to feel fully supported when dealing with difficult or distressing issues.

If the adult at risk gives their consent, it will be possible to share with them concerns for their welfare or safety. It will also be possible to involve relatives/friends in meetings about how concerns or allegations are being addressed and how they are being supported to be safe in the future.

If the adult at risk decides that they do not wish for a relative or friend to be informed or involved, professionals will need to respect this decision. If they do not have the mental capacity to decide this themselves, a decision will need to be made in their 'best interests' under the Mental Capacity Act.

If relatives/friends are implicated in the allegations or concerns, this will impact on the decisions as to whether, when and how information is shared and/or how they are included within the safeguarding adults procedure.

A record should be made of the decision to consult or not to consult family and friends with reasons given and recorded.

### **7.5.7 Responsibilities to those who are alleged to have caused harm**

People and organisations who are alleged to have caused harm to an adult at risk have the right to be treated fairly and their confidentiality respected throughout the safeguarding adults procedure. This includes the responsibility to ensure that a person or organisation alleged to have caused harm:

- knows that they are the subject of a safeguarding allegation (irrespective of any other investigation, such as disciplinary investigation or criminal proceedings)
- is informed in a timely manner consistent with the needs of the Formal Enquiry
- is informed of the nature and content of the allegation
- knows that a Formal Enquiry is being undertaken under this safeguarding procedure into an incident involving their practice or conduct
- has an opportunity to respond to allegations concerning their practice or conduct within a Formal Enquiry (for example through an interview) prior to the completion of the Formal Enquiry report
- has an opportunity to read the Formal Enquiry report and respond to the findings of the enquiry. This should include the opportunity to make written comments if they so choose, so that their response can contribute to the process of reaching a case conclusion
- knows if a Case Conference Discussion or Meeting is due to be held to establish the outcomes of the enquiry
- knows the case conclusion reached within a Case Conference Discussion or Meeting

## MANAGING SAFEGUARDING ARRANGEMENTS

Only in exceptional circumstances, such as in the examples below, will it be inappropriate for a person or organisation to not be informed of allegations about themselves:

- the police advise otherwise
- it is not in an best interests of the adult at risk as determined under the Mental Capacity Act
- where an adult at risk with mental capacity refuses permission for them to be informed of the allegations (and there are no other persons at risk)

If a person or organisation alleged to have caused harm has not been informed of allegations, it may not be possible to reach a decision as to the occurrence of abuse, in which case the sole focus of the safeguarding adult procedure will be on the Safeguarding Plan.

The Strategy Discussion or Meeting will need to establish whether and when the person or organisation is informed and when they are informed so as to not undermine the Formal Enquiry process. Such decisions will need to be made on a case-by-case basis and clearly recorded.

The most appropriate way of informing the person or organisation of the allegations should be considered. A person alleged to have caused harm should be provided with appropriate support throughout the process to participate and enable their views to be recognised.

If the person causing harm is also an adult at risk, they should be provided with appropriate support. If the person causing harm is a young person or has a mental disorder, including a learning disability, and they are interviewed at the police station, they are entitled to the support of an appropriate adult under the provisions of the Police and Criminal Evidence Act 1984 Code of Practice (Refer to local Police and Criminal Evidence Act procedures and agreements).

### 7.6 Information sharing

Information sharing between organisations is essential to safeguard adults at risk of abuse, neglect and exploitation. In this context 'organisations' mean not only statutory organisations but also voluntary and independent sector organisations, housing authorities, the police and Crown Prosecution Service, and organisations which provide advocacy and support.

Decisions about what information is shared and with whom will be taken on a case-by-case basis. Whether information is shared with or without the consent of the adult at risk, the information shared should be:

- necessary for the purpose for which it is being shared
- shared only with those who have a need for it
- be accurate and up to date
- be shared in a timely fashion
- be shared accurately
- be shared securely

## MANAGING SAFEGUARDING ARRANGEMENTS

There are only a limited number of circumstances where it would be acceptable not to share information pertinent to safeguarding with relevant safeguarding partners. These would be where the person involved has the mental capacity to make the decision and does not want their information shared AND:

- nobody else is at risk
- no serious crime has been or may be committed
- the alleged abuser has no care and support needs
- no staff are implicated
- no coercion or duress is suspected
- the public interest served by disclosure does not outweigh the public interest served by protecting confidentiality
- the risk is not high enough to warrant a multi-agency risk assessment conference referral
- no other legal authority has requested the information.<sup>15</sup>

If there is reluctance from one partner to share information on a safeguarding concern the matter should be referred to the Safeguarding Adults Board. It can then consider whether the concern warrants a request, under Clause 45 of the Care Act, for the 'supply of information'. Then the reluctant party would only have grounds for refusal if it would be 'incompatible with their own duties or have an adverse effect on the exercise of their functions'<sup>16</sup>.

Reference should be made to local information sharing leads and the local Safeguarding Adults Board Information-Sharing Protocols where they apply. Additional information can be obtained from HM Government (2008) - [Information sharing – guidance for practitioners and managers](#) and Information Commissioner's Office [www.ico.gov.uk](http://www.ico.gov.uk)

### 7.7 Equality and diversity

It is every person's human right to live a life free from abuse and neglect. Every adult at risk has an equal right to support and protection within this procedure regardless of their individual differences or circumstances.

This Multi-Agency Policy and Procedure applies equally to:

- all adults at risk as defined within this policy
- all agencies
- all forms of abuse

Throughout safeguarding adults due regard must be given to individual differences, including age, gender reassignment, disability, religion or belief, sex, sexual orientation, race or racial group, caring responsibilities, class, culture, language, pregnancy and marital or civil partnership status.

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<sup>15</sup> SCIE (2015) Adult Safeguarding: Information Sharing, page 17

<sup>16</sup> Ibid, page 17

## **7.8 Duty of care**

Everyone has a clear moral and/or professional responsibility to prevent or act on incidents or concerns of abuse. A duty of care to adults at risk is fulfilled when all the acts reasonably expected of a person in their role have been carried out with appropriate care, attention and prudence. Duty of care will involve actions to keep a person safe but will also include respecting the person's wishes and protecting and respecting their rights.

The nature of an individual's duty of care will vary according to their role. In all cases however, it will involve taking allegations or concerns seriously, and owning one's responsibilities to safeguard adults at risk.

## **7.9 Defensible decision making**

Responding to safeguarding adults concerns or allegations requires decision making and professional judgements. A duty of care in relation to those decisions or judgements will be considered to be met where:

- all reasonable steps have been taken
- reliable assessment methods have been used
- information has been collated and thoroughly evaluated
- decisions are recorded, communicated and thoroughly evaluated
- policies and procedures have been followed
- practitioners and their managers adopt an investigative approach and are proactive.<sup>17</sup>

Defensible decision making is about making sure that the reasons for decisions, as well as the decision itself, have been thought through and can be explained.

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<sup>17</sup> Kemshall, H. 2008, reported in DoH 2011 Safeguarding Adults: The Role of Health Practitioners

# **Safeguarding Adults**

## **West and North Yorkshire and York Multi-Agency Policy and Procedure**

### **PART TWO: PROCEDURE**

## PART TWO: PROCEDURE

### 8. Safeguarding Adults Procedure

The procedure explains how to Raise a Safeguarding Concern and the process that is subsequently followed.

Whenever issues of abuse or neglect are being responded to, the following principles and values should be adhered to:

1. Empowerment – supporting the adult at risk to be in control of decisions about their own life
2. Protection – taking action to safeguard adults at risk from abuse (taking into account the need for risk assessment and management, adherence to Mental Capacity Act, and respect for equality and diversity)
3. Prevention – taking action to prevent abuse occurring and minimising the risk of abuse reoccurring in the future (see Policy: section 3)
4. Proportionality – responding proportionally to the nature of the concern/allegation and the presenting risk; balancing the principles of empowerment and protection
5. Partnership – working together as partners to prevent and respond effectively to incidents or allegations of abuse
6. Accountability – ensuring decisions can be accounted for (taking into account: duty of care, defensible decision making, information sharing, and providing support for all those involved in the safeguarding adults procedure).

#### 8.1 Introduction to the safeguarding adults procedure

This Multi-Agency Procedure is the multi-agency framework for responding to issues of abuse and neglect of an adult

Any person may **Raise A Concern** with the local authority where they are concerned that an adult with care and support needs is experiencing, or at risk of abuse and neglect (including self-neglect) (**Section A**).

In these circumstances, the local authority will undertake an **Initial Enquiry** to determine how to respond. This includes working to understand the adult's desired outcomes and agreeing with the adult how their concerns will be acted upon (**Section B**).

Where the concern is not resolved by the Initial Enquiries, the local authority will need to decide on the most proportionate response. This may include either:

- **Risk Management Response**, the term given to a range of actions that may be required to safeguard the adult from the risk of abuse and neglect (**Section C**).
- A **Formal Enquiry** to establish the facts, and gather evidence to support a Safeguarding Plan. This will involve a Strategy Meeting/Discussion and Case Conference Meeting or Discussion (**Section D**).

Risk assessment, safeguarding planning, and the provision of support to enable the adult at risk to be in control of decisions about their own life, are core elements throughout.

### 8.2 Designated roles within the safeguarding adults procedure

The following roles are established by the safeguarding adults procedure. Each organisation will need to determine which groups of staff may fill relevant key roles.

#### Person Raising a Concern

Anyone who has concerns about potential abuse or neglect can raise their concerns with the local authority. They would do this by reporting their concerns to the safeguarding adults contact point. The Person Raising a Concern also has a role in responding, where possible, to any immediate safety concerns.

The Person Raising a Concern could be the adult at risk, their friend, relative or member of the public, a member of staff or volunteer. In an organisation, the person who raises a concern is often the Safeguarding Concerns Manager (see below), however any member of staff or volunteer may Raise a Concern where this is necessary or appropriate.

#### Safeguarding Concerns Manager

The Safeguarding Concerns Manager is a nominated person or people within an organisation such as a care home/care agency/hospital or day centre.

The Safeguarding Concerns Manager will usually be responsible for Raising a Concern with the local authority on behalf of their organisation, and for taking action to ensure that immediate safety issues are addressed. However any member of staff or volunteer may need to undertake these actions, for example, where the need is urgent or the Safeguarding Concerns Manager is unavailable.

The role includes:

- deciding whether to raise a safeguarding concern with the local authority
- ensuring that immediate safety issues are addressed, other parties notified (such as the regulator) and that staff are supported.
- ensuring they are kept informed when a member of staff (or volunteer) has raised a concern
- establishing the desired outcomes of the adult at risk

#### Designated Adults Safeguarding Manager

The Designated Adults Safeguarding Manager (DASM) is a designated role within the Police, clinical commissioning groups and adult social care with responsibility for the management and oversight of allegations or concerns relating to employees, volunteers and students (referred to as 'Persons in Position of Trust' within this policy and procedure). The role includes oversight of formal enquiries relating to people in 'positions of trust', as well as concerns relating to people who may pose a risk to adults with care and support needs. Refer to the separate Practice Guidance: Role of the Designated Adults Safeguarding Manager for further information.

#### Safeguarding Coordinator

This is nominated person within adult social care. It will usually be a role that is fulfilled by a manager or experienced practitioner within each local authority. The Safeguarding Coordinator has responsibility for managing the response to the safeguarding adults

concern. The person taking on this role may change during the response, depending on the structures within each local authority. The role includes:

- establishing the desired outcomes of the adult at risk
- deciding whether the safeguarding adults procedure should be followed
- convening and chairing a Strategy Discussion/Meeting
- co-ordinating a Formal Enquiry
- overseeing the actions of the Safeguarding Enquiry Officer
- chairing a Case Conference Discussion where required
- checking with the adult at risk whether their desired outcomes have been met
- ensuring records are kept and outcomes recorded in line with local systems

### Safeguarding Enquiry Officer

There may be a need for a number of people to undertake enquiry activities in response to a safeguarding concern or allegation, such as the police, complaints staff, serious incident investigators, or people undertaking disciplinary investigations.

It will be the responsibility of the Safeguarding Enquiry Officer to draw together information from their own enquiries and from those of others as appropriate, to establish whether any actions are required to prevent abuse or neglect. These findings will be collated in a written report, and will be used to support the assessment of risk and development of a Safeguarding Plan.

The Safeguarding Enquiry Officer will be a nominated person from adult social care or, where agreed, a service provider manager.

### Chair of the Case Conference Meeting

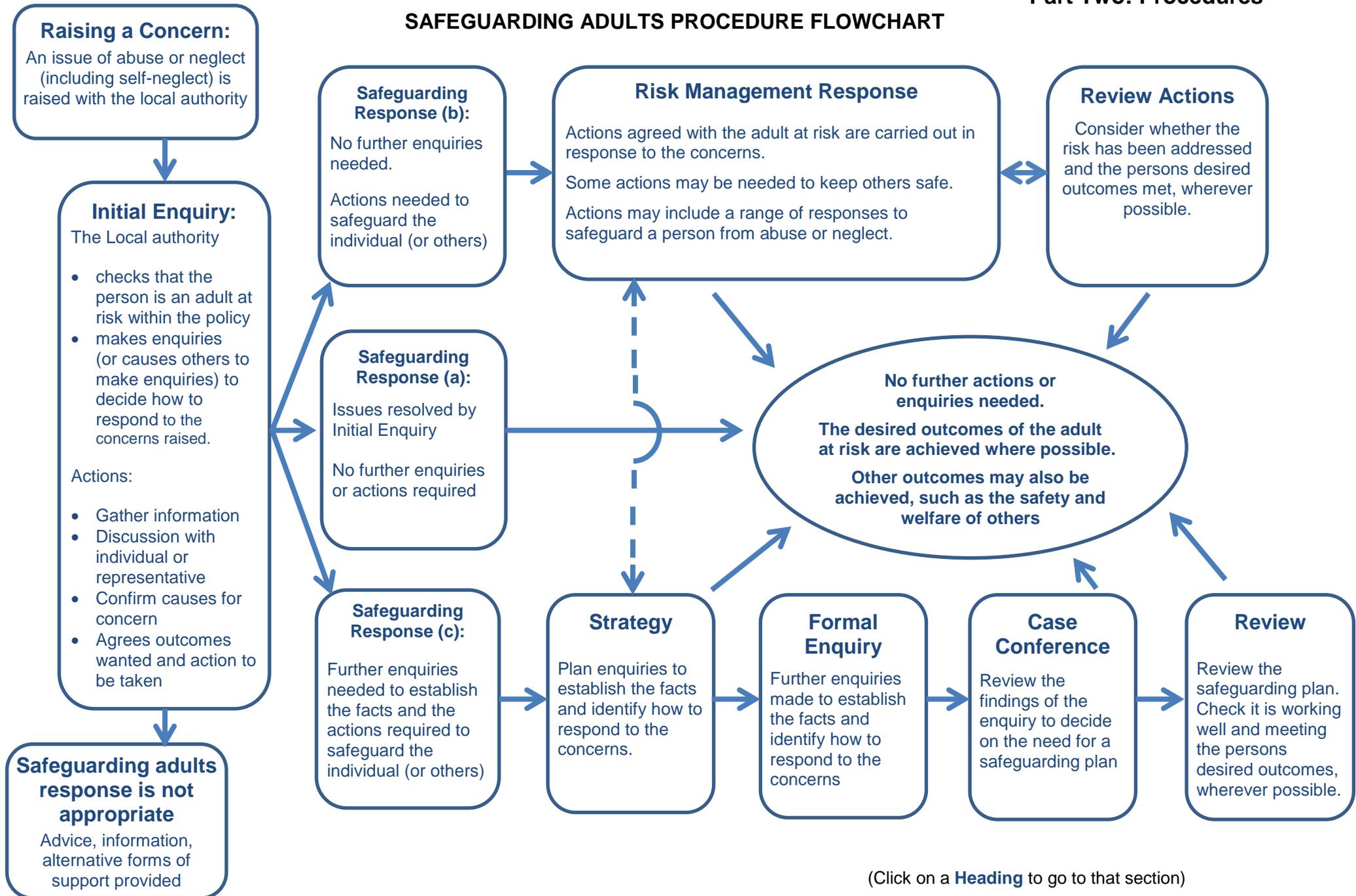
The Case Conference Meeting is multi-agency meeting that will often be required after the Formal Enquiry is completed. The purpose of the meeting is to consider risk, the desired outcomes of the adult at risk, the Safeguarding Plan and Formal Enquiry report. Wherever possible, the chair of the Case Conference Meeting will be a person who has had no involvement in the Formal Enquiry. Their role is to:

- ensure decisions take account of the wishes, needs and desired outcomes of the adult at risk
- enable all parties at the Case Conference Meeting to participate
- ensure the views of all relevant parties are represented
- ensure decision making is fair and objective, and
- provide challenge where required, in order to ensure good practice is achieved

The chair of the Case Conference Meeting will facilitate discussions and decision making in respect of:

- the Formal Enquiry report
- whether, on the balance of probabilities, abuse or neglect has occurred
- the desired outcomes of the adult at risk
- the assessment of risk
- the Safeguarding Plan and any further actions required
- how any Safeguarding Plan is reviewed and monitored

**SAFEGUARDING ADULTS PROCEDURE FLOWCHART**



(Click on a **Heading** to go to that section)

## 8.3 Summary of safeguarding responsibilities

Raising a Concern & Initial Enquiries			
	Main Activities	Responsibility	Target Timescales: (Organisations Only)
<b>Raising A Concern</b>  <i>(Section A)</i>	<p>An adult with care and support needs is experiencing, or is at risk of, abuse or neglect:</p> <ul style="list-style-type: none"> <li>• Inform the Safeguarding Concerns Manager (organisations only)</li> <li>• Gather information</li> <li>• Evaluate risk</li> <li>• Take actions to safeguard the adult (and or other adults/children)</li> <li>• Establish wishes and desired outcomes of the adult at risk</li> <li>• Where required assess mental capacity and act in 'best interests'</li> <li>• Record issues and actions</li> </ul>	<p>Any person:</p> <p>The adult at risk, members of the public, friends, family.</p> <p>Safeguarding Concerns Manager</p> <p>Any staff in an emergency</p>	<p>Raising a Concern: Immediately where urgent and serious Or Within same working day</p>
<b>Decisions</b>	<ul style="list-style-type: none"> <li>• Whether to raise a Safeguarding Concern</li> <li>• Whether a crime needs to be reported</li> <li>• Whether emergency services are required (ambulance, police) to keep a person safe.</li> <li>• Notify regulator (where applicable)</li> <li>• Record actions and decisions</li> </ul>	<p>Safeguarding Concerns Manager (in an organisation)</p>	<p>Raising a Concern: Immediately where urgent and serious Or Within same working day</p>
<b>Initial Enquiries</b>  <i>(Section B)</i>	<ul style="list-style-type: none"> <li>• Hold discussion with individual or representative</li> <li>• Consider need for representation / independent advocate</li> <li>• Establish wishes and desired outcomes of the adult at risk</li> <li>• Confirm causes for concern</li> <li>• Gather information</li> <li>• Evaluate risk</li> <li>• Agree action to be taken</li> <li>• Take immediate actions to safeguard the adult (and or other adults/children)</li> <li>• Report to police if required</li> </ul>	<p>Social Worker/Care Manager/ ASC Manager/ Safeguarding Coordinator/ DASM</p>	<p>At the earliest opportunity, keeping the adult at risk/ representative and other relevant parties informed of progress</p>
<b>Decisions</b>	<ul style="list-style-type: none"> <li>• Decide if the person is an 'adult at risk' within the safeguarding policy.</li> <li>• Decide if further actions or enquiries are required within this procedure: <ul style="list-style-type: none"> <li>○ Risk Management Response <i>(Section C)</i> or</li> <li>○ Formal Enquiry Response <i>(Section D)</i></li> </ul> </li> <li>• Record actions and decisions</li> <li>• Notify the Person Raising the Concern of the decision</li> </ul>	<p>ASC Manager/ Safeguarding Coordinator/ DASM</p>	<p>At the earliest opportunity, keeping the adult at risk/ representative and other relevant parties informed of progress</p>

**Target timescales are not performance indicators: the time taken to respond to issues of abuse and neglect depend on a range of factors, including the needs of the adult at risk, the nature, seriousness and complexity of the concern, but they provide useful targets that are achievable in many cases.**

## Safeguarding Response Option: Risk Management Response

	Main Activities	Responsibility	Target Timescales: (Organisations Only)
<b>Risk Management Response</b>  <i>(Section C)</i>	<p><b>A Risk Management Response is an alternative response to a Formal Enquiry.</b> It should be considered where there is no Formal Enquiry required, but there are actions needed to safeguard the adult at risk or others.</p> <p>There is no prescribed list of these actions, they may include:</p> <ul style="list-style-type: none"> <li>• Assessment of care and support needs</li> <li>• Carers assessment</li> <li>• Unscheduled review of care and support</li> <li>• Mediation</li> <li>• Multi-agency risk assessment</li> <li>• Social work intervention</li> <li>• Family Group Conferences</li> <li>• DASM interventions (where Formal Enquiry not being undertaken)</li> <li>• Commissioning actions</li> <li>• Contracts enforcement actions</li> <li>• Service, quality assurance actions</li> <li>• Serious incident processes</li> </ul> <p>The response taken will reflect the desired outcomes of the adult at risk, and the nature of the assessed risk to the individual and or others. However, the following activities will remain central to each and every response:</p> <ul style="list-style-type: none"> <li>• Consider need for representation/ independent advocate</li> <li>• Work towards the wishes and desired outcomes of the adult at risk</li> <li>• Evaluate risk</li> <li>• Take actions to safeguard the adult (and or other adults/children)</li> <li>• Where required assess mental capacity and act in 'best interests'</li> <li>• Record issues and actions</li> </ul>	<p>Social Worker/Care Manager/ASC Manager/DASM working with partner agencies, including service providers</p>	<p>As required by the circumstances, in particular the nature and seriousness of the assessed risk.</p>
<b>Review Actions</b>	<ul style="list-style-type: none"> <li>• Evaluate whether the actions are addressing the risk, promoting wellbeing and responding to the desired outcomes of the adult at risk.</li> </ul>	<p>Social Worker/ Care Manager/ ASC Manager/ DASM working with partners</p>	<p>As required by the circumstances, in particular the nature and seriousness of the assessed risk.</p>
<b>Decisions</b>	<ul style="list-style-type: none"> <li>• Further enquiries required</li> <li>• Further actions required to safeguarding the adult at risk</li> <li>• Further actions required to safeguard others</li> </ul>	<p>Social Worker/ Care Manager/ ASC Manager/ DASM working with partner agencies</p>	

RISK ASSESSMENT AND SAFEGUARDING PLANNING

**Target timescales are not performance indicators: the time taken to respond to issues of abuse and neglect depend on a range of factors, including the needs of the adult at risk, the nature, seriousness and complexity of the concern, but they provide useful targets that are achievable in many cases.**

## Safeguarding Response Option: Formal Enquiry

Stage	Main Activities	Responsibility	Target Timescales: (Organisations Only)
Strategy Discussion/ Meeting <i>(Section D)</i>	<ul style="list-style-type: none"> <li>Gather information</li> <li>Evaluate risk</li> <li>Confirm causes for concern</li> <li>Work towards the wishes and desired outcomes of the adult at risk</li> <li>Agree actions with the adult at risk</li> <li>Where required assess mental capacity and act in 'best interests'</li> <li>Consider need for representation/advocacy</li> </ul>	Safeguarding Coordinator with relevant partner agencies and the adult at risk as appropriate	Within five working days of the Initial Enquiry being completed
Decisions	<ul style="list-style-type: none"> <li>Confirm that Formal Enquiries are required</li> <li>Plan a Formal Enquiry</li> <li>Coordinate agencies' involvement</li> <li>Agree interim Safeguarding Plan</li> <li>If Formal Enquiries not required, consider the need for a Risk Management Response</li> <li>Record actions and decisions</li> </ul>	Safeguarding Coordinator/ DASM	Within five working days of the Initial Enquiry being completed
Formal Enquiry	<ul style="list-style-type: none"> <li>Carry out Formal Enquiries as agreed in Strategy Discussion/Meeting</li> <li>Consider need for representation/advocacy</li> <li>Review risk and safeguarding planning arrangements as required.</li> <li>Produce a Formal Enquiry report</li> </ul>	Partner agencies contribute Safeguarding enquiry officer produces enquiry report	Report submitted to Case Conference Chair 7 working days before a Case Conference
Decisions	<ul style="list-style-type: none"> <li>Check all relevant issues have been addressed through the enquiries</li> <li>Check any findings and recommendations are evidence based</li> <li>Ensure fair process followed to all concerned; all relevant views considered</li> </ul>	Safeguarding Coordinator/ DASM	Report submitted to Case Conference Chair 7 working days before a Case Conference Meeting
Case Conference	<ul style="list-style-type: none"> <li>Consider need for representation/advocacy</li> <li>Receive Formal Enquiry report</li> <li>Evaluate findings</li> <li>Evaluate risk</li> <li>Work towards the wishes and desired outcomes of the adult at risk</li> <li>Where required assess mental capacity and act in 'best interests'</li> </ul>	Case Conference Chair/ Safeguarding Coordinator/ DASM	Within 8 weeks* from safeguarding Strategy Discussion/ Meeting  * To be achieved earlier where possible
Decisions	<ul style="list-style-type: none"> <li>Determine occurrence of abuse</li> <li>Agree further actions required</li> <li>Agree Safeguarding Plan</li> <li>Agree review arrangements if required</li> </ul>	Case Conference Chair/DASM/ Safeguarding Coordinator/	Within 8 weeks* from safeguarding Strategy Discussion/ Meeting
Review	<ul style="list-style-type: none"> <li>Review risk and Safeguarding Plan</li> <li>Work towards the wishes and desired outcomes of the adult at risk</li> </ul>	Case Conference Chair/DASM/ Safeguarding Coordinator	Within 3 months of Case Conference or as agreed
Decisions	<ul style="list-style-type: none"> <li>Agree further actions required</li> <li>Agree review arrangements if required</li> </ul>	As above.	As agreed

**Target timescales are not performance indicators: the time taken to respond to issues of abuse and neglect depend on a range of factors, including the needs of the adult at risk, the nature, seriousness and complexity of the concern, but they provide useful targets that are achievable in many cases.**

# Section A

## Raising a Concern

## **9. Raising a Concern**

An 'adult at risk' is described in Section 1.1 of the Policy.

Raising a Safeguarding Concern means reporting your concerns that a person over 18 years of age:

- has or may have needs for care and support (whether or not the authority is meeting any of those needs),
- is experiencing, or is at risk of, abuse or neglect, and
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

Concerns should be reported to the local authority in the area where the abuse is happening. See Section 9.4 for contact details.

Abuse can take many forms, there is no definitive list of what incidents amount to abuse, however the following would be considered abuse:

Physical abuse	Organisational abuse
Sexual abuse	Financial or material abuse
Psychological abuse	Domestic abuse
Neglect	Modern slavery
Discriminatory abuse	Self-neglect

Abuse and neglect often involve the actions of one person towards another. However, self-neglect involves situations where a person is placing themselves at risk of harm. This could be due to their reluctance, or inability to accept the assistance they need with their care and support needs.

### **9.1 Who can Raise a Concern?**

Any person who has concerns that someone who has, or may have care and support needs is experiencing, or is at risk of abuse and neglect, can raise their concerns with the local authority.

This means that the adult experiencing abuse or neglect can raise their concerns themselves, but so can their friends, family members, unpaid carers, other members of the public, paid carers, professionals and organisations.

A concern may be:

- something the adult at risk has disclosed to you
- something you have been told by a colleague, a friend, relative or the carer for the adult at risk, or someone else
- something you have witnessed for yourself, for example changes in the person's behaviour, or how the adult at risk is being treated by someone else

Wherever possible, involve the adult at risk in decisions about Raising a Safeguarding Concern. Try and talk to the person about what the person wants to change about their situation, and what support they want to achieve that.

There are occasions when you may need to Raise a Concern without the person's consent, for example:

- It is in the public interest, for example,
  - there is a risk to other 'adults at risk', or
  - the concern is about organisational or systemic abuse, or
  - the concern or allegation of abuse relates to the conduct of an employee or volunteer within an organisation providing services to adults at risk, or
  - the abuse or neglect has occurred on property owned or managed by an organisation with a responsibility to provide care
- the person lacks mental capacity to consent and a decision is made to raise a safeguarding concern in the person's 'best interests' (Mental Capacity Act 2005)
- a person is subject to coercion or undue influence, to the extent that they are unable to give consent
- it is in the adult's vital interests (to prevent serious harm or distress or life-threatening situations)

If you are not sure whether you should raise a safeguarding concern, you should seek advice. If you have become aware of concerns through the course of your work, seek advice from the Safeguarding Concerns Manager or Safeguarding Adults Lead in your organisation.

Where possible, take action to ensure the safety of the adult at risk. You may also need to inform the police (if a crime has taken place or is taking place) or seek medical attention in an emergency.

It is important when a situation is reported to the police, that wherever possible the person or organisation alleged to have caused harm is not questioned by anyone, so as not to undermine any required police investigation.

It is also important that forensic and other evidence is not contaminated. Evidence may be present even if you cannot actually see anything:

- Try not to disturb the scene, or any evidence if at all possible
- Secure the scene, for example, lock the door to where the incident took place
- Preserve all containers, documents etc.

If in doubt, seek advice from the police.

Section 9.3 provides more detailed information for staff working in organisations, about Raising a Safeguarding Concern.

Section 9.4 provides contact details for Raising a Safeguarding Concern.

## **9.2 Guidance for organisations**

All registered health and social care organisations should have safeguarding policies and procedures detailing the responsibilities of all staff (and volunteers) within this Multi-Agency Policy and Procedure.

### **9.2.1 Guidance for employees and volunteers**

Every person working with adults with care and support needs (paid or unpaid) has a duty of care within this safeguarding adults procedure.

If a person discloses abuse to you directly, use the following principles to respond:

- Assure them that you are taking the concerns seriously
- Do not be judgemental or jump to conclusions
- Listen carefully to what they are telling you, stay calm, get as clear a picture as you can. Use open-ended questions
- Do not start to investigate or ask detailed or probing questions
- Explain that you have a duty to tell your manager or designated officer
- Reassure the person that they will be involved in decisions about them

Within organisations, staff (and volunteers) must always inform the Safeguarding Concerns Manager without delay. If the concerns relate to the Safeguarding Concerns Manager, inform an alternative or more senior manager within your organisation of the concerns.

The Safeguarding Concerns Manager is a person within the organisation who will ordinarily be responsible for:

- deciding whether to raise a safeguarding concern with the local authority
- taking immediate actions, wherever possible, to ensure the adult at risk is safe from abuse or neglect

However, where a situation is urgent or serious, **any member of staff (or volunteer)** may need to undertake these actions, particularly where:

- contacting the Safeguarding Concerns Manager would result in undue delay and thereby place someone at risk
- the Safeguarding Concerns Manager has been contacted and they have not taken action
- the concern relates to the Safeguarding Concerns Manager and there is no other appropriate alternative manager to contact
- you have authority in your own right to decide whether to raise a safeguarding concern and professional/service practice allows for this

### **9.2.2 In an emergency or out of hours**

When dealing with an incident that involves the abuse of an adult at risk, staff may need to call the police and/or ambulance (dial 999), if for example:

- someone is alleging that they have been sexually assaulted
- someone has been injured as a result of a physical assault

- an allegation is made regarding a recent incident of theft
- the person alleged to have caused harm needs to be removed
- the person alleged to have caused harm is still believed to be near the premises
- there is reason to believe that a crime is in progress
- there is likely to be evidence that needs to be preserved, in the case of physical or sexual assault the police will be able to arrange for medical evidence to be collected

This list is by no means exhaustive.

Employees without access to a Safeguarding Concerns Manager, (such as those working outside office hours) will need to be aware of the circumstances under which the police should be called in an emergency.

If the police do not need to be contacted but you still have immediate concerns and it is out of normal working hours, the local authority 'emergency duty team' can be contacted (see Section 9.4 for details).

### **9.2.3 Whistle-blowing – Public Interest Disclosure Act 1998**

Members of staff working within an organisation may become aware of safeguarding concerns or allegations but be concerned about the impact on their employment if they were to report them.

Where people have these concerns, they should refer to their employer's Public Interest Disclosure Policy, sometimes called the "Whistle-blowing" Policy. The policy is so named, because it provides advice in relation to those circumstances when an employee is protected for reporting concerns.

For further information and advice, the following services are available:

- Mencap: [www.mencap.org.uk/organisations/whistleblowing-helpline](http://www.mencap.org.uk/organisations/whistleblowing-helpline)
- Care Quality Commission: [www.cqc.org.uk/contact-us](http://www.cqc.org.uk/contact-us)
- Public Concern at Work: [www.pcaaw.org.uk](http://www.pcaaw.org.uk)

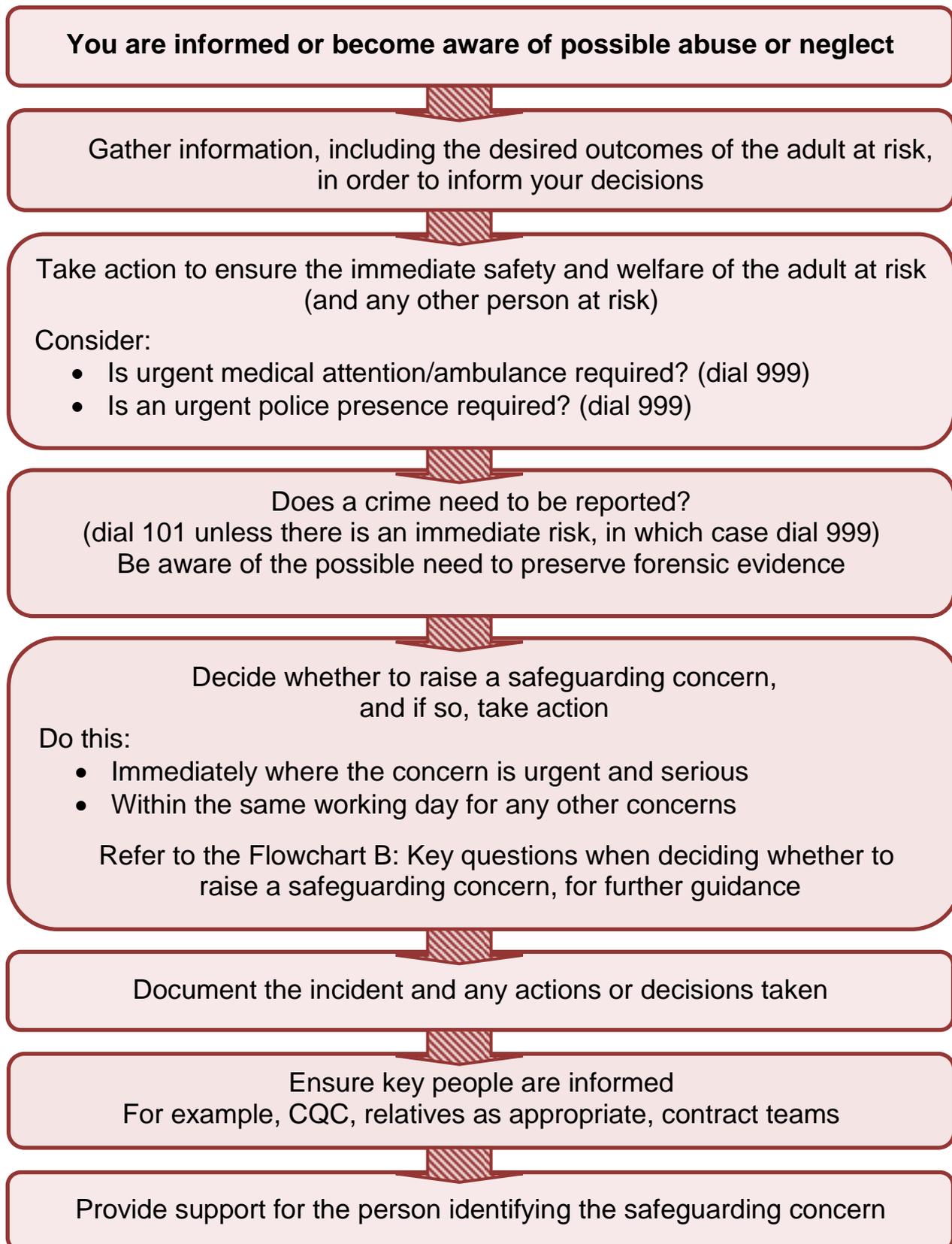
### **9.3 Role of the Safeguarding Concerns Manager**

The Safeguarding Concerns Manager is a nominated person within the organisation who is responsible for ensuring that concerns of possible abuse and neglect are responded to and reported appropriately.

The Safeguarding Concerns Manager must be informed about concerns of possible abuse or neglect without delay, and should use the Managing Safeguarding Concerns Flowchart (p.61) and the Key Considerations in Raising A Safeguarding Concern Flowchart (p.62) to inform their actions and decision making. Further more detailed guidance is provided in the subsequent sections.

Where actions are needed urgently or if the Safeguarding Concerns Manager is unavailable, **any member of staff or volunteer** may need to Raise a Concern with the local authority themselves and undertake other actions required to safeguard the adult at risk.

Flowchart A: Managing Safeguarding Concerns Flowchart



Flowchart B: Key questions when deciding whether to raise a safeguarding concern

**Q1. Does the adult have care and support needs?** (refer to Section 1.1 of the Policy)

**Q2. Is the person experiencing, or at risk of, abuse and neglect?**

- |                     |                          |                             |                          |                       |                          |
|---------------------|--------------------------|-----------------------------|--------------------------|-----------------------|--------------------------|
| Domestic abuse      | <input type="checkbox"/> | Modern slavery              | <input type="checkbox"/> | Neglect or acts       | <input type="checkbox"/> |
| Physical abuse      | <input type="checkbox"/> | Discriminatory abuse        | <input type="checkbox"/> | of omission           | <input type="checkbox"/> |
| Sexual abuse        | <input type="checkbox"/> | Organisational abuse        | <input type="checkbox"/> | Self-neglect          | <input type="checkbox"/> |
| Psychological abuse | <input type="checkbox"/> | Financial or material abuse | <input type="checkbox"/> | Another form of abuse | <input type="checkbox"/> |

NB: Abuse may sometimes occur without any intent to cause harm

**Q3. What is the nature and seriousness of the risks?**

Consider:

- The person's individual circumstances
- The nature and extent of the concerns
- The length of time it has been occurring
- The impact of any incident
- The risk of repeated incidents for the person
- The risk of repeated incidents for others

**Q4. What does the adult at risk want to happen now?**

Wherever possible, consider the wishes and desired outcomes of the adult at risk. In other words, what do they want to happen next, what do they want to change about their situation and what support do they want to achieve that

Sometimes it will be necessary to Raise a Concern even if this is contrary to the wishes of the adult at risk. Any such decision should be proportional to the risk, for example:

- It is in the public interest e.g. there is also a risk to others, a member of staff or volunteer is involved, or the abuse has occurred on property owned or managed by an organisation with a responsibility to provide care
- The person lacks mental capacity to consent and it is in the person's best interests
- The person is subject to coercion or undue influence, to extent that they are unable to give consent
- It is in the person's vital interests (to prevent serious harm or distress or life threatening situations)

**If you remain unsure whether to raise a safeguarding concern, seek advice:**

- Contact your organisations safeguarding adults lead.
- Contact your local safeguarding services (See Section 9.4 for contact details)

### **9.3.1 Gather information**

If you are made aware of safeguarding concerns or allegations, you must take them seriously however trivial they might initially seem.

You may need to gather information in order to decide whether you should raise a safeguarding concern and the most appropriate action to keep the person safe. This may involve checking relevant records, ascertaining concerns from colleagues, gathering background information, etc.

Gather only the information you need in order to make the decision about whether to raise a safeguarding concern and to keep the person safe.

Unless it might prejudice a safeguarding enquiry or a police investigation, the Safeguarding Concerns Manager should speak to the adult at risk to get their views about:

- what has happened
- what they want to happen now
- the desired outcomes that the adult wants

Desired outcomes are those changes that the adult at risk wants to achieve from the support they receive, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.

### **9.3.2 Take action to ensure the immediate safety of the adult at risk**

The Safeguarding Concerns Manager must consider whether there are any immediate actions they need to take in order to keep the adult, or others, safe from harm.

This involves taking actions in relation to the adult at risk and others, including:

- making an immediate evaluation of the risk to the adult at risk and others
- taking reasonable and practical steps to safeguard the adult at risk as appropriate
- liaising with the police where an immediate police presence is required or to discuss any risk management issues
- arranging any necessary emergency medical treatment; note that offences of a sexual nature will require expert advice from the police
- making sure that other service users (and staff/volunteers) are not at risk

It may also involve taking actions in relation to the person or organisation alleged to have caused harm, including:

- liaising with the police wherever possible regarding actions that may impact upon a subsequent criminal investigation, such as where the protective arrangements may forewarn the person alleged to have caused harm of an impending criminal investigation and potentially prejudice the collection of evidence
- ensuring that any staff (or volunteers) who have caused harm are not in contact with service users and others who may be at risk, for example, 'whistle-blowers'

Note:

- do not discuss the concern with the person alleged to have caused harm, unless the immediate welfare of the adult at risk or other people makes this unavoidable
- if the person alleged to have caused harm is a member of staff and an immediate decision is required to suspend them, the person has a right to know in broad terms what allegations or concerns have been made about them. Care however should be undertaken not to jeopardise any resulting police investigation or Formal Enquiry
- if the allegation involves agency staff, the agency should also be notified of the safeguarding concern having been raised
- if the person alleged to have caused harm is another service user, action taken may include removing them from contact with the adult at risk. In this situation, arrangements must be put in place to ensure that the needs of the person alleged to have caused harm are also met.

### **9.3.3 Deciding whether to report an incident to the police**

If a crime has been, or may have been committed, seek the person's consent to report the matter immediately to the police.

If the person has mental capacity in relation to the decision and does not want a report made, this should be respected unless there are justifiable reasons to act contrary to their wishes, such as:

- the person is subject to coercion or undue influence, to the extent that they are unable to give consent, or
- there is an overriding public interest, such as where there is a risk to other people, or
- it is in the person's vital interests (to prevent serious harm or distress or in life-threatening situations)

There should be clear reasons for overriding the wishes of a person with the mental capacity to decide for themselves. A judgement will be needed that takes into account the particular circumstances.

If the person does not have mental capacity in relation to this decision, a 'best interests' decision will need to be made in line with the Mental Capacity Act.

The police may also be contacted later, if more information becomes available and it becomes apparent that a crime has been committed.

If the matter is to be reported to the police, discuss with the police any risk management issues and any potential forensic considerations.

### **9.3.4 Preserving evidence**

Whilst the first concern must be to ensure the safety and well-being of the adult at risk, in situations where there may have been a crime and the police have been called, it is important that forensic and other evidence is preserved. The police may need to attend the 'scene', and agencies and individuals can play an essential part in ensuring that evidence is

not contaminated or lost. As far as possible:

- try not to disturb the scene, clothing or victim if at all possible
- secure the scene, for example, lock the door, if possible,
- preserve all containers, documents, locations, etc.
- evidence may be present even if you cannot actually see anything
- if in doubt, contact the police and ask for advice

The police should be contacted for advice wherever required.

### **9.3.5 Deciding whether to Raise a Safeguarding Concern**

In deciding whether to raise a safeguarding concern, refer to Flowchart: 'Key questions when deciding whether to Raise a Safeguarding Concern' (p.62).

Consider the following questions:

- Is the person an 'adult at risk' as defined within this policy/procedure?
- Is the person experiencing, or at risk of, abuse and neglect?
- What is the nature and seriousness of the risk?
- What does the adult at risk want to happen now?

The adult at risk should experience the safeguarding process as empowering and supportive. Practitioners should seek to agree actions with the adult at risk, taking into consideration their desired outcomes of any support provided.

Desired outcomes are those changes that the adult at risk wants to achieve from the support they receive, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.

Consent should be sought where possible. There may be circumstances where consent cannot be obtained because the adult lacks the capacity to give it or is subject to coercion or undue influence. There will also be occasions where action may need to be taken if others are or will be put at risk if nothing is done, or where it is in the wider public interest for action to be taken. For further guidance refer to Sections 9.3.6 and 9.3.7.

Where required, take advice from your safeguarding adults lead.

### **9.3.6 Mental capacity to consent**

The law presumes that adults have mental capacity to make their own decisions. However there will be times and situations in which an individual lacks capacity.

In deciding whether the adult at risk has mental capacity to consent to a concern being raised, consider if the adult at risk has mental capacity to make informed decisions:

- about other people being informed?
- about actions which may be taken under the multi-agency policy and procedure?
- about their own safety, including an understanding of longer-term harm as well as

- immediate effects? and
- how to take action to protect themselves from future harm?

If the adult at risk has mental capacity to decide about Raising a Safeguarding Concern their consent should be sought, unless to do so may place a person at risk or it is not possible to seek that person's consent.

The two stage test of mental capacity is:

- is there an impairment of, or disturbance in, the functioning of the person's mind or brain?
- if so, is the impairment or disturbance sufficient that the person lacks the mental capacity to make this decision at this time?

A person is unable to make that decision if he/she is unable to:

- understand the information relevant to the decision
- retain that information (for as long as required to make the decision)
- use or weigh that information as part of the process of making the decision
- communicate their decision (whether by talking, sign language or any other means).

If the adult at risk is assessed as not having mental capacity to decide whether a safeguarding concern should be raised, the decision must be made in their 'best interests' in line with the Mental Capacity Act 2005.

### **9.3.7 Raising a Safeguarding Concern without the consent of the adult at risk**

Practitioners should wherever possible seek the consent of the adult before taking action, taking into consideration their wishes and desired outcomes as outlined in 9.3.5. However, whilst consent is an important consideration, it is not the only consideration.

The following are examples of when a decision to Raise a Concern may still be appropriate, even without the consent of the adult at risk:

- It is in the public interest, for example,
  - there is a risk to other 'adults at risk', or
  - the concern is about organisational or systemic abuse, or
  - the concern or allegation of abuse relates to the conduct of an employee or volunteer within an organisation providing services to adults at risk, or
  - the abuse or neglect has occurred on property owned or managed by an organisation with a responsibility to provide care
- the person lacks mental capacity to consent and a decision is made to raise a safeguarding concern in the person's 'best interests' (Mental Capacity Act 2005)
- a person is subject to coercion or undue influence, to the extent that they are unable to give consent
- it is in the adult's vital interests (to prevent serious harm or distress or in life-threatening situations)

Any actions taken without the consent of the adult at risk should be proportional to the risk of harm. The adult should ordinarily be informed of the actions being taken, unless to do so may place the adult or others at further risk of harm.

### **9.3.8 Document the incident and any actions or decisions taken**

Ensure all actions and decisions are fully recorded. It is possible that your records may be required as part of a police investigation or Formal Enquiry. Be as clear and accurate as you can. Record the information about the concern/allegations, your decisions and any advice given to, or by, you in making these decisions.

Ensure that appropriate records are maintained, including details of:

- the nature of the safeguarding concern/allegation
- the wishes and desired outcomes of the adult at risk
- the support and information provided to enable the adult at risk to make an informed decision
- assessments of mental capacity, where indicated
- the decision of the organisation to raise a safeguarding concern (or not)

### **9.3.9 Ensure key people are informed**

Where relevant, the Safeguarding Concerns Manager should inform:

- the Care Quality Commission if the concerns involve a regulated service provider
- the Charity Commission if the concern involves a registered charity
- the commissioners' department for the adult at risk (where relevant)
- child protection services, if children are also at risk from harm
- relatives of the adult at risk according to their wishes, or in their 'best interests' where they lack the mental capacity to make this decision for themselves
- their line manager (and safeguarding adults lead if different) of their decisions and actions in line with this procedure)
- the Local Authority Designated Adults Safeguarding Manager (where relevant)
- their Human Resources Manager if allegations/concerns relate to a member of staff
- staff delivering a service on a need-to-know basis so that they do not take actions that may prejudice a Formal Enquiry, or increase the risk to any person.

As well as deciding whether or not to Raise a Concern, the Safeguarding Concerns Manager must also decide whether to follow other relevant organisational reporting procedures. For example, NHS organisations may need to report under clinical governance or the Serious Incident Framework.

### **9.3.10 Provide support for the person identifying the concern**

Incidents of alleged or actual abuse can be very distressing. People who have witnessed abuse or had abuse disclosed to them may need support in their own right. Managers are responsible for:

- supporting any member of staff or volunteer who identified the concern.
- enabling and supporting relevant staff to play an active part in the safeguarding adults procedure

## 9.4 How to raise a safeguarding concern

A safeguarding concern can be raised by anyone who has a concern about the adult at risk. The concerns should be reported to the safeguarding contact point in the local authority area where the abuse has occurred.

Safeguarding adult contact points for West and North Yorkshire and York are listed below:

Appendix A, outlines the questions you may be asked.

### **Bradford**

#### To Raise a Safeguarding Concern

Contact:

- Adult Protection Unit: **01274 435400**, or complete the [online form](#)

#### For information/advice:

Contact:

- Adult Protection Unit, Jacobs Well, Nelson Street, Bradford, BD1 5RW
- Telephone: **01274 43 1077**

For additional information please visit: [www.bradford.gov.uk/apunit](http://www.bradford.gov.uk/apunit)

### **Calderdale**

#### To Raise a Safeguarding Concern

Contact:

- Gateway to Care: **01422 393 000** or email: [Gatewaytocare@calderdale.gov.uk](mailto:Gatewaytocare@calderdale.gov.uk)
- Emergency Duty Team: **01422 288 000** or email: [EDT@calderdale.gov.uk](mailto:EDT@calderdale.gov.uk)

#### For information/advice:

Contact:

- Safeguarding Adults Team: **01422 393 804** (Mon-Fri, Office Hours)

For additional information please visit:

[www.calderdale.gov.uk/socialcare/safeguardingadults/index](http://www.calderdale.gov.uk/socialcare/safeguardingadults/index)

Contact details continued on next page...

## **Kirklees**

### To Raise a Safeguarding Concern

#### Contact:

- Gateway to Care: **01484 414933** (24 hours)
- Emergency Duty Team (Out of Hours) **01484 414933**
- Emergency Duty Team: [gatewaytocare@kirklees.gov.uk](mailto:gatewaytocare@kirklees.gov.uk)

#### For information/advice:

#### Contact:

- Safeguarding Adults Partnership Team, 3rd Floor Kirkgate Building, Byram Street, Huddersfield, HD1 1BY. Telephone: **01484 221717**
- Fax number: 01484 226949. E-mail: [protection@kirklees.gov.uk](mailto:protection@kirklees.gov.uk)

For additional information please visit: [www.kirklees.gov.uk/safeguardingadults](http://www.kirklees.gov.uk/safeguardingadults)

## **Leeds**

### To Raise a Safeguarding Concern:

#### Contact:

- Adult Social Care Contact Centre: **0113 222 4401**
- Emergency Duty Team: **0113 240 9536** (outside of the contact centre times)

#### For information/advice:

#### Contact:

- Leeds Safeguarding Adults Partnership Support Unit: **0113 224 3511** (Mon-Fri, Office Hours)
- Email: [safeguarding.adults@leeds.gov.uk](mailto:safeguarding.adults@leeds.gov.uk)
- Secure email (from a secure email): [safeguarding.adults@leeds.gcsx.gov.uk](mailto:safeguarding.adults@leeds.gcsx.gov.uk)

For additional information please visit: [www.leedssafeguardingadults.org.uk](http://www.leedssafeguardingadults.org.uk)

## **North Yorkshire**

### To Raise a Safeguarding Concern:

#### Contact:

- Adult Social Care, Customer Services **01609 780780**. Opening hours are 8am – 5.30pm Monday to Friday. This number will be answered by the Emergency duty team outside these hours.
- Email Raising a Safeguarding Concern forms to: [social.care@northyorks.gov.uk](mailto:social.care@northyorks.gov.uk) or [social.care@northyorks.gcsx.gov.uk](mailto:social.care@northyorks.gcsx.gov.uk)

#### For information/advice:

#### Contact:

- For general questions and enquiries about safeguarding adults, please email: [safeguardingadultsteam.enquiries@northyorks.gov.uk](mailto:safeguardingadultsteam.enquiries@northyorks.gov.uk)  
Please note this email address is NOT for Raising a Safeguarding Concern.
- For additional information please visit: [www.northyorks.gov.uk/safeguardingadults](http://www.northyorks.gov.uk/safeguardingadults)

## **Wakefield**

### To Raise a Safeguarding a Concern

Contact:

- Social Care Direct: Telephone: **0345 8 503 503**
- Fax: **01924 303455**; Minicom: **01924 303450**;
- Email: [social\\_care\\_direct@wakefield.gov.uk](mailto:social_care_direct@wakefield.gov.uk)

### For information/advice:

Contact:

- Wakefield Safeguarding Adults Board Business Manager, Adults Health and Communities, Grange View, Annie Street, Wakefield WF1 2PN.
- Telephone: **01924 306454**

For additional information please visit:

[www.wakefield.gov.uk/HealthAndSocialCare/AdultsAndOlderPeople/SafeguardingAdults](http://www.wakefield.gov.uk/HealthAndSocialCare/AdultsAndOlderPeople/SafeguardingAdults)

## **York**

### To Raise a Safeguarding Concern

Contact:

- Customer access and assessment team: Telephone: **01904 555 111** (8.30-5.00pm). For individuals who are hearing impaired please Text: **0753 443 7804**
- Fax: **01904 554 017**; Email: [adult.socialsupport@york.gov.uk](mailto:adult.socialsupport@york.gov.uk)
- Out of hours, contact the Emergency Duty Team
- Telephone: **0845 0349 417**; Email: [edt@northyorks.gov.uk](mailto:edt@northyorks.gov.uk)

### For information/advice:

Contact:

- Safeguarding Adults Team: Telephone: **01904 555 858** (and ask for the duty worker)
- Fax: [adultsafeguardingfax@york.gov.uk](mailto:adultsafeguardingfax@york.gov.uk)
- Email: [adult.socialsupport@york.gov.uk](mailto:adult.socialsupport@york.gov.uk)

# Section B

## Initial Enquiry

## 10. Initial Enquiry

Once a safeguarding concern has been raised with the local authority, it must undertake an Initial Enquiry to determine the appropriate response. The concerns may be resolved during the Initial Enquiry, or it may be necessary to undertake further enquires or actions to safeguard the adult or adults at risk.

An Initial Enquiry involves:

- Gathering information
- Ascertaining the views and wishes of the adult
- Establishing the need for representation/independent advocate
- Checking whether a response within this procedure is appropriate and proportionate to the concerns raised.
- Protecting from the abuse and neglect, in accordance with the wishes of the adult
- Making decisions about further actions that should be taken with regard to the person or organisation responsible for the abuse or neglect; and
- Enabling the adult the adult to achieve resolution and recovery

Central to this approach is the need to work with the adult at risk and/or their representative to agree their desired outcomes, to confirm the cause for concern and agree the actions to be taken as illustrated in the diagram on page 74.

### Target Timescale:

Initial enquiries should be completed at the earliest opportunity. The adult at risk, representative, and relevant parties should be kept informed of progress

### 10.1 Duty to make enquiries

The duty on the local authority to make enquiries, or cause them to be made, applies where there is reasonable cause to believe that the three stage test has been satisfied:

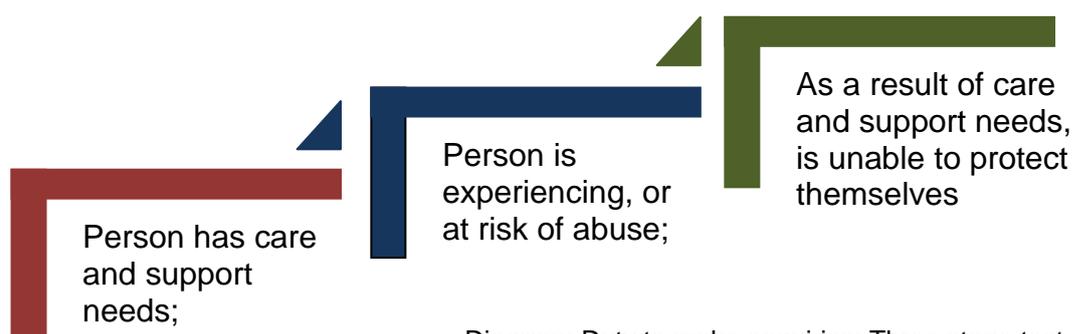


Diagram: Duty to make enquiries: Three stage test

When a concern has been raised, the first consideration should be whether the person is an adult at risk. In practice, some Initial Enquiries will often be needed to establish whether these three tests are met.

Where these tests are met, there is a duty to make enquiries to determine “whether any action should be taken in the adult’s case and, if so, what and by whom” and the subsequent guidance will apply.

The decision to carry out a safeguarding enquiry does not depend on the person's eligibility for local authority services but upon the criteria stated in this section

Unpaid carers sometimes have care and support needs of their own. However, sometimes unpaid carers will only have support needs. In these circumstances the Multi-Agency Safeguarding Adults Policy and Procedure may still be used as a proportionate response to the concerns where appropriate, using its duty to promote wellbeing.<sup>18</sup> This may be appropriate, for example, if an unpaid carer experiences intentional or unintentional harm from the adult they are trying to support.<sup>19</sup>

However, in other circumstances, where these tests have not been met this Multi-Agency Safeguarding Adult Policy and Procedure will not apply unless agreed locally. The person may nevertheless be at risk or in need of support and assistance, and should be guided to appropriate sources of support.

### **10.1.1 Assessments and the duty to make enquiries and assessments**

The duty to make enquiries, or cause them to be made, may result from a person formally Raising a Safeguarding Concern through the local authority's contact point. However, it may also result from concerns emerging during assessments undertaken.

When carrying out an assessment local authorities must consider the impact of the adult's needs on their wellbeing. If it appears to local authorities that the person is experiencing or at risk of abuse and neglect they must carry out a safeguarding enquiry and decide with the adult in question what action, if any, is necessary and by whom.<sup>20</sup>

Where the adult has care and support needs, local authorities must continue to carry out a needs assessment and determine whether they have eligible needs, and if so, how these will be met. The assessment for care and support should run parallel to the safeguarding enquiry and the enquiry should not disrupt the assessment process or the local authority meeting eligible needs.<sup>21</sup>

### **10.1.2 Causing Initial Enquiries to be made**

Although the local authority is the lead agency for making enquiries, it may require others to undertake them. In many cases a professional who already knows the adult will be the person best placed to make enquiries. They may be a social worker, a housing support worker, a GP or other health worker such as a community nurse. The local authority retains the responsibility for ensuring the enquiry is referred to the right place and is acted upon.<sup>22</sup>

Once enquiries are completed, the outcome should be notified to the local authority which should then determine with the adult what, if any, further action is necessary and acceptable. It is for the local authority to determine the appropriateness of the outcome of the enquiry.<sup>23</sup>

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<sup>18</sup> Care Act 2014, Section 1

<sup>19</sup> Care and Support, Statutory Guidance: Paragraph 14.35

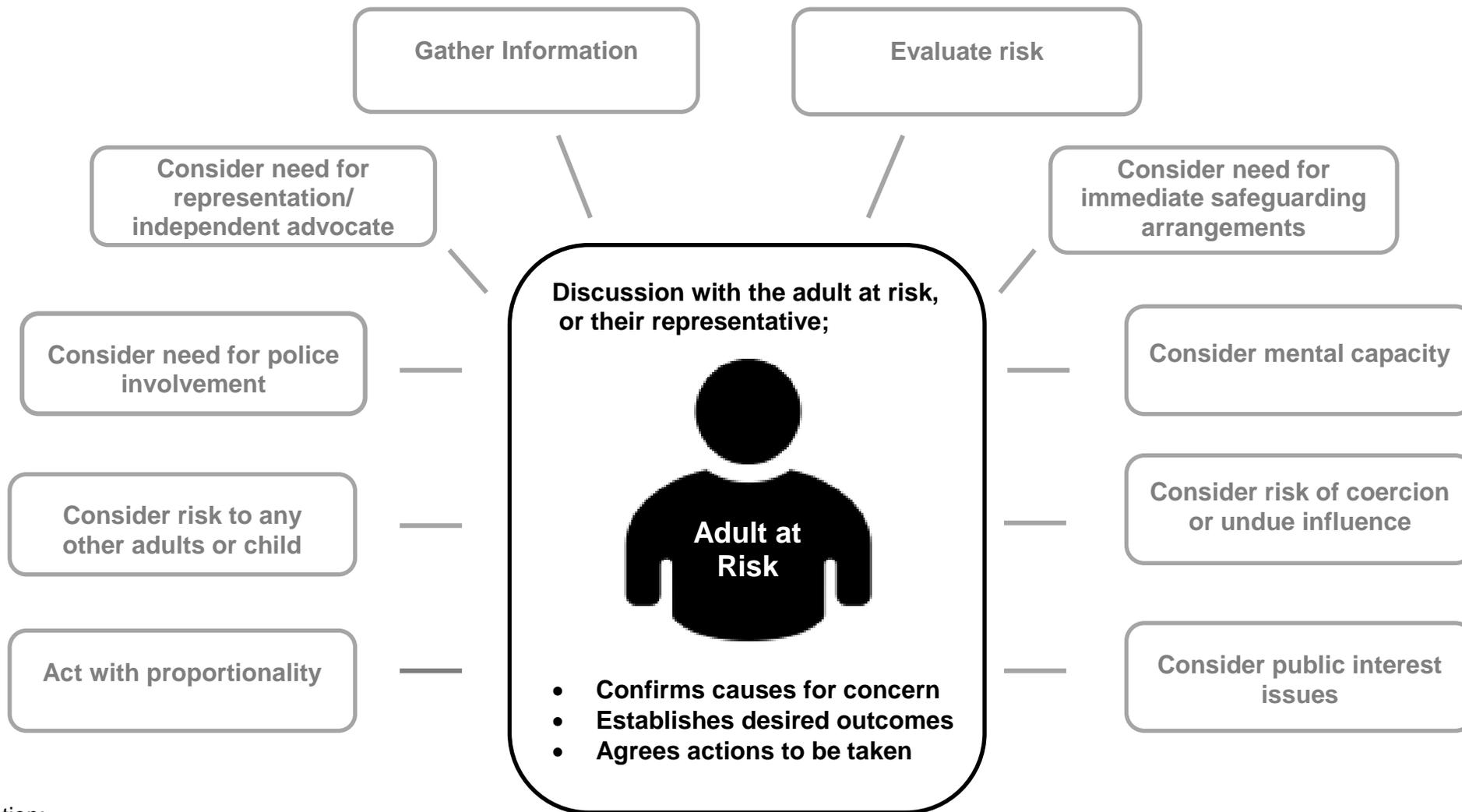
<sup>20</sup> Ibid, Paragraph 6.54

<sup>21</sup> Ibid, Paragraph 6.57

<sup>22</sup> Ibid, Paragraph 14.84

<sup>23</sup> Ibid, Paragraph 14.94

Diagram: Initial Enquiry: Summary of actions and considerations



Adaptation:  
Care and Support, Statutory Guidance, Diagram 1a

## **10.2 Agree desired outcomes**

The adult at risk should experience the safeguarding process as empowering and supportive. It is essential to establish what the person wants to happen now, and what their desired outcomes are.

Desired outcomes are those changes that the adult at risk wants to achieve from the support they receive, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.<sup>24</sup>

It is vital that the views of the adult are sought and recorded.<sup>25</sup> Sometimes people will have unrealistic expectations of what can be achieved through the safeguarding procedure, and people should be supported to understand from the outset if, and how their desired outcomes can be met.

These wishes and desired outcomes are important in determining the appropriate and proportionate response to the concerns raised. The person's wishes and desired outcomes, however, are not the only consideration as sometimes actions are required without a person's consent as described in Sections 10.5.2 and 10.5.3.

The individual support needs of the adult should be considered and provided to enable them to contribute their views and wishes. This will include, but not be limited to support with communication needs. Where a person needs support or representation this will often be provided by a friend or relative.

However, where the person lacks mental capacity, or has a 'substantial difficulty' in being involved in the process, and they have no one other than those acting in a professional capacity to support them, it is necessary to consider if there is a 'particular benefit' to providing them with an independent advocate (see sections 7.5.2 and 7.5.3).

## **10.3 Confirm causes for concern**

Confirming the causes for concern refers to identifying whether there is an issue of abuse or neglect to be responded to within this Multi-Agency Policy and Procedure.

In identifying abuse or neglect it is important to not be constrained by a definitive list of categories of abuse. However, the examples in Section 1.3 are illustrative of the kinds of abuse that might be experienced. This section outlines a series of steps and considerations to inform decision making.

### **10.3.1 Gather information**

Information gathering is not a Formal Enquiry but a process of collecting enough information to enable a decision to be reached as to how the concerns should be responded to.

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<sup>24</sup> Care and Support, Statutory Guidance: Paragraph 14.87

<sup>25</sup> Ibid, Paragraph 14.87

The Person Raising a Concern should always be contacted in relation to their concern in order to:

- acknowledge the concerns, and
- clarify and/or gather more information about the allegation/concern

There may be a need to review previous records and risk assessments, but this may also involve consulting other agencies or departments, such as:

- a service providing care and support, e.g. the care home, housing provider
- a GP or other health professional
- a commissioner, Care Quality Commission or other regulator
- the police
- voluntary sector organisations
- specialist services or advice lines, e.g. Forced Marriage Unit
- community safety partnerships
- domestic violence services
- relatives and unpaid carers of the adult at risk (where appropriate).

The information gathered will include that gained from a discussion with the individual at risk or their representative.

### **10.3.2 Risk assessment**

It is important, when considering the enquiry to approach reports of incidents or allegations with an open mind. In considering how to respond the following factors need to be considered:

- The adult's need for care and support
- The adult's risk of abuse or neglect
- The adult's ability to protect themselves or the ability of their networks to increase the support they offer
- The impact on the adult,
- Their wishes
- The possible impact on important relationships
- The potential increasing risk to the adult
- The risk of repeated or increasingly serious acts involving children, or another adult at risk or abuse or neglect
- The responsibility of the person or organisation that has caused the abuse or neglect; and
- Research evidence to support any intervention.<sup>26</sup>

Whilst it is important to focus on the risk to the adult concerned, it is equally important to consider the potential risk to others, including children. Sometimes actions are required that relate to the safety of others irrespective of the adult's wishes.

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<sup>26</sup> Care and Support, Statutory Guidance: Paragraph 14.83

## 10.4 Confirming causes for concern: specific considerations:

### 10.4.1 Poor practice or abuse

The purpose of the safeguarding adults procedure is to safeguard adults at risk from abuse and neglect.

Safeguarding is not a substitute for:

- Providers responsibilities to provide safe and high quality care and support
- Commissioners regularly assuring themselves of the safety and effectiveness of commissioned services
- The Care Quality Commission (CQC) ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action.<sup>27</sup>

Where a commissioner or the Care Quality Commission are taking their own action in relation to a concern, the local authority must consider if these actions already form an appropriate and proportionate response to the concerns raised. If the local authority identifies possible abuse, including organisational abuse as set out in 10.4.2, it will lead on those aspects of the concerns, but performance and quality issues will continue to be addressed by commissioners and / or the Care Quality Commission.

Distinguishing between poor practice and neglect/abuse will often require a professional judgement. It is important to consider the impact of the incident on the adult at risk, whether others may be at risk of harm, and what the proportional response to the concern should be.

Where the practice is resulting in harm for the individual concerned, abuse is likely to be indicated. However, it is important to consider the nature, seriousness and individual circumstances of the incident in reaching a decision.

### 10.4.2 Organisational abuse

Organisational abuse includes neglect and poor practice within an organisation or specific care setting such as a hospital or care home, for example, or in relation to care provided in one's own home. This may range from one-off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.<sup>28</sup>

Whilst there is no single definition of organisational abuse it refers to those incidents of abuse that derive, to a significant extent, inadvertently or otherwise, from an organisation's practice, culture, policies and/or procedure.

Organisational abuse is also defined by certain characteristics:

- It is **widespread** within the setting (e.g. the abusive practice is not confined to the practice of a single staff member)
- It is evidenced by **repeated** instances
- It is generally **accepted** – it is not seen as poor practice
- It is **sanctioned** – it is encouraged or condoned by line managers

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<sup>27</sup> Care and Support, Statutory guidance: Paragraph 14.9

<sup>28</sup> Ibid, Paragraph 14.17

- There is an **absence of effective monitoring or management oversight** by managers that has allowed the practice to have occurred
- There are **environmental factors** (e.g. unsuitable buildings, lack of equipment, reliance on temporary staff) that adversely affects the quality of care
- It is **systemic** (e.g. factors such as a lack of training, poor operational procedures, poor supervision and management all significantly contribute to the development of organisationally abusive practice)

Organisational abuse may also be indicated by a number of service users experiencing harm. However, organisational abuse may occur in relation to a single service user. This could occur for example where a person is the sole user of a service or has differing needs from other service users.

It is not necessary for all of these characteristics to be present. However, the presence of one or more characteristic increases the likelihood that organisational abuse is taking place.

#### **10.4.3 Relatives and unpaid carers**

A response within this Multi-Agency Policy and Procedure may be required in the following circumstance:

- An unpaid carer may experience intentional or unintentional harm from the adult they are trying to support or from professionals and organisations they are in contact with.
- An unpaid carer may intentionally or unintentionally harm or neglect the adult they support on their own or with others.<sup>29</sup>

When a safeguarding concern is raised regarding a relative or unpaid carer, consideration should be given to the specific circumstances, the nature of the issues and the appropriate proportionate response.

The decision should consider an outcome which supports or offers the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship. Responses should ordinarily seek to support the continuation of family and caring relationships where this is consistent with the wishes and desired outcomes of those concerned.

Consider if the Initial Enquiries indicate whether there was unintentional harm caused inadvertently by a carer or a deliberate act of either harm or neglect? Is a Formal Enquiry required to establish what has occurred?

Does the safeguarding response need to include consideration of the following:

- the carer's demands exceed the carer's ability or capacity
- whether the adult has unmet care and support needs
- emotional and/or social isolation of the carer and the adult at risk
- communication barriers between the adult at risk and the carer
- whether the carer is in receipt of any practical and/or emotional support from other family members or professionals
- whether the carer has a lasting power of attorney or appointeeship
- financial difficulties

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<sup>29</sup> Care and Support, Statutory Guidance: Paragraph 14.35

- a personal or family history of violent behaviour, alcoholism, substance misuse or mental illness
- the physical and mental health and well-being of the carer
- additional needs of carers

#### **10.4.4 Abuse of one 'adult at risk' by another**

Incidents occurring between adults at risk need to be responded to proportionately in light of the specific circumstances. In considering the appropriate safeguarding response, the nature and seriousness of any incident or risk needs to be taken into account. It should be remembered that where both people are living in the same care setting, the impact of an incident may be compounded by the emotional distress of living with an abusive person.

The fact that the person alleged to have caused harm has a particular diagnosis or condition does not preclude a safeguarding response within the safeguarding adult procedure. However, where this is the case, additional support or care planning actions may be required in order to address their support needs, alongside the safeguarding needs of the adult at risk.

#### **10.4.5 Repeat allegations**

An adult at risk (or representative such as a family member) who makes repeated allegations that have been proven to be unfounded should be treated without prejudice.

The following considerations should be taken into account:

- each allegation must be considered in its own right
- each incident must be recorded
- organisations should have procedures for responding to such allegations. These will involve an assessment of risk, ensuring the rights of the individual are respected, while protecting staff from the risk of unfounded allegations

#### **10.4.6 Self-neglect**

Self-neglect covers a wide range of behaviours, such as neglecting to care for one's personal hygiene, health or surroundings and includes behaviours such as hoarding.<sup>30</sup>

Self-neglect, unlike the other types of abuse described does not require another person to cause the risk of harm. Self-neglect concerns the failure of an adult to take care of himself or herself and causes, or is reasonably likely to have, a significant impact on the adult's overall wellbeing.

Self-neglect can result from an individual's choices, or the adult may:

- have mental health problems,
- have poor physical health,
- have cognitive (memory or decision making) problems, or
- be physically unable to care for self
- or have other difficulties that make caring for themselves difficult

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<sup>30</sup> Care and Support, Statutory guidance: Paragraph 14.17

The first response should be to assess and offer support in relation to the adult's care and support needs. Where a person lacks mental capacity in relation their care and support needs, decisions should be made in the adult's best interests as required under the Mental Capacity Act 2005.

However, if a person has mental capacity in relation to their care and support needs, or where issues of capacity are or have been difficult to assess, a response within the safeguarding adults procedure may sometimes be appropriate.

This should be considered where:

- an adult is declining assistance in relation to their care and support needs, and
- the impact of their decision, has or is likely to have a substantial impact on the their overall individual wellbeing.

This will be those situations where usual attempts to engage the adult with necessary support have been unsuccessful, and a significant risk of harm remains. It will also often, but not always be, those cases where a multi-agency response is required to:

- assess the nature and extent of the risk
- understand the reasons for the adult at risk not engaging with services or accepting support or advice
- understand any relevant complex family dynamics
- coordinate the support being offered by various agencies
- inform the adult of possible sources of support
- support the adult to reach an informed decision about their wellbeing
- consider how to provide / offer support in a manner that is most acceptable to the adult at risk.

There may also be occasions where a person lacks mental capacity, but there are complex circumstances that prevent actions being taken in the adult's 'best interests', and a response within the safeguarding adults procedure is appropriate and proportionate to the concerns.

Such actions would be taken forward as a Risk Management Response rather than a Formal Enquiry, unless there are also allegations of neglect caused by another person.

## **10.5 Agree action to be taken**

The adult at risk should experience the safeguarding process as empowering and supportive. Practitioners should wherever possible seek the consent of the adult before taking action.<sup>31</sup>

There may however be circumstances where consent cannot be obtained because the adult lacks the capacity to give it or is subject to coercion or undue influence. There will also be occasions where action may need to be taken if others are or will be put at risk if nothing is done, or where it is in the wider public interest for action to be taken.

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<sup>31</sup> Care and Support, Statutory Guidance: Paragraph 14.79

In order to make sound decisions, the adult's emotional, physical, intellectual and mental capacity in relation to self-determination and consent and any intimidation, misuse of authority or undue influence will have to be assessed.<sup>32</sup>

Wherever possible, the adult should be supported to recognise risks and to manage them. Safeguarding plans should empower the adult as far as possible to make choices and to develop their own capacity to respond to them.<sup>33</sup>

Rights to safety need to be balanced with other rights, such as rights to liberty and autonomy, and rights to family life. Adults at risk, regardless of whether they have capacity or not may want highly intrusive help, such as the barring of a person from their home, or a person to be brought to justice. They may wish to be helped in less intrusive ways, such as through the provision of advice as to the various options available to them and the risk and advantages of these various options.<sup>34</sup>

Any intervention regarding family or personal relationships needs to be carefully considered. The approach taken must consider how to support the adult to have the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship.

While abusive relationships never contribute to the wellbeing of an adult, interventions which remove all contact with family members may be experienced as an abusive intervention and risk breaching the rights to family life if not justified or proportionate.<sup>35</sup>

### **10.5.1 Risk to others, including children**

No person has the right to place another at risk. Whilst it is important to support the person to work towards their desired outcomes, this can never be at the expense of others being placed in a position of risk. Throughout any response within the safeguarding adults procedure it is necessary to consider the safety or wellbeing of others, this may be those people living in the same family home, those in the same care environment or members of the wider public.

Consent is not required to take actions that safeguard the safety and well-being of others. However, it would be good practice to inform the adult of actions being taken, unless to do so would place any person at further risk. Refer to 10.5.2 and 10.5.3 for further guidance. Where the risk involves a 'person in a position of trust', liaise with the local authority Designated Adults Safeguarding Manager as appropriate.

### **10.5.2 Mental capacity and consent**

People have the right to make decisions about their own lives. They may choose to live with risk or make decisions that others believe to be unwise. This means adults at risk are entitled to accept or decline support in relation to their own safety and well-being, including actions within this procedure.

People should be supported to make informed decisions.

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<sup>32</sup> Care and support, Statutory guidance, Paragraph 14.93

<sup>33</sup> Ibid. Paragraph 14.81

<sup>34</sup> Ibid. Paragraph 14.80

<sup>35</sup> Ibid. Paragraph 14.82

Mental capacity should be presumed. It is time and decision specific. If the adult at risk is assessed as not having mental capacity to make decisions about their own safety, the decision will need to be made in their best interests (Mental Capacity Act 2005).

The two stage test of mental capacity is:

- is there an impairment of, or disturbance in, the functioning of the person's mind or brain?
- if so, is the impairment or disturbance sufficient that the person lacks the mental capacity to make that decision?

A person is unable to make that decision if he/she is unable to:

- understand the information relevant to the decision
- retain that information (for as long as required to make the decision)
- use or weigh that information as part of the process of making the decision
- communicate their decision (whether by talking, using sign language or any other means)

Where a person with mental capacity is subject to undue influence or coercion they may lack the ability to make the decision alone and require additional support to do so.

### **10.5.3 Undertaking safeguarding responses without consent**

Consent to support through the safeguarding adults procedure is important, but not the only consideration. Sometimes it will be necessary to act contrary to a person's expressed wishes, for example:

- the adult lacks mental capacity to consent and a decision is made to take actions in the adult's best interests (Mental Capacity Act 2005)
- the adult is subject to coercion or undue influence, to the extent that they are unable to give consent. Legal advice may be required

Public interest considerations involve balancing the rights of the individual to privacy with the rights of others to protection. It may be necessary to act contrary to the adult's expressed wishes in order to safeguard others, for example:

- other adults are at risk from the person or organisation alleged to be causing harm
- the concern is about organisational or systemic abuse
- the allegation or concern relates to the conduct of an employee or volunteer within an organisation providing services to adults at risk.
- The abuse or neglect has occurred on property owned or managed by an organisation with a responsibility to provide care and support

Actions may also be required in the person's vital interests (to prevent serious harm or distress or life-threatening situations). Where a person with mental capacity declines support within this procedure, and thereby places themselves at risk of serious harm, advice may be required from a line manager, and should always be sought if the risk is life threatening. Legal advice may also be required. It may be appropriate to explore an alternative process to provide support.

## **10.6 Initial Enquiry – Decisions and Further Actions**

Once initial enquiries are completed the local authority which should then determine **with** the adult what, if any, further action is necessary and acceptable.<sup>36</sup>

The adult at risk should experience the safeguarding process as empowering and supportive. Actions taken should be agreed with the adult at risk as set out in section 10.5, unless there are justifiable reasons for not doing so. Refer to Section 10.5.1 (Risk to others), Section 10.5.2 (Mental Capacity) and Section 10.5.3 (Safeguarding Responses without consent) for further guidance.

Actions may include those being undertaken by the adult at risk to safeguard themselves, as well as those undertaken by the local authority and other organisations.

### **10.6.1 Immediate safeguarding arrangements**

The need for immediate safeguarding arrangements should be considered throughout the Initial Enquiries. Such actions should wherever possible be agreed with the adult at risk, or taken in their best interests where they lack the mental capacity to consent to them. Where other people are at risk, actions may be required without the consent of the adult at risk.

Immediate safeguarding arrangements may include:

- an immediate police presence
- medical attention – ambulance, GP
- additional care or support, or amended care arrangements
- access to hostels or alternative accommodation

Responses should be proportional to the nature and seriousness of the assessed risk.

### **10.6.2 Deciding whether to report an incident to the police**

If a crime has been or may have been committed, seek the adult's consent to report the matter immediately to the police.

If the adult has mental capacity in relation to the decision and does not want a report made, this should be respected unless:

- the adult is subject to coercion or undue influence, to the extent that they are unable to give consent, or
- there is an overriding public interest, such as a risk to other people, or
- it is in the adult's vital interests (to prevent serious harm or distress or in life-threatening situations)

There should be clear justifiable reasons for overriding the wishes of a person with the mental capacity to decide for themselves. A judgement will be needed that takes into account the particular circumstances. If the adult does not have mental capacity in relation to this decision, a decision will be required in the person's best interests.

Risk management and forensic evidence issues should be discussed with the police.

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<sup>36</sup> Care and Support, Statutory Guidance: Paragraph 14.94 (emphasis added)

### **10.6.3 Safeguarding response option: Issues resolved after Initial Enquiries**

The local authority will explore the nature and circumstances of the concern during its Initial Enquiries. Sometimes issues will be resolved at this stage.

This response refers to those circumstances where there is or has been an issue of abuse or neglect, however:

- No further enquiries are needed to respond to the concerns
- No further safeguarding actions are required to safeguard the individual or others

That is, there is no need for a Formal Enquiry to establish the facts, and gather evidence, in order to put a Safeguarding Plan in place. Nor are there additional safeguarding actions required.

This may be because during the Initial Enquiries the local authority has satisfied itself that all the necessary safeguards have been or are being put in place.

Any agreed actions from the Initial Enquiry should be recorded on the adult's care plan, where there is one, and will be the responsibility of the relevant agencies to implement.

Example;

Joseph is the manager of a specialist residential service for adults with learning disability. He rings adult social care this morning to Raise a Safeguarding Concern:

Some of the residents were due to go horse riding yesterday, but due to the snow this had to be cancelled. Paul, who has autism was finding this change of routine difficult, was unsettled.

Staff were in the process of explaining this change to him and offering him an alternative activity. At this point, Mike, another resident who has learning disabilities came into the room excitedly. Mike is a new resident and did not recognise that Paul was agitated. He came into the room and grabbed hold of Paul before staff could intervene. Paul's immediate reaction was to thump Mike. Although staff were present they were unable to stop this, but immediately intervened and separated them both and calmed the situation. Mike now has a bruise on his forehead.

Joseph says this has not happened before and that they have revised Paul's care plans and informed staff of the risk of such incidents when he is agitated. Mike's key worker is providing him with support and helping him to understand such situations and how others may feel about his behaviour towards them.

The local authority made Initial Enquiries, reviewing its file records, speaking with its contracts department. Neither Paul nor Mike had the mental capacity to decide about safeguarding actions, the local authority liaised with their relatives who acted as their representatives.

The local authority was satisfied from its Initial Enquiries that all the appropriate safeguarding actions were being put in place. No further enquires or safeguarding actions were needed. The care home were asked to put their plans in place, monitor that they are working effectively and report any further concerns.

#### **10.6.4 Safeguarding response option: Risk Management Response**

The local authority will explore the nature and circumstance of the concern during its Initial Enquiries. Sometimes the most appropriate action to take will be a Risk Management Response.

This response refers to those circumstances where there is or has been an issue of abuse or neglect, however:

- No further enquiries are needed to respond to the concerns
- Further safeguarding actions are required to safeguard the individual or others

That is, there are actions to be taken to safeguard the individual concerned. However, there is no need for a Formal Enquiry to establish the facts, and gather evidence, in order to put these actions in place.

There is no prescribed list of these safeguarding actions that may be required. The following are just examples:

- Assessment of care and support needs
- Carer's assessment
- Unscheduled review of care and support
- Mediation
- Multi-agency risk assessment
- DASM interventions (where Formal Enquiry not being followed)
- Social work intervention
- Family Group Conferences
- Commissioning actions\*
- Contracts enforcement actions\*
- Service, quality assurance actions\*
- Serious incident processes\*

The response taken will reflect the desired outcomes of the adult at risk, and the nature of the assessed risk to the individual and or others. \* The approach taken must respond to the individual needs and circumstances of the adult at risk, alongside any service wide actions.

Any agreed actions from the Initial Enquiry should be recorded on the adults care plan, and will be the responsibility of the relevant agencies to implement. A review may be subsequently required to ensure the safeguarding actions are effective.

Example;

During an assessment of care and support needs, the social worker realises that Jayne is being targeted by scammers asking her to send them money, in return for promised prizes. There are numerous letters sent from overseas and it becomes apparent that Jayne has sent them a considerable amount of money already. Jayne believes the letters are genuine, and does not accept that they are scams.

In exploring this issue with Jayne the local authority was undertaking its Initial Enquiries. The social worker liaised with her team manager, and agrees to work closely with Jayne over a period of time to help her recognise and support her with the risks she is facing.

The social worker introduced support from Trading Standards and the police to help Jayne recognise these letters are scams, and support her to take actions to protect herself in the future.

The local authority was satisfied from its Initial Enquiries that there were safeguarding actions required, but there was no need for a formal safeguarding enquiry. A Formal Enquiry would not have assisted in identifying the actions needed to help Jayne to safeguard herself.

### **10.6.5 Safeguarding response option: Formal Enquiry**

The local authority will explore the nature and circumstance of the concern during its Initial Enquiries. Sometimes the most appropriate action, would be to undertake a Formal Enquiry.

This refers to those circumstances where there is an allegation of abuse and neglect that requires a Formal Enquiry in order to:

- Formally establish the facts regarding an incident or an allegation
- Establish the evidence on which to base interventions, particularly those in relation to a person alleged to have caused harm
- Devise a Safeguarding Plan

That is, it is necessary to go through a formal process of establishing the facts, and gathering evidence so as to be able to identify and / or provide a basis for the safeguarding actions required.

A Formal Enquiry will be indicated by, but not limited to, the following circumstances:

- Organisational abuse
- Concerns about the safety of a service
- Allegations of abuse or neglect in relation to a 'person in position of trust'
- Where formal or legal actions could be taken in relation to the person alleged to have caused harm

Where Formal Enquiries are needed, a Strategy Discussion/Meeting will be held to plan the Formal Enquiry. There may be a need to coordinate the involvement of a range of agencies as part of the Formal Enquiry, including the police and Care Quality Commission.

Example;

Mrs Barnes aged 85, lives alone in the family home. Mrs Barnes has dementia, and due to increasing frailty and declining mobility she needs support with her personal care needs.

Mrs Barnes receives support from paid carers several times a day from a home care agency. When her brother visits, he notes small bruises on her left arm. Mrs Barnes became tearful and said that one of her paid carers is very impatient with her, and mocks her for needing assistance with her personal care. Mrs Barnes said that yesterday, the carer got frustrated with her she needed assistance with her incontinence pads, and 'grabbed' at her arm causing the bruises.

The local authority made Initial Enquiries to understand the circumstances, her current care arrangements, and wishes and desired outcomes.

The local authority decided it needed to undertake a Formal Enquiry to establish the facts, and gather evidence in order to identify what safeguarding actions were needed to protect Mrs Barnes and other people supported by the paid carer.

### **10.6.6 Safeguarding response not required**

Some concerns raised with the local authority will be outside the responsibilities of this safeguarding adults procedure.

This will be relevant where for example, the concern raised with the local authority does not relate to:

- An adult at risk, as defined in Section 1 of the Policy,
- An issue of abuse or neglect (including self-neglect) as defined within the Policy.

However, the people concerned may need support. The local authority should consider how it can provide or direct the person to more appropriate forms of support in relation to their needs.

### **10.6.7 Recording the outcomes of the Initial Enquiries**

All actions and decision making undertaken during the Initial Enquiries should be recorded on local recording systems, including the rationale for why a certain course of action was taken to respond to the safeguarding concerns.

### **10.6.8 Who should be informed of the decision**

The outcomes of the Initial Enquiry should be notified to all relevant persons.

It is best practice that the Person Raising a Concern should be notified, wherever possible of the decision to take actions within the safeguarding adults procedure. This should be undertaken as soon as it is practicable to do so. Where the Person Raising a Concern is a member of the public, no details of the subsequent actions should be shared without the consent of the adult at risk, or in their best interests if they lack the mental capacity to give consent.

Actions being taken in relation to the adult at risk must be discussed and agreed with them or their representative. Actions in relation to the safety of any other person, including children, do not need to be agreed with the adult at risk. However it will often be good practice for them to be informed of responses to their concerns, unless it would place someone at risk.

Where a Formal Enquiry is being undertaken, the Safeguarding Coordinator will need to consider how the person or organisation alleged to have caused harm is to be informed of a Formal Enquiry. Consideration should be given to when the person should be informed, so as to not prejudice the subsequent enquiry. Legal advice may be required in complex cases.

# **Section C**

# **Risk Management Response**

**Please note:**

**A Risk Management Response is an alternative response to a Formal Enquiry. It does not describe actions to be taken before, or as part of, a Formal Enquiry.**

## **11. Risk Management Response**

**A Risk Management Response is an alternative response to a Formal Enquiry. It does not describe actions to be taken before, or as part of, a Formal Enquiry.**

The Risk Management Response should be followed where there is no need for a Formal Enquiry into the safeguarding concern, but where there are actions needed to safeguard an adult or adults from abuse or neglect.

Risk Management Response is the term used to reflect a broad range of different actions and approaches that may be used to respond to the risk of abuse or neglect.

There is no prescribed list of these actions, they may include:

- Assessment of care and support needs
- Carer's assessment
- Unscheduled review of care and support
- Mediation
- Multi-agency risk assessment
- DASM interventions (where Formal Enquiry not being followed)
- Social work intervention
- Family Group Conferences
- Commissioning actions\*
- Contracts enforcement actions\*
- Service, quality assurance actions\*
- Serious incident processes\*

\* The approach taken must respond to the individual needs and circumstances of the adult at risk, alongside any service wide actions.

The approach taken may include actions taken by the adult at risk to safeguard themselves from the risk of abuse and neglect. Whichever form the Risk Management Response takes it must be proportional to the nature of the concerns and include the following elements:

- Evaluation of risk to the adult and others, including children
- Working towards wishes and desired outcomes of the adult at risk where possible
- Consideration of the need for representation/independent advocate
- Assessment of the need for additional safeguarding actions
- Actions taken in the adult's best interests if they lack mental capacity in relation to relevant decisions.
- Recording of issues, actions and decision making.

### **11.1 Agreeing actions to be taken**

It is vital that the adult at risk be in control of decisions as to how risks they face in their life are managed. The adult at risk should experience the safeguarding process as empowering and supportive. The response taken should reflect the nature and seriousness of the risk, and wherever possible and appropriate, support the person to achieve their desired outcomes.

Individual desired outcomes are those changes that the adult at risk wants to achieve from the support they receive, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.<sup>37</sup>

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<sup>37</sup> Care and Support, Statutory Guidance: Paragraph 14.87

These desired outcomes will have been established during the Initial Enquiries, however people may change the desired outcomes they want, and so it is important to keep these under review.

## **11.2 Risk to others, including children**

Whilst it is important to support the person work towards their desired outcomes, this can never be at the expense of others being placed in a position of risk. Throughout any response within the safeguarding adults procedure it is necessary to consider the safety and wellbeing of others, this may be those people living in the same family home, those in the same care environment or members of the wider public.

Some risk management responses will be focused on managing the risk to others. Consent is not required to take actions that safeguard the safety and well-being of others. However, it would be good practice to inform the person of actions being taken, unless to do so would place any person at further risk. Refer to 10.5.1, 10.5.2 and 10.5.3 for further guidance. Where the risk involves a 'person in a position of trust' liaise with the Local Authority Designated Adults Safeguarding Manager as appropriate.

## **11.3 Review Actions**

The purpose of the review is to evaluate whether the safeguarding actions taken are effectively managing the risk, promoting wellbeing and responding to the desired outcomes of the adult at risk. A series of review meetings may be required.

The format of the review will reflect the course of action undertaken. If for example, an assessment of care and support has been undertaken to respond to the risk of abuse, then a review should take the format usually required for such reviews.

Whichever format the review takes, it should include appropriate consideration of:

- the current risk to the adult concerned
- any ongoing risks to others, including children
- whether the desired outcomes of the adult are being met
- whether the actions are working to promote the overall individual wellbeing of the adult.

The adult at risk should be supported to participate within any such review, receiving support of a representative or advocate as set out in sections 7.5.2 and 7.5.3. Any actions in relation their safety, welfare and wellbeing should be agreed with them, or in their best interests under the Mental Capacity Act 2005 if they lack the mental capacity to make decisions for themselves.

Where the risk of abuse or neglect is being managed effectively, then any ongoing support can be provided without recourse to this Multi-Agency Policy and Procedure. However, where risks remain, there may be a need to consider an alternative or additional Risk Management Response.

# **Section D**

## **Formal Enquiry**

## **12. Strategy**

The objectives of a Formal Enquiry into abuse or neglect are to:

- Establish the facts
- Ascertain the adult's views and wishes
- Assess the needs of the adult for protection, support and redress and how they might be met
- Protect from the abuse and neglect, in accordance with the wishes of the adult
- Make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect;
- Enable the adult to achieve resolution and recover.<sup>38</sup>

A Safeguarding Coordinator will oversee and manage the Formal Enquiry.

The Safeguarding Coordinator will always be a representative of adult social care. The Safeguarding Coordinator will arrange and chair the Strategy Discussion/Meeting ensuring that minutes are taken and circulated.

### **12.1 Purpose of the Strategy Discussion or Meeting**

The purpose of the Strategy Discussion or Meeting is to plan a Formal Enquiry into the allegations to establish the facts and the actions required to safeguard the individual or others.

The Strategy Discussion or Meeting will need to include:

- sharing information about the safeguarding concern/allegation
- consideration of the wishes and desired outcomes of the adult at risk, and/or their best interests where they lack the mental capacity in relation to relevant decisions
- agreement of how the adult at risk will be involved and included within the Formal Enquiry and any support they may require
- assessment of the risk to the adult at risk or others, including children
- agreement of a Safeguarding Plan
- agreement that a Formal Enquiry rather than an Risk Management Response is the most appropriate and proportionate response.
- planning a Formal Enquiry, coordinating the involvement of other organisations where required.

With the exception of a police investigation, where vital evidence gathering is required, the Strategy Discussion or Meeting should take place before any safeguarding Formal Enquiry.

It is important to listen to the adult at risk, both in terms of the alleged abuse and the desired outcomes and resolution they want. What they have to say must be taken seriously and acted upon in an appropriate manner. Individuals have a right to privacy, to be treated with dignity. These values must be respected throughout the Formal Enquiry.

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<sup>38</sup> Care and Support, Statutory Guidance: Paragraph 14.78

Target Timescale:

The Strategy Discussion/Meeting should be held within 5 working days of the Initial Enquiry being completed.

## **12.2 Deciding whether to hold a Strategy Meeting or Discussion**

It may not be necessary to hold a Strategy Meeting in all cases. Where a Strategy Meeting is not required, the Safeguarding Coordinator may hold a Strategy Discussion. This decision will need to be a professional judgement and be a proportional response to the nature of the issues.

A Strategy Meeting is likely to be required where:

- a multi-agency perspective is required to assess the risk, inform or contribute to the Safeguarding Plan, or inform the Formal Enquiry
- there is a need to coordinate the Formal Enquiry with investigations/enquiries being undertaken by other agencies
- a Large Scale Enquiry is being considered
- there are concerns about the safety of the service or organisational abuse
- a serious crime has occurred
- a Strategy Meeting will assist the adult at risk/representatives to reach resolution and recovery from their experiences

## **12.3 Who should be involved in a Strategy Discussion/Meeting**

The Safeguarding Coordinator will need to decide who to involve in a Strategy Discussion/Meeting. Attendance/involvement should be limited to those who need to know and who can contribute to the decision-making process. This may include an appropriate representative of any organisation that has a specific role:

- undertaking Formal Enquiries into the allegation of abuse or neglect
- assessing the risk
- developing or carrying out the interim Safeguarding Plan
- taking action in relation to the person alleged to have caused harm
- undertaking related investigations such as those relating to complaints, serious incident, disciplinary, criminal investigation etc.
- the Local Authority DASM, where the concerns relate to actions of a 'person in a position of trust'.

The 'ADASS: Out of area safeguarding arrangements' sets out respective responsibilities when abuse or neglect occurs in one local authority area, but the person receives services funded/commissioned by another.<sup>39</sup> The protocol is adopted as part of this procedure and should be considered in these circumstances when deciding who to involve in the Strategy Discussion/Meeting.

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<sup>39</sup> ADASS: Out of area arrangements: Protocol for inter-authority investigation and protection arrangements 2012

## **Part Two Procedure** **FORMAL ENQUIRY - STRATEGY**

Where the allegation/concern involves abuse occurring within a regulated or contracted service, the Safeguarding Coordinator should consider involving, as appropriate:

- Care Quality Commission
- Contracting/Commissioning Department

Participants should be of sufficient seniority to make decisions concerning the organisation's role within the Formal Enquiry and the resources they may contribute to the Safeguarding Plan.

Any organisation requested to participate in a Strategy Meeting should regard the request as a priority. If no one from the organisation is able to attend a meeting, they should provide information as requested and make sure it is available to the Safeguarding Coordinator in advance.

### **12.3.1 Involving the adult at risk**

The adult at risk should experience the safeguarding process as empowering and supportive. It is vital that the views, needs and desired outcomes of the adult at risk are central to the Strategy Discussion/Meeting.

It may be appropriate to invite the adult at risk to a Strategy Meeting or to part of it, to contribute their views and needs directly to the meeting. It is vital that decisions about safeguarding arrangements are made in partnership with the adult at risk. However, it is also important that any Formal Enquiry process is, and appears to be, fair and objective to all concerned and hence it may not be appropriate for the adult at risk to be present when a Formal Enquiry is planned.

In the event that the adult at risk is not able or does not wish to attend, or it is not appropriate for them to attend, every effort should be made to explain its purpose to the adult at risk, to find out their concerns, what they want to happen, how they want to be involved and the support they feel they need in order to be safe. The desired outcomes of the adult at risk should inform decision making.

The same information will need to be sought within Strategy Discussions.

Consideration should be given to the need for an independent advocate to enable the person to participate in decision making as set out in Sections 7.5.2 and 7.5.3. Where a person is without the mental capacity to decide about their involvement, a decision will need to be made in their 'best interests'. The Strategy Discussion/Meeting must decide who will liaise with the adult at risk about decisions reached or required if not present.

### **12.4 Deciding whether to proceed to a Formal Enquiry**

With additional information obtained within the Strategy Discussion/Meeting the Safeguarding Coordinator should review the appropriateness of proceeding with a Formal Enquiry. The decision should take into account the wishes and desired outcomes of the adult at risk, as well as risks to others, and reflect the nature and seriousness of the concerns raised.

Where a Formal Enquiry is not required, but actions are needed to safeguard the adult at risk or others, the Risk Management Response pathway should be followed.

Where abuse or neglect is no longer indicated, alternative sources of support may be appropriate outside of this Multi-Agency Policy and Procedure.

### **12.5 Safeguarding Formal Enquiry plan**

The focus of the Formal Enquiry is to establish the facts relating to the concern, so as to be able to identify the safeguarding needs of the individual and others.

The Formal Enquiry plan sets out how the required information will be sought, and who will be responsible for the various enquiry activities.

The safeguarding Formal Enquiry plan will need to:

- clearly define the concerns or allegations to be addressed within the enquiry
- distinguish any elements that do not need to part of the Formal Enquiry under the safeguarding procedure, and the alternative process (if any) being followed
- reflect the involvement, support and communication needs of the adult at risk
- reflect the involvement, support and communication needs of the person or organisation alleged to have caused harm
- provide, wherever practicable, for the person or organisation alleged to have caused harm to respond to allegations and the Formal Enquiry findings concerning them in accordance with Section 7.5.7. The timing of such actions also needs to be considered, so that this does not prejudice any investigation required or place any person at risk.
- reflect how the risk to any party in undertaking the Formal Enquiry should be managed.
- set provisional dates for completion of the Formal Enquiry report
- set provisional dates for the Case Conference Meeting/Meeting.

The Formal Enquiry plan should be devised making the best use of skills, expertise and resources, and may involve asking another person or organisation, such as the current service provider manager to undertake particular activities.

### **12.6 Additional guidance on coordinating multi-agency responses**

The Strategy Discussion/Meeting will need to consider respective roles and responsibilities of organisations, specific tasks required, issues of cooperation, communication and the best use of skills, expertise and resources. A summary table of potential enquiry/investigative processes is included in Section 12.11.

A properly coordinated joint enquiry will achieve more than a series of separate enquiry/investigations. It will ensure that evidence is shared, repeat interviewing is avoided and will cause less distress for the person who may have suffered abuse.

However, each agency must act in accordance with its duty when it is satisfied that the action is appropriate. Whilst there may be joint enquiry/investigation, the information shared must be constantly evaluated and reviewed by each agency.

Each organisation must look for opportunities to work in partnership. Organisations however must be responsible and accountable for their own actions and decisions.

In deciding how enquiry processes are coordinated, the following principles should be taken into account:

- the wishes and desired outcomes of the adult at risk
- the safety and individual wellbeing of the adult at risk
- in the case of a police investigation that could lead to criminal proceedings, any other enquiry/investigation process should not commence without the prior agreement of the police. This does not preclude, where appropriate and agreed, joint interviews and information sharing
- there should be clear agreement between the organisations concerned about the scope of their enquiries/ investigations and respective roles and responsibilities
- the timing and inter-relationship of the various enquiries needs to be considered
- where possible, sharing of information may prevent the need for repeat enquiries/investigation into the same issues or concerns. Refer to information sharing guidance as required.

## **12.7 Determining the Safeguarding Enquiry Officer**

The Safeguarding Enquiry Officer will be decided by the local authority. It may be a nominated person from:

- Adult social care, or
- A service provider manager in regulated settings, including hospitals and other NHS providers;

as agreed by the Safeguarding Coordinator within the Strategy Discussion/Meeting.

Where abuse or neglect is alleged to have occurred within a regulated service the service provider, 'should investigate any concern (and provide any additional support that the adult may need) unless there is a compelling reason why it is inappropriate or unsafe to do this'.<sup>40</sup>

This will require a professional judgement, based on the individual circumstances and the principle of proportionality. Examples of when it may be inappropriate or unsafe for the service provider to fulfil this role include:

- There is a serious conflict of interest, such as where:
  - organisational abuse is alleged, or
  - the manager or owner of the service is implicated, or
  - the issues may not be, or may not be perceived to be, responded to impartially by the service provider
  - there are regulatory or commissioning implications
- Concerns have been raised about non-effective past enquiries

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<sup>40</sup> Care and Support, Statutory Guidance: Paragraph 14.58

- There are serious or multiple concerns
- It is a matter that should be investigated the police
- Other organisations are needing to undertake elements of the Formal Enquiry

Once enquiries are completed, the outcome should be notified to the local authority which should then determine with the adult what, if any, further action is necessary and acceptable.<sup>41</sup>

If the local authority has asked a service provider to act as the Safeguarding Enquiry Officer, 'it is able to challenge the body making the enquiry if it considers that the process and/or outcome to be unsatisfactory'.<sup>42</sup> Hence, the Safeguarding Coordinator must ensure that the Formal Enquiry has been undertaken thoroughly and has followed the Formal Enquiry plan agreed in the Strategy Discussion/Meeting and ask for additional actions to be undertaken, where these have been omitted from the Formal Enquiry or are subsequently indicated.

The Formal Enquiry must be free from bias and vested interests of the service provider. If the Safeguarding Coordinator finds that this is not achievable, an independent Safeguarding Enquiry Officer may be asked to undertake a further Formal Enquiry.

Refer to Section 13 for further information about the role and responsibilities of the Safeguarding Enquiry Officer.

## **12.8 Assessment of risk and safeguarding planning**

The Strategy Discussion/Meeting will need to assess the risk to the adult at risk and others, including children and consider the need for a Safeguarding Plan. According to the circumstances, this may include actions for a range of agencies as well as the adult at risk, friends, relatives and unpaid carers. Any safeguarding arrangements made will need to be kept under review and so as to ensure that risk is being appropriately managed throughout the Formal Enquiry process. Any action taken must be proportionate to the concerns raised.

If there are risks to any child, children services must be contacted without delay.

### **12.8.1 Agreeing actions with the adult at risk**

It is vital that the adult at risk be in control of decisions as to how risks they face in their life are managed. The safeguarding actions taken should reflect the nature and seriousness of the risk, and wherever possible and appropriate, support the person to achieve their desired outcomes.

Any Safeguarding Plan that impacts on the welfare of the adult at risk should be devised in partnership with them, taking into account their wishes and the impact of the Safeguarding Plan on their lifestyle and independence. This may include actions the adult at risk is taking, as well as the actions of the local authority and other organisations.

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<sup>41</sup> Care and Support, Statutory Guidance: Paragraph 14.94

<sup>42</sup> Ibid, Paragraph 14.84

## Part Two Procedure FORMAL ENQUIRY - STRATEGY

Any intervention regarding family or personal relationships need to be carefully considered. The approach taken must consider how to support the adult to have the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship.

While abusive relationships never contribute to the wellbeing of an adult, interventions which removes all contact with family members may also be experienced as an abusive intervention and risk breaching the rights to family life if not justified or proportionate.<sup>43</sup>

Whilst it is important to support the person work towards their desired outcomes where possible, this can never be at the expense of others being placed in a position of risk. Throughout any response within the safeguarding adults procedure it is necessary to consider the safety of wellbeing of others, this may be those people living in the same family home, those in the same care environment or members of the wider public.

An adult at risk with mental capacity may decide not to accept a Safeguarding Plan, however protection arrangements should be offered and work undertaken to understand the reasons for not accepting support. Support may need to be offered in a manner the person finds more acceptable.

Where a person is without mental capacity to make decisions about their safety, decisions about protective arrangements should be made in their best interests taking into account their wishes, feelings, beliefs and values (Mental Capacity Act 2005).

Some safeguarding actions will be focused on managing the risk to others. Consent is not required to take actions that safeguard the safety and well-being of others. However, it would be good practice to inform the person of actions being taken, unless to do so would place any person at further risk.

### **12.8.2 Agreeing actions in relation to a 'person in a position of trust'**

Where allegations have been made in relation to an employee, volunteer or student the employer/student body must assess the risk in the context of their service and consider appropriate risk management arrangements taking into consideration their own internal policies and procedures, and employment law. This may include actions, such as changes to their working arrangements or suspension.

The Local Authority Designated Adults Safeguarding Manager (DASM) will need to have management and oversight of individual complex cases and coordination where allegations are made or concerns raised about a 'person in a position of trust'.

The role of the Local Authority DASM is to gain assurance that the employer/student body has appropriately assessed and responded to the potential risk posed by a 'person in position of trust'. Refer to the separate Practice Guidance: Role of the Designated Adults Safeguarding Manager for further information.

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<sup>43</sup> Care and Support, Statutory Guidance: Paragraph 14.82

## **12.9 Recording and sharing information**

Local Safeguarding Adults Boards will have their own templates for the structure of Strategy Discussion and Meetings and these should be used to record decisions and actions. The record should be distributed to all relevant individuals and organisations in line with data protection requirements.

### **12.10 Distribution of Strategy Discussion/Meeting minutes**

The Safeguarding Coordinator will decide who to include in the distribution of minutes. This will usually include:

- all attendees and invitees to a Strategy Meeting
- relevant persons contributing to the Safeguarding Plan or Formal Enquiry
- contract/commissioning teams according to local arrangements
- the Care Quality Commission where the Strategy Meeting relates to a service that it regulates
- other relevant regulatory bodies, as appropriate

If not present, a copy of the minutes should be sent to the adult at risk or, with their permission, to another person. This however may not always be appropriate, for example, if to do so may increase the level of risk, breach confidentiality, or compromise the Formal Enquiry. If the adult at risk does not have mental capacity, a decision should be made in their best interests about who to send the minutes to.

Where there is specific information that cannot be shared, it should be redacted from versions of documents sent out. Data Protection Act 1998 principles must be adhered to.

**Target Timescale:**

Strategy Discussion/Meeting minutes should be circulated within 5 working days of the Discussion/Meeting.

### 12.11 Types of enquiries/investigations or risk assessment and agency responsible

Type of enquiries/investigation /risk assessment	Agency responsible
Criminal (including assault, theft, fraud, hate crime, domestic violence and abuse or wilful neglect of a person lacking capacity)	Police
Serious risk of harm from domestic abuse	Multi-Agency Risk Assessment Conference (MARAC) in high risk cases. Also domestic violence teams /organisations, police
Fitness of registered service provider	Care Quality Commission
Unresolved serious complaint in healthcare setting	Care Quality Commission, Health Service Ombudsman
Breach of rights of person detained under the Mental Capacity Act 2005 Deprivation of Liberty Safeguards (DoLS)	Care Quality Commission, Local Authority, CCG, OPG/Court of Protection.
Breach of terms of employment/disciplinary procedures	Employer
Breach of professional code of conduct	Professional regulatory body
Breach of health and safety legislation and regulations	Health and Safety Executive (HSE)
Complaint regarding failure of service provision	Manager/proprietor of service/complaints department. Ombudsman (if unresolved through complaints procedure)
Breach of contract to provide care and support	Service commissioner (e.g. social services, clinical commissioning groups)
Assessment of need for care and support needs (service users and unpaid carers)	Social Services/CCG/community mental health team/care trust
Access to health and social care services to reduce the risk of abuse/neglect	Social services/CCG/community mental health team/care trust
Incident investigation, including route cause analysis	Service providers, including hospitals and health services
Misuse of enduring or lasting power of attorney or misconduct of a court-appointed deputy	Office of the Public Guardian/Court of Protection/Police
Decision making that may not be in the best interests of a person who lacks mental capacity	Office of the Public Guardian/Court of Protection
Misuse of benefits by appointee or agent	Department for Work and Pensions
Anti-social behaviour (e.g. harassment, and nuisance by neighbours)	Community Safety Team
Breach of tenancy agreement (e.g. harassment, and nuisance by neighbours)	Landlord/Registered social landlord/Housing Trust/Community Safety Team
Bogus callers or rogue traders	Police and Trading Standards Service

## **13. Formal Enquiry**

### **13.1 Purpose of a Formal Enquiry**

A safeguarding Formal Enquiry is undertaken in order to:

- identify what actions are required to safeguard an adult from the risk of abuse and neglect
- establish facts and gather evidence in relation to an allegation of abuse or neglect
- support an ongoing assessment of risk
- support the development of a Safeguarding Plan

The plan for the Formal Enquiry should be agreed during the Strategy Discussion/Meeting, it should include the specific allegations to be covered within the Formal Enquiry and respective roles and responsibilities in carrying it out.

Target Timescale: The safeguarding Formal Enquiry report should be received by the Case Conference Chair 7 working days in advance of the Case Conference Meeting.

### **13.2 Risk Assessment and Safeguarding planning**

During the period of the Formal Enquiry, the Safeguarding Plan will need to be kept under review as agreed within the Strategy Discussion/Meeting. New information or changes of circumstance may require the risk to the individual or others to be re-assessed and the Safeguarding Plan amended. The Safeguarding Coordinator should always be informed as to potential changes in the level of risk or concerns about the effectiveness of the Safeguarding Plan. A further meeting will sometimes be required.

### **13.3 Role of the Safeguarding Enquiry Officer**

The Safeguarding Enquiry Officer should be a suitably qualified and experienced member of staff from adult social care or a service provider manager in circumstances described in Section 12.7. The Safeguarding Enquiry Officer will need to follow the plan for the enquiry as agreed within the Strategy Discussion/Meeting, with support and direction from the Safeguarding Coordinator.

The Safeguarding Enquiry Officer responsible for:

- ensuring only essential information is shared on a need-to-know basis
- ensuring the relevant Safeguarding Coordinator is kept informed of progress during the Formal Enquiry and any additional issues arising during its course
- undertaking agreed enquiry activities
- produce a Formal Enquiry report in the required format and to the required standard
- ensuring the Formal Enquiry is completed as soon as is practicable

### **13.4 Enquiry activities**

A Safeguarding Enquiry Officer will draw together relevant information from various activities and produce a summary safeguarding Formal Enquiry report for the Case Conference Discussion/Meeting.

This may include:

- activities required of the Safeguarding Enquiry Officer
- activities of other organisations, such as provision of expert reports e.g. specialist health reports
- activities being undertaken by organisations through other enquiry/investigative processes, e.g. police investigations, serious incident, complaint and disciplinary investigations. See Table 12.11 for a list of related enquiry/investigation processes.
- specialist reports in relation to aspects of the allegations/concerns, such as specialist health reports.

The Formal Enquiry may involve various sources of information, including:

- examination of documentary evidence such as files, accident and incident reports, daily logs, accounts, medical records etc.
- interviews with the adult at risk, witnesses, the person alleged to have caused harm or representative(s) of the organisation alleged to have caused harm, and others who can provide relevant information
- assessing relevant information provided by partner agencies
- learning from own observations obtained during the Formal Enquiry.

The Formal Enquiry may also be informed by other enquires/investigations, for example, serious/incident investigations, police or disciplinary investigations. In using information obtained from other enquiries/investigation processes, the Safeguarding Enquiry Officer will need to review the activities undertaken and their findings and undertake additional actions as required. The coordination of these various enquiries/investigations will need to be considered in the Strategy Discussion/Meeting as described in Section 12.6. The relevant Formal Enquiry template will need to be completed by the nominated Safeguarding Enquiry Officer.

### **13.5 Principles of fairness**

In undertaking the Formal Enquiry, it is important that it is carried out impartially and with fairness to all concerned.

- A Formal Enquiry should be conducted without pre-judging its outcome.
- The Formal Enquiry should be undertaken objectively, based upon the finding of facts.
- A Formal Enquiry should always be sufficiently thorough to ensure a balanced perspective is obtained in relation to the incident occurring (or alleged to have occurred).
- The adult at risk should have the opportunity to give their account of what has happened to them and review the enquiry findings.
- Wherever practicable a person alleged to have caused harm should be enabled to respond to allegations and the enquiry findings, in respect to their actions/conduct as set out in Section 7.5.7. However, there will need to be consideration as to the timing that a person is informed, so as not to prejudice any investigation/enquiry required or place any person at risk.

### **13.6 Amendments to the Formal Enquiry Plan**

The Safeguarding Enquiry Officer should immediately inform the Safeguarding Coordinator, if during the course of a Formal Enquiry:

- new information comes to light that suggests new sources of evidence should be considered, or additional interviews should be undertaken
- new/additional safeguarding allegations/concerns are identified
- the safeguarding concern is proving to be more or less serious than initially assessed

The Safeguarding Coordinator may then need to review the safeguarding enquiry plan. A multi-agency review meeting can be convened, if helpful, to review the information and any implications for the safeguarding arrangements.

A new, additional safeguarding enquiry may be required if substantially new concerns or allegations emerge.

### **13.7 Planning interviews**

Any interview needs to take into account the particular needs of the person being interviewed, including:

- does the person wish to be accompanied during the interview for emotional support or personal assistance?
- are there particular communication needs that need to be catered for?
- are there relevant cultural, spiritual or gender issues or particular support needs that need to be planned for?
- has the interview taken into account a person's cognitive abilities (for example, the person's concentration span, the complexity of questions being asked)?

Always ensure:

- the purpose of the interview is fully explained
- the venue for the interview is appropriate and private
- the person is aware of how the information they are sharing will be used
- that the individual understands what is taking place throughout the interview
- the interview is conducted at the individual's own pace; this may involve breaks or more than one interview to be conducted
- the adult at risk is not interviewed in the presence of the person alleged to have caused harm
- that everything is recorded as fully and accurately as possible
- that interviews are carried out sensitively and without any pre-judgement of the issues
- to avoid, wherever possible, repeat interviews of a person about the same incident

### **13.8 Medical treatment and examination**

In cases of physical abuse it may be unclear whether injuries have been caused by abuse or some other means (for example, an accident). Medical or specialist clinical advice may need to be sought. If forensic evidence needs to be collected, the police should always be

contacted and they will normally arrange for a police surgeon (forensic medical examiner) to be involved.

Consent of the adult at risk should be sought for medical examination or the taking of photographs. Where the person does not have mental capacity to consent to medical examination or the taking of photographs, a decision should be made on the basis of whether it is in the adult's best interest.

Should it be necessary as part of the investigation/enquiry to arrange for a medical examination to be conducted, the following points should be considered:

- the rights, views and wishes of the adult at risk
- issues of capacity and consent
- the need to preserve forensic evidence
- the need for support/representation from family members or unpaid carers
- the need for independent advocacy

### **13.9 Delays with the Formal Enquiry**

The Safeguarding Enquiry Officer must keep the Safeguarding Coordinator informed of the progress of the Formal Enquiry. If the Formal Enquiry is delayed, any necessary action(s) must be agreed with the Safeguarding Coordinator and other relevant organisations and recorded. Revised target timescales will ordinarily be communicated to the adult at risk and the person alleged to have caused harm.

### **13.10 Standards of proof**

In determining whether abuse has occurred, the standard of evidence for a Formal Enquiry is 'on the balance of probability'. This is in contrast to the standard of proof for a criminal prosecution which is established as 'beyond reasonable doubt'.

### **13.11 Compiling the Safeguarding Formal Enquiry report**

The Safeguarding Enquiry Officer will need to write a Formal Enquiry Report. This report should provide a summary of enquiry activities and evidence obtained. The report may need to collate information from a range of sources and activities, as described in Section 13.4. In compiling the safeguarding Formal Enquiry report, the following principles should be adhered to:

- the report should be based upon the facts established within the Formal Enquiry
- any opinions expressed within the report should be referenced as such
- the Formal Enquiry report should be focused on the experience of abuse and what actions can safeguard the adult at risk from future harm
- if any person could not be interviewed or if certain records could not be accessed, the Formal Enquiry report should record this and the reasons why
- the Formal Enquiry report should make clear where evidence from different sources is contradictory
- the report should evidence how conclusions or recommendations have been reached

## **Part Two Procedure**

### **FORMAL ENQUIRY**

- Personal information concerning the adult at risk, the person alleged to have caused harm or any other parties, should be kept to the minimum necessary for the purposes of the report
- The report may contain information that relates to different individuals. It may be necessary for reports to be written in a way that enables particular sections to be shared as appropriate or be anonymised through use of initials or removal of names
- the Formal Enquiry Report should be signed off by the Safeguarding Coordinator prior to Case Conference

The Safeguarding Coordinator should check the Formal Enquiry report against the Formal Enquiry plan to ensure that all enquiry activities have been undertaken as planned. A check should also be made that the recommendations are based on the analysis of the evidence obtained, that the report is robust and will stand up to scrutiny. Once satisfied, the coordinator should sign off the report for the Case Conference.

Where a Case Conference Meeting is being held, the safeguarding Formal Enquiry report should be forwarded to the Case Conference Chair 7 working days in advance.

## **14. Case Conference**

The purpose of the Case Conference is to review the findings of the Formal Enquiry, identify risks and agree safeguarding actions required to respond to the concerns.

The Case Conference involves:

- working towards wishes and desired outcomes of the adult at risk where possible
- reviewing the Formal Enquiry report
- determining whether abuse or neglect has occurred
- assessing the level of any ongoing risk
- agreeing a Safeguarding Plan where required
- agreeing further actions to be taken
- deciding how any Safeguarding Plan is reviewed and monitored

A Case Conference may take the form of Case Conference Discussion or Case Conference Meeting.

Target Timescale:

The Case Conference should be held within 8 weeks\* of the decision to hold a Formal Enquiry. \* To be achieved earlier where possible

### **14.1 Case Conference Meeting or Discussion**

The decision as to whether a Case Conference Meeting or Discussion is required will be decided by the Safeguarding Coordinator. The decision will need to be a professional judgement, taking into account the principle of proportionality, the views and desired outcomes of the adult at risk, and the need to ensure the Formal Enquiry process is fair to all concerned.

A Case Conference Meeting will ordinarily be required where:

- a multi-agency perspective is required to review the findings of the Formal Enquiry and or advise on the Safeguarding Plan.
- a Large Scale Enquiry has been undertaken
- there are concerns about the safety of the service or organisational abuse
- formal actions may be required in relation to a 'person in a position of trust' e.g. referral to professional or the Disclosure and Barring Service.
- the Formal Enquiry findings are detailed or complex or indicate a significant difference of opinion about the outcome
- a Case Conference Meeting will assist the adult at risk/representatives to reach resolution and recovery from their experiences
- a serious crime has occurred.

In these circumstances, if a Case Conference Meeting is not held, the reasons must be clearly recorded, and where approved by a senior manager.

In the event that an allegation of abuse or neglect has been identified as malicious and based on a false allegation, a Case Conference Discussion would ordinarily be held.

## **14.2 Case Conference Discussion**

A Case Conference Discussion will be chaired by the Safeguarding Coordinator. The actions and decisions required within a Case Conference Discussion are the same as those required by a Case Conference Meeting.

Where a Case Conference Discussion is held, the Safeguarding Coordinator will liaise with the Safeguarding Enquiry Officer and other relevant parties as required to reach their decision whether abuse has occurred. Such a decision, wherever possible, will take into account the views of the adult at risk and the person or organisation alleged to have caused harm.

Any decisions about safeguarding arrangements should be undertaken in consultation with the adult at risk and other relevant parties such as their representatives (e.g. advocates or family members). Where a person is without mental capacity in relation to decisions about their safety, plans will need to be agreed in their best interests.

The Safeguarding Coordinator will be responsible for recording Case Conference Discussions, case conclusions, outcomes for the adult at risk and the person or organisation alleged to have caused harm.

The Safeguarding Coordinator will be responsible for communicating decisions and actions required to all relevant parties; and for sharing the minutes with relevant parties.

## **14.3 Case Conference Meeting**

Where a Case Conference Meeting is being held, local arrangements will inform who will chair the meeting. Independent Case Conference Chair roles do not exist in all areas. Where these roles exist the chair will always be one of these. Wherever possible, a Case Conference Meeting may be chaired by a manager with no involvement in the case, however, according to local arrangements the meeting may be chaired by the Safeguarding Coordinator.

Where possible, it is good practice to plan the provisional date and venue of the Case Conference Meeting at the time of the Strategy Discussion/Meeting, allowing attendees sufficient notice to attend. It may also be possible in some areas to identify the Case Conference Chair at this point.

## **14.4 Invitations to Case Conference Meetings**

The Safeguarding Coordinator will need to determine who to invite to the Case Conference Meeting and how the views of any relevant people who are not to be invited will be represented. The decision who to involve in a Case Conference Meeting should be limited to those who need to know and who can contribute to the decision-making process. This may need to include a representative of any organisation that has a specific role in:

- undertaking enquiries into the allegation of abuse or neglect

- assessing the risk
- developing or carrying out the Safeguarding Plan, or
- taking action in relation to the person alleged to have caused harm, such as the local authority Designated Adult Safeguarding Manager.

The person participating should be of sufficient seniority to make decisions concerning the organisation's role.

The most appropriate representative from an organisation alleged to have caused harm needs to be invited to attend the Case Conference. This will depend on the nature and severity of the allegations.

Where the allegation/concern involves abuse occurring within a regulated or contracted service, the Safeguarding Coordinator should consider involving, as appropriate:

- Care Quality Commission
- Contracting/Commissioning Department

Any organisation requested to participate in a Case Conference Meeting should regard the request as a priority. If the invited person (or an appropriate representative) is unable to attend a Case Conference Meeting, they should provide information in writing as requested and make sure it is available for the Case Conference Chair in advance of the meeting.

Only people invited to attend the Case Conference Meeting should do so. Unexpected people may not be permitted to attend the meeting. Any person that would like to bring an additional person, a friend or family member or a colleague from their organisation for example should inform the chair in advance of the meeting.

For reasons of confidentiality it may be necessary for any person to absent themselves for part of the meeting as requested by the Case Conference Chair.

#### **14.4.1 Involving the adult at risk**

Invitations should include the adult at risk. Where the adult at risk lacks the mental capacity to decide about attendance a best interest decision will be required. Where a person has a 'substantial difficulty' or lacks mental capacity in relation to decisions, consideration should be given to the need for an advocate as described in Sections 7.5.2 and 7.5.3.

If the adult at risk prefers, they may choose to not attend and have their views reported via a representative or in writing.

The adult's views regarding the allegation should always be sought, noted and carefully considered by the Safeguarding Coordinator in a Case Conference Discussion and by all attendees at a Case Conference Meeting.

When the adult at risk is present at the Case Conference Meeting it may be difficult for them to express their feelings/views. The chair needs to ensure ways are identified to support them in doing this effectively.

There may be occasions where a person does not feel that they have been harmed or abused and this should be noted and respected. Others may however take a view that abuse has taken place because of the nature and context of the allegation (e.g. that the person responsible is in a 'position of trust'). Factors such as this should be clearly recorded and any Safeguarding Plan should take account of these issues accordingly.

If the adult at risk is not present, the Case Conference Discussion/Meeting will need to agree who is the best person to provide feedback to them. This should take place as soon as possible and be in addition to any minutes received. The adult at risk should be supported to raise any issues they may have about the decisions taken and the Safeguarding Plan that has been developed/proposed.

#### **14.4.2 Involving the person or organisation alleged to have caused harm**

It is important that the safeguarding adults procedure is carried out with openness and transparency and that the principles established in Section 7.5.7 are followed.

Unless there are exceptional circumstances, the person alleged to have caused harm should also be invited to the Case Conference Meeting. If the person alleged to have caused harm has chosen to attend, they are entitled to bring an appropriate person to support them. They may also choose not to attend and have their views reported via a representative or in writing.

In the event that the adult at risk and the person alleged to have caused harm both choose to attend, arrangements will need to be planned so as to enable both parties to participate as appropriate. If it is difficult for one or other party to be present at the same time as the other, it may be decided for both to attend different parts of the meeting in turn. The decision as to how this can be best managed will need to be made on a case by case basis by the Safeguarding Coordinator and Case Conference Chair.

The view of the person(s) or organisations alleged to have caused harm should always be sought, noted and carefully considered by the Safeguarding Coordinator in a Case Conference Discussion and by attendees at a Case Conference Meeting. If the person alleged to have caused harm is not present, their views should still be fully considered within the decision making process.

A decision must be made at the Case Conference Discussion/Meeting about what feedback should be provided to the person alleged to have caused harm and who should provide it.

If the person alleged to have caused harm does not have mental capacity (and is also an adult at risk), feedback will be given to their representative.

#### **14.5 Role of legal representatives at a Case Conference Meeting**

If the adult at risk, their representative or another interested party wishes to bring a legal representative with them to a Case Conference Meeting, the chair of the meeting should be advised of this in advance. Other invitees may need to be informed of the proposed attendance.

Any legal representative attending should be advised before the meeting by the Safeguarding Enquiry Officer or Safeguarding Coordinator, and by the chair immediately before the meeting begins, that they are welcome to attend in the role of a 'silent supporter', that is, they are attending as a support and not to actively participate or comment during the Case Conference Meeting. If the attendee who has requested that a solicitor accompany them is not agreeable to this condition, advice should be sought by the Chair of the Case Conference Meeting from the local authority's legal services and where needed meeting should be adjourned.

#### **14.6 Information provided through the Safeguarding Enquiry Officer's report**

It is very important that Formal Enquiries are thorough, properly conducted and provide the Safeguarding Coordinator with the relevant information to allow for effective and informed decision making.

Where a Case Conference Meeting is being held, the Safeguarding Enquiry Officer's report must be forwarded to the chair of the Case Conference 7 working days prior to the Case Conference Meeting.

It is important that the Safeguarding Enquiry Officer's report should be seen by all those involved in the Formal Enquiry and by Case Conference Meeting attendees. This is to ensure that all interested parties have had an opportunity to consider the findings. In particular, they should be able to consider whether there is any additional relevant information that should be taken into account and provide this to the Case Conference meeting.

Safeguarding Formal Enquiry reports will ordinarily be distributed to attendees 5 working days in advance of Case Conference Meeting. In some exceptional circumstances, due to issues of confidentiality, sensitivity and risk, it may be important for Formal Enquiry reports not to be shared ahead of the Case Conference Meeting. In such circumstances, the reasons must be clearly recorded and explained, and reports can be shared at the commencement of the meeting, with time scheduled for attendees to read them.

Where an attendee realises that because they were unaware of the contents of the safeguarding Formal Enquiry report they have not brought pertinent information to the meeting, it may be necessary to adjourn the Case Conference Meeting and reconvene so that this information can be considered. This is particularly relevant for any person or organisation alleged to have caused harm.

The Safeguarding Coordinator will decide how the safeguarding Formal Enquiry reports are to be shared. Local information sharing protocols, policies and guidance must be followed.

#### **14.7 Case conclusions**

The primary focus of the safeguarding adults procedure is to support people to safeguard themselves from abuse or neglect. It is necessary to establish whether, on the balance of probabilities, abuse has occurred in order to assess the extent of any ongoing risk. This assessment of risk will guide the development of any 'Safeguarding Plan' that is needed to keep the person safe from future harm.

Case conclusions record whether abuse has occurred, and if so, the type of abuse experienced. They should only be reached in relation to allegations specifically covered within the course of the Formal Enquiry and where the enquiry has been sufficiently robust to reach a fair and defensible decision.

New or emerging issues that are beyond the scope of the Formal Enquiry undertaken will need to be addressed in their own right. This may require another Formal Enquiry or an appropriate alternative response/process.

#### **14.7.1 Case conclusion for each type of abuse**

A case conclusion for each type of alleged abuse is needed, for example physical or financial abuse. The decision will need to be made on the basis of the evidence obtained within the Formal Enquiry.

The burden of proof should be consistent with the civil standard of proof which is “on the balance of probabilities”.

There are four possible outcomes to this decision:

- *Substantiated – fully* - This refers to cases where “on the balance of probabilities” it was concluded that all the allegations made against the individual or organisation were verified “on the balance of probabilities”. Where allegations of multiple types of abuse are being considered against an individual or organisation then all will need to be proved for it to be defined as fully substantiated.
- *Inconclusive* - This refers to cases where there is insufficient evidence to allow a conclusion to be reached. This will include cases where, for example, the adult at risk, the individual believed to be the source of the risk or a key witness passed away before they could provide statements as part of the assessment or enquiry.
- *Not substantiated* - This refers to cases where “on the balance of probabilities” the allegations are unfounded, unsupported or disproved.
- *Investigation ceased at individual’s request* - This refers to cases where the individual at risk does not wish for a Formal Enquiry to proceed for whatever reason and so preclude a conclusion being reached. Formal Enquiries which proceed despite this, for example where a local authority has duty of care to protect other residents in a care home setting or multiple individuals in supported housing, will not come under this definition.

Note: For each type of abuse there may be more than one incident or allegation. If just one incident or allegation amounting to abuse is found to have occurred, then that type of abuse has been substantiated (regardless of findings in relation to other incidents or allegations).

#### **14.7.2 Overall case conclusion**

It will also be necessary to record an overall case conclusion whether there was one type of abuse or more. The following guidance should be followed.

The burden of proof should be consistent with the civil standard of proof which is “on the balance of probabilities”.

There are five possible outcomes to this decision:

- *Substantiated – fully* - This refers to cases where “on the balance of probabilities” it was concluded that all the allegations made against the individual or organisation were verified “on the balance of probabilities”. Where allegations of multiple types of abuse are being considered against an individual or organisation then all will need to be proved for it to be defined as fully substantiated.
- *Substantiated – partially* - This refers to cases where there are allegations of multiple types of abuse being considered against an individual or organisation. Verification will be partial where “on the balance of probabilities” it was concluded that one or more, but not all, of the alleged types of abuse were proved. For example, where a concern includes allegations of physical abuse and neglect, if the physical abuse can be proved on the balance of probabilities, but there is not enough evidence to support the allegation of neglect, it will be partially substantiated.
- *Inconclusive* - This refers to cases where there is insufficient evidence to allow a conclusion to be reached. This will include cases where, for example, the adult at risk, the individual believed to be the source of the risk or a key witness passed away before they could provide statements as part of the assessment or investigation.
- *Not substantiated* - This refers to cases where “on the balance of probabilities” the allegations are unfounded, unsupported or disproved.
- *Investigation ceased at individual’s request* - This refers to cases where the individual at risk does not wish for a Formal Enquiry to proceed for whatever reason and so preclude a conclusion being reached. Formal Enquiries which proceed despite this, for example where a local authority has duty of care to protect other residents in a care home setting or multiple individuals in supported housing, will not come under this definition.

#### **14.7.3 Case Conference Discussion decision making**

Where a Case Conference Discussion is held, the Safeguarding Coordinator will be responsible for deciding the case conclusion. Wherever possible, the views of the adult at risk and the person or organisation alleged to have caused harm will be taken into consideration. The Safeguarding Coordinator will need to liaise with the Safeguarding Enquiry Officer (and other relevant parties if required), in reaching their decision.

#### **14.7.4 Case Conference Meeting decision making**

It is the role of the chair in a Case Conference Meeting to facilitate the collective decision making process as to the case conclusion.

This decision is a multi-agency/multi-disciplinary responsibility that must be made and owned by those professionals attending who represent the statutory agencies and key organisations involved in the formal enquiry. Parties involved in the collective decision making process must have no vested interest in the decision and must outline clear, evidence based reasons for their views that are recorded in the minutes. Decision making must take into account the views of all relevant parties, including the adult at risk and the person or organisation alleged to have caused harm.

The chair must always seek, through discussion, a consensus view as to the occurrence of abuse. However, in circumstances where a consensus cannot be achieved, or it is inconsistent with the evidence, the chair may, where appropriate, propose a decision on behalf of those attending the meeting. Any person disagreeing with the proposed decision would have their disagreement recorded in the minutes.

## **14.8 Assessment of risk and safeguarding planning**

Assessments of risk will need to be reviewed in light of the decision as to whether abuse has occurred and, if so its type. The findings of the Formal Enquiry may impact on the assessed risk to the adult at risk or other people. There may also be changes in the circumstances of the adult at risk (or that of the person alleged to have caused harm) that impact on the risk.

The Safeguarding Plan is the risk management plan that is put in place to remove or reduce the risk of harm. The Safeguarding Plan should serve to safeguard the person's safety and wellbeing. Any changes in the assessment of risk will need to be reflected in the Safeguarding Plan.

The Safeguarding Coordinator will need to ensure that agreed Safeguarding Plans are implemented. Any party that is unable to complete an agreed action should notify the Safeguarding Coordinator at the earliest opportunity.

### **14.8.1 Agreeing a Safeguarding Plan with the adult at risk**

Once enquiries are completed the local authority should then determine **with** the adult what, if any, further action is necessary and acceptable.<sup>44</sup>

It is vital that the adult at risk be in control of decisions as to how risks they face in their life are managed. The adult at risk should experience the safeguarding process as empowering and supportive. The response taken should reflect the nature and seriousness of the risk, and wherever possible and appropriate, support the person to achieve their desired outcomes.

Any Safeguarding Plan that impacts on the welfare of the adult at risk should be devised in partnership with them, taking into account their wishes and the impact of the Safeguarding Plan on their lifestyle and independence. This may include actions the adult at risk is taking, as well as the actions of the local authority and other organisations.

Any intervention regarding family or personal relationships need to be carefully considered. The approach taken must consider how to support the adult to have the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship.

While abusive relationships never contribute to the wellbeing of an adult, intervention which removes all contact with family members may also be experienced as an abusive interventions and risk breaching the rights to family life if not justified or proportionate.<sup>45</sup>

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<sup>44</sup> Care and Support, Statutory Guidance: Paragraph 14.94 (emphasis added)

<sup>45</sup> Care and Support, Statutory Guidance: Paragraph 14.82

Whilst it is important to support the person work towards their desired outcomes, this can never be at the expense of others being placed in a position of risk. Throughout any response within the safeguarding adults procedure it is necessary to consider the safety of wellbeing of others, this may be those people living in the same family home, those in the same care environment or members of the wider public.

An adult at risk with mental capacity may decide not to accept a Safeguarding Plan, however protection arrangements should be offered and work undertaken to understand the reasons for not accepting support. Support may need to be offered in a manner the person finds more acceptable.

Where a person is without mental capacity to make decisions about their safety, decisions about protective arrangements should be made in their best interests taking into account their wishes, feelings, beliefs and values (Mental Capacity Act 2005).

Some risk safeguarding actions will be focused on managing the risk to others. Consent is not required to take actions that safeguard the safety and well-being of others. However, it would be good practice to inform the person of actions being taken, unless to do so would place any person at further risk.

#### **14.8.2 Agreeing actions in relation to a 'person in a position of trust'**

Where allegations have been made in relation to an employee, volunteer or student the employer/student body must assess the risk in the context of their service and consider appropriate risk management arrangements taking into consideration their own internal policies and procedures, and employment law. This may include actions, such as changes to their working arrangements or suspension.

The Local Authority Designated Adults Safeguarding Manager (DASM) will need to have management and oversight of individual complex cases and coordination where allegations are made or concerns raised about a 'person in a position of trust'.

The role of the local authority DASM is to gain assurance that the employer/student body has appropriately assessed and responded to the potential risk posed by a 'person in position of trust'. Refer to the Practice Guidance: Role of the Designated Adults Safeguarding Manager for further information.

There is a legal duty on regulated activity providers and personnel suppliers to make a disclosure and barring service referral, where the criteria are met. The guidance produced by the Disclosure and Barring Service should be consulted in reaching a decision as to the appropriateness of a referral. Where this action is agreed as part of a Case Conference Meeting or Discussion, confirmation must be provided to the Safeguarding Coordinator/DASM when this has been done.

#### **14.9 Action to be taken if the person causing harm is also an adult at risk**

The primary focus of the Case Conference Discussion or Meeting is the safety of the adult at risk. If the person causing abuse or neglect is also an adult at risk, it may be necessary to hold a separate meeting to address the needs of the person causing the harm and the

risks that they may present. It may be appropriate for a separate care manager/care coordinator to be involved in order to respond to these issues.

In all cases, the care manager, care coordinator or link/key worker representing the adult at risk and the relevant staff working with the person causing harm must be involved/kept informed throughout the safeguarding adults procedure.

#### **14.10 Case Conference minutes**

Case conference minutes should be recorded on the agreed multi-agency template and approved by the chair of the meeting. The minutes will record the decisions of the Case Conference Meeting and evidence of how the decisions were reached. This may involve recording separate decisions and outcomes for each type of abuse alleged.

Case Conference Meeting minutes will ordinarily be distributed, according to agreement at the Case Conference Meeting, to:

- all attendees and invitees to the meeting
- all those contributing to the Safeguarding Plan
- contract/commissioning teams according to local arrangements
- the Care Quality Commission where the Case Conference relates to a service that it regulates
- all other relevant regulatory bodies, as appropriate

A copy of Case Conference minutes should be sent to the adult at risk or, with their permission, to another person unless it would increase the level of risk. If the adult at risk does not have mental capacity, a decision should be made in their best interests about who to send the minutes to.

Where Case Conference minutes are sent to a carer (with permission of the adult at risk or in their best interests) the Case Conference will need to decide what information can be shared about the person alleged to have caused harm.

Where there is information that cannot be shared, it should be redacted from versions of documents sent out. Data Protection Act 1998 principles must be adhered to. For example, where a person was requested to leave the room during part of the Case Conference Meeting will need to consider whether the section of the minutes relating to that part of the meeting should be redacted from the copy sent to the person concerned.

Where a Case Conference Discussion is held, the circulation of minutes is to be determined by the Safeguarding Coordinator. This will ordinarily include those persons consulted in arriving at a case conclusion. In addition, the Safeguarding Coordinator will need to determine the most appropriate way of informing relevant people (including the adult at risk and person or organisation alleged to have caused harm) of key decisions. This may involve the distribution of Case Conference Discussion minutes; however alternative methods of communication will often be more appropriate in the particular circumstances. Minutes will need to be sent to CQC where the Case Conference Discussion relates to a service that it regulates.

### **14.11 Case Conference Discussion/Meeting minutes timescales:**

The following target timescales apply in relation to Case Conference Discussions/Meetings:

Target Timescales:

- Case Conference Discussion/Meeting minutes to be circulated within 10 working days of the Case Conference
- Requested amendments from participants received – within 1 week of the draft Case Conference Discussion/Meeting minutes being distributed
- Case Conference Discussion/Meeting minutes amended and redistributed – within 1 further week

### **14.12 Feedback to the Person Raising a Safeguarding Concern**

Consideration should be given to the appropriateness of providing feedback to the Person Raising a Concern, taking into account the nature of the relationship, confidentiality, data protection issues and the wishes of the adult at risk concerned.

### **14.13 Decision hold a Review Meeting**

Consideration should be given to whether a Review meeting is required within the safeguarding procedure, to ensure the Safeguarding Plan has been implemented and is working effectively.

The Safeguarding Plan may alternatively continue to be reviewed as part of the ongoing care management or Care Programme Approach (CPA) processes.

## **15. Review**

### **15.1 Purpose of the Review**

Where a Case Conference Meeting is held, any subsequent Review meeting will be chaired by the Case Conference Chair wherever possible.

The purpose of the review is to ensure that the actions agreed in the Safeguarding Plan have been implemented, the risk is being managed and to decide whether further actions are required. In some circumstances, more than one Review meeting will be required within the safeguarding procedure.

Target Timescale:

A Review meeting should be held within 3 months (or as agreed at Case Conference).

### **15.2 Who should attend**

The Safeguarding Coordinator will need to determine the appropriate invitees for the Review. This may need to include an appropriate representative of any organisation that has a specific role in:

- assessing risk
- developing or carrying out the Safeguarding Plan

Invitations should include the adult at risk. Where the adult at risk lacks the mental capacity to decide about attendance a decision will be required in their 'best interests' as to whether they should be invited and should attend.

The adult at risk is entitled to be supported by an appropriate person(s), such as a family member, friend according to their wishes, or decided in their 'best interests' where they lack the mental capacity to decide for themselves. Where the adult has a 'substantial difficulty' or lacks mental capacity in relation to decision making, consideration should be given to the need for an advocate as described in Sections 7.5.2 and 7.5.3.

The adult at risk may also choose not to attend and have their views reported by a representative or in writing. Where an IMCA has been appointed, they will be invited to attend.

### **15.3 Actions required during the Review**

The Review will:

- work towards the wishes, needs and desired outcomes of the adult at risk
- record the feedback of the adult at risk or their personal representative about the Safeguarding Plan and/or other matters of importance to them
- re-evaluate the risk of harm
- ensure all required actions have been or are being taken
- decide in consultation with the adult at risk and/or their personal representative what changes, if any, need to be made to the Safeguarding Plan to decrease the risk or to

- make the plan fit more closely with their wishes
- make decisions about what changes/additions are needed to the care plan
- decide whether to exit the safeguarding adults procedure
- decide whether there is need for a further review and, if so, set a date

#### **15.4 Agreeing actions with the adult at risk**

It is vital that the adult at risk be in control of decisions as to the how risks they face in their life are managed. The adult at risk should experience the safeguarding process as empowering and supportive. The response taken should reflect the nature and seriousness of the risk, and wherever possible and appropriate, support the person to achieve their desired outcomes. This may include actions the adult at risk is taking, as well as the actions of the local authority and other organisations.

##### **15.4.1 Risk to others, including children**

Whilst it is important to support the person work towards their desired outcomes, this can never be at the expense of others being placed in a position of risk. Throughout any response within the safeguarding adults procedure it is necessary to consider the safety of wellbeing of others, this may be those people living in the same family home, those in the same care environment or members of the wider public.

Some risk management responses will be focused on managing the risk to others. Consent is not required to take actions that safeguard the safety and well-being of others. However, it would be good practice to inform the person of actions being taken, unless to do so would place any person at further risk. Refer to 10.5.2 and 10.5.3 for further guidance. Where the risk involves a 'person in a position of trust' liaise with the local authority Designated Adults Safeguarding Manager as appropriate.

#### **15.5 Recording and feedback**

The Safeguarding Coordinator will need to ensure that:

- any decisions and actions are recorded with the names of responsible individuals/ organisations identified
- all those involved in the Review and the Safeguarding Plan have a copy of the Review minutes, including the adult at risk and/or their personal representative
- agreement is reached about how feedback will be provided if the adult at risk is not present. This feedback should be provided as soon as possible after the Review meeting

## 16. Exiting the Safeguarding Adults Procedure

### 16.1 Duty to make enquiries fulfilled

The purpose of the safeguarding adults procedure is to safeguard people from abuse and neglect. Where actions are no longer needed within this procedure, it should be discontinued.

The duty to make enquiries will be fulfilled where:

- No further enquiries are needed to establish whether any action should be taken
- No further safeguarding actions are required to keep the adult at risk or others with care and support needs, safe from abuse or neglect.

The safeguarding procedure can be ended at any point where it is appropriate to do so. However, where a Formal Enquiry has commenced but is discontinued this should be recorded in the Case Conference Discussion/Meeting format. This may happen because, for example, the adult at risk has decided that they no longer want this intervention for themselves, and there are no other persons at risk.

The person's desired outcomes should be considered throughout the safeguarding procedure and where possible, the persons desired outcomes will be met. However these desired outcomes may not always be realistic or achievable, and there may be occasions where the duty to make enquiries is fulfilled without these being met.

Although the safeguarding procedure is no longer being continued, there may continue to be plans and actions to be reviewed as part of the ongoing review, care management or Care Programme Approach (CPA) processes.

### 16.2 Actions on exiting the safeguarding adults procedure

The following actions should be carried out before exiting the safeguarding adults procedure:

#### Recording:

- **all records are completed**
- **record made that the duty to made enquiries has been fulfilled in accordance with Section 16.1**
- **case records contain all relevant information and satisfactorily completed forms**
- **all evidence, decisions and outcomes are adequately recorded**
- **the necessary monitoring forms and all data monitoring systems are completed**

Adult at risk:

- the adult at risk knows that the process is concluded and where/who to contact if they have any future concerns about abuse

Person or organisations alleged to have caused harm:

- where a Formal Enquiry has been undertaken, the person alleged to have caused harm knows the process is concluded and is aware of any decisions relating to themselves

Communication with other agencies:

- all those involved with the person know how to Raise a Concern if there are renewed or additional concerns
- all relevant partner organisations are informed about the ending of the multi-agency safeguarding adults procedure.

### **16.3 Record keeping and confidentiality**

Organisations should refer to their own internal policies and procedures for additional guidance on recording and storage of records.

Detailed factual records must be kept. This includes a record of all decisions taken relating to the process.

Records may be disclosed in court as part of the evidence in a criminal action/case or may be required if the regulatory authority (CQC) decides to take legal action against a provider.

Records kept by providers of services should be available to service commissioners and to regulatory authorities.

Agencies should identify arrangements, consistent with the principle of fairness, for making records available to those affected by, and subject to enquiries, with due regard to confidentiality.

Where the person alleged to have caused harm is also another service user, information about that person's involvement in a safeguarding adults enquiry, including the conclusion and outcome of the enquiry, should be included in their records.

## **17. Complaints**

In the event that any person is dissatisfied with practice undertaken under this Multi-Agency Policy and Procedure, they should raise their concerns with the relevant organisation and where relevant, make a complaint using that organisation's complaints procedures.

Where local procedures provide for a specific process to contest decisions as to the occurrence or not of abuse, these procedures should also be referred to.

## **18. Safeguarding Adults Review**

Where practice gives rise to concerns about how agencies have worked together when the death or serious injury of an adult at risk has occurred, the local Safeguarding Adults Board will consider requests to conduct a Safeguarding Adults Review.

The purpose of having a Safeguarding Adults Review is neither to investigate nor to apportion blame.

The objectives include:

- preparing or commissioning an overview which brings together and analyses the findings of the various agencies in order to make recommendations for future action
- establishing whether there are lessons to be learnt from the circumstances of the case about the way in which local professionals and agencies work together to safeguard adults at risk
- reviewing the effectiveness of both multi-agency and individual agency procedures
- informing and improving local inter-agency practice
- improving practice by acting on learning and developing best practice

For further information refer to local procedures.

## 19. Appendices:

### 19.1 Appendix A: Information required when Raising a Safeguarding Concern

Where possible, the Person Raising a Concern should include as much information under the following headings.

Details of the Person Raising a Concern:

- name, address and telephone number
- relationship to the adult at risk
- name of organisation, if the concern is being raised from a care setting
- anonymous concerns raised will be accepted and acted on, however, the Person Raising a Concern should be encouraged to give contact details

Details of the adult at risk:

- name(s), address and telephone number
- date of birth, or age
- details of any other members of the household including children
- information about the primary care needs of the adult, that is, disability or illness
- funding authority, if relevant
- ethnic origin and religion
- gender (including transgender and sexuality)
- communication needs of the adult at risk due to sensory or other impairments (including dementia), including any interpreter or communication requirements
- whether the adult at risk knows the safeguarding concern is being raised
- whether the adult at risk has consented to the safeguarding concern being raised and, if not, on what grounds the decision was made
- what is known of the person's mental capacity
- the adult at risk's views about the abuse or neglect, what they want done about it and what their desired outcomes are (if known)
- details of how to gain access to the person and who can be contacted if there are difficulties

Information about the abuse or neglect:

- how and when did the concern come to light?
- when did the alleged abuse occur?
- where did the alleged abuse take place?
- what are the details of the alleged abuse?
- what impact is this having on the adult at risk?
- what is the adult at risk saying about the abuse?
- are there details of any witnesses?
- is there any potential risk to anyone visiting the adult at risk to find out what is happening?
- is a child (under 18 years) at risk?

Details of the person (or organisation) alleged to be causing the harm (if known):

- name, age and gender
- what is their relationship to the adult at risk?
- are they the main carer of the adult at risk?
- are they living with the adult at risk?
- are they a member of staff, paid carer or volunteer?
- what is their role?
- are they employed through a personal budget?
- which organisation are they employed by?
- are there other people at risk from the person causing the harm?

Any immediate actions that have been taken

- were emergency services contacted? if so, which?
- what action was taken?
- what is the crime number if a report has been made to the police?
- what details of any immediate plans have been put in place to safeguard the adult at risk from further harm
- have children's services been informed if a child (under 18 years) is at risk?

## 19.2 Appendix B: Safeguarding adults contact points

Abuse will need to be reported to the safeguarding contact point in the local authority area where the abuse has occurred.

### Bradford

#### To Raise a Safeguarding Concern:

Contact:

- Adult Protection Unit: **01274 435400** or
- Complete the online referral form on [www.bradford.gov.uk/apunit](http://www.bradford.gov.uk/apunit)

#### For information/advice:

Contact:

- Adult Protection Unit, Jacobs Well, Nelson Street, Bradford, BD1 5RW
- Telephone: **01274 43 1077**

For additional information please visit: [www.bradford.gov.uk/apunit](http://www.bradford.gov.uk/apunit)

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### Calderdale

#### To Raise a Safeguarding Concern:

Contact:

- Gateway to Care: **01422 393 000** or email: [Gatewaytocare@calderdale.gov.uk](mailto:Gatewaytocare@calderdale.gov.uk)
- Emergency Duty Team: **01422 288 000** or email: [EDT@calderdale.gov.uk](mailto:EDT@calderdale.gov.uk)

#### For information/advice:

Contact:

- Safeguarding Adults Team: **01422 393 804** (Mon-Fri, Office Hours)

For additional information please visit:

[www.calderdale.gov.uk/socialcare/safeguardingadults/index](http://www.calderdale.gov.uk/socialcare/safeguardingadults/index)

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### Kirklees

#### To Raise a Safeguarding Concern:

Contact:

- Gateway to Care: **01484 414933** (24 hours)
- Emergency Duty Team (Out of Hours) **01484 414933**
- Emergency Duty Team: [gatewaytocare@kirklees.gov.uk](mailto:gatewaytocare@kirklees.gov.uk)

#### For information/advice:

Contact:

- Safeguarding Adults Partnership Team, 3rd Floor Kirkgate Building, Byram Street, Huddersfield, HD1 1BY. Telephone:01484 221717
- Fax number: 01484 226949. E-mail: [protection@kirklees.gov.uk](mailto:protection@kirklees.gov.uk)
- E-mail: [protection@kirklees.gov.uk](mailto:protection@kirklees.gov.uk)

For additional information please visit: [www.kirklees.gov.uk/safeguardingadults](http://www.kirklees.gov.uk/safeguardingadults)

### Leeds

#### To Raise a Safeguarding Concern:

##### Contact:

- Adult Social Care Contact Centre: **0113 222 4401**
- Emergency Duty Team: **0113 240 9536** (outside of the contact centre times)

#### For information/advice:

##### Contact:

- Leeds Safeguarding Adults Partnership Support Unit: **0113 224 3511**  
(Mon-Fri, Office Hours)
- Email: [safeguarding.adults@leeds.gov.uk](mailto:safeguarding.adults@leeds.gov.uk)
- Secure email (from a secure email): [safeguarding.adults@leeds.gcsx.gov.uk](mailto:safeguarding.adults@leeds.gcsx.gov.uk)

For additional information please visit: [www.leedssafeguardingadults.org.uk](http://www.leedssafeguardingadults.org.uk)

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### North Yorkshire

#### To Raise a Safeguarding Concern:

##### Contact:

- Adult Social Care, Customer Services **01609 780780**. Opening hours are 8am – 5.30pm Monday to Friday. This number will be answered by the Emergency duty team outside these hours.
- Email Raising a Safeguarding Concern forms to: [social.care@northyorks.gov.uk](mailto:social.care@northyorks.gov.uk) or [social.care@northyorks.gcsx.gov.uk](mailto:social.care@northyorks.gcsx.gov.uk)

#### For information/advice:

##### Contact:

- For general questions and enquiries about safeguarding adults, please email: [safeguardingadultsteam.enquiries@northyorks.gov.uk](mailto:safeguardingadultsteam.enquiries@northyorks.gov.uk)  
Please note this email address is NOT for Raising a Safeguarding Concern.

For additional information please visit: [www.northyorks.gov.uk/safeguardingadults](http://www.northyorks.gov.uk/safeguardingadults)

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### Wakefield

#### To Raise a Safeguarding Concern:

##### Contact:

- Social Care Direct: Telephone: **0345 8 503 503**
- Fax: **01924 303455**; Minicom: **01924 303450**;
- Email: [social\\_care\\_direct@wakefield.gov.uk](mailto:social_care_direct@wakefield.gov.uk)

#### For information/advice:

##### Contact:

- Wakefield Safeguarding Adults Board Business Manager, Adults Health and Communities, Grange View, Annie Street, Wakefield WF1 2PN.
- Telephone: **01924 306454**

For additional information please visit:

[www.wakefield.gov.uk/HealthAndSocialCare/AdultsAndOlderPeople/SafeguardingAdults](http://www.wakefield.gov.uk/HealthAndSocialCare/AdultsAndOlderPeople/SafeguardingAdults)

### York

#### To Raise a Safeguarding Concern

##### Contact:

- Customer access and assessment team: Telephone: **01904 555 111** (8.30-5.00pm).  
For individuals who are hearing impaired please Text: **0753 443 7804**
- Fax: **01904 554 017**; Email: [adult.socialsupport@york.gov.uk](mailto:adult.socialsupport@york.gov.uk)
- Out of hours, contact the Emergency Duty Team
- Telephone: **0845 0349 417**; Email: [edt@northyorks.gov.uk](mailto:edt@northyorks.gov.uk)

#### For information/advice:

##### Contact:

- Safeguarding Adults Team: Telephone: **01904 555 858** (and ask for the duty worker)
- Fax: [adultsafeguardingfax@york.gov.uk](mailto:adultsafeguardingfax@york.gov.uk)
- Email: [adult.socialsupport@york.gov.uk](mailto:adult.socialsupport@york.gov.uk)

### West Yorkshire, North Yorkshire and York Police

Where a crime needs to be reported or the assistance of the police sought, the following national telephone numbers should be used:

#### For Non-Emergencies:

- Telephone: **101**

#### In an Emergency:

- Telephone: **999**

