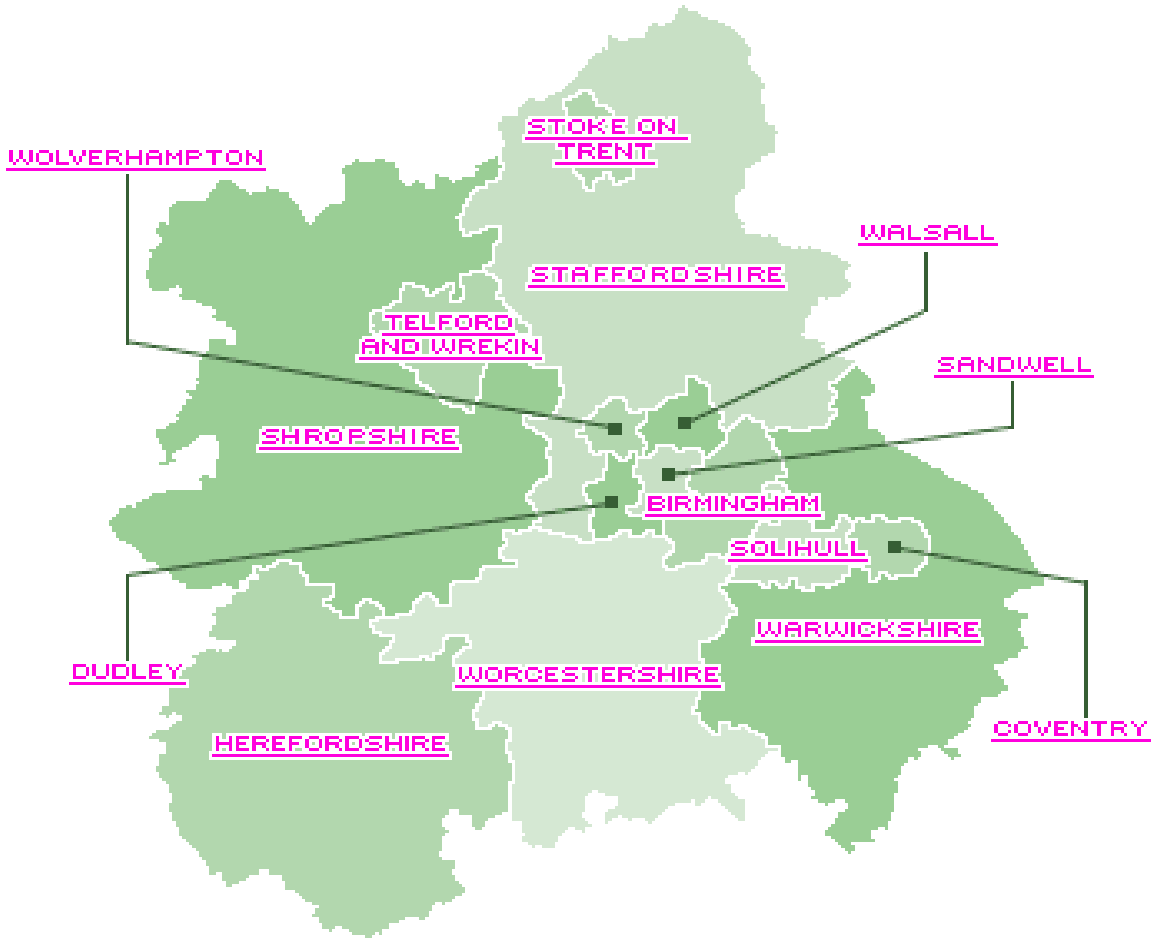
# Adult Safeguarding:

## Multi-agency policy & procedures for the protection of adults with care & support needs in the West Midlands.

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**Adult Safeguarding: Multi-agency policy and procedures for the protection of adults with care and support needs in the West Midlands.**

Written by the West Midlands Adult Safeguarding Editorial Group.

WEST MIDLANDS
REGIONAL ADULT SAFEGUARDING LEADS
DEVELOPING POLICIES AND PRACTICE ACROSS THE REGION

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# Foreword

Living a life that is free from harm and abuse is a fundamental right of every person. All of us need to sign up to this principle and to follow it in acting as good neighbours and citizens. Across the West Midlands, all the organisations involved in adult safeguarding are committed to preventing abuse and harm and putting service users at the centre of our work. The Care Act, which came into force on 1st April 2015, is the most significant legislation on care and support in England for over fifty years. The principle that underlies the Care Act is that of promoting the wellbeing of individuals, and of making sure that professionals always recognise that each person's needs are different and respond accordingly.

When abuse does take place, it needs to be responded to in a timely, effective and sensitive manner and in ways which are proportionate to the issues that have been identified. Although professionals in the West Midlands have a longstanding commitment to making sure that adults are kept in the centre of safeguarding processes, the Care Act leaves no doubt that it is the person, not the process, that determines how safeguarding work is taken forward by professionals.

All working in adult safeguarding have the difficult task of understanding risk, assessing the level of this for the individual and constructing a plan to manage this which works for the person concerned and is understood by those around them. This demands a sound grasp of the legal basis for their work, the agency role and function and referencing multi-agency procedures alongside professional judgement. With this in mind, the West Midlands region has produced a policy and procedures aimed at professionals. This is because we believe that adults with care and support needs are best protected when procedures between statutory agencies are consistent across the West Midlands region.

The Policy sets out **the approach taken to adult safeguarding in the West Midlands.** The Procedures then explain how agencies and individuals should work together to **put the West Midlands Adult Safeguarding Policy into practice**[1].

**Ivan Powell**
**Independent Chair, Shropshire Safeguarding Community Partnership, and Chair of the West Midlands Safeguarding Adults Boards Chairs network.**

[1] Local Safeguarding Adults Boards across the West Midlands have been asked to adopt these West Midlands Adult Safeguarding Policy and Procedure, but local variations and supplementary guidance may be in place in your Safeguarding Adults Board area – check your local arrangements.

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# POLICY.

# 1. Introduction.

**1.1.** This resource reflects the commitment of organisations in the West Midlands and allied local authorities to work together to safeguard adults with care and support needs in line with the Care Act 2014. The procedures outlined aim to ensure that:

- all organisations promote the wellbeing of adults with care and support needs;
- the interests of adults with care and support needs are always respected and upheld;
- the human rights of adults with care and support needs are respected and upheld;
- a proportionate, timely, professional and ethical response is made to any adult with care and support needs who may be experiencing abuse;
- all decisions and actions are taken in line with the Mental Capacity Act (MCA) 2005.

The procedures also aim to ensure that for each adult with care and support needs:

- their chosen outcomes are at the heart of safeguarding;
- safeguarding is always more focused on the adult than on processes;
- their dignity, and respect towards them, is central to all professional practice.

### 1.2. Working together.

The policy in the West Midlands is to:

- work together to prevent and protect adults with care and support needs from abuse;
- empower and support people to make their own choices;
- make enquiries and take action about actual or suspected abuse and neglect;
- support adults with care and support needs and provide a service to those who are experiencing, or who are at risk of, abuse, neglect or exploitation;
- share information in a timely way;
- co-operate with each other to safeguard adults with care and support needs - although the Care Act is clear that the lead role sits with the local authority, section 6 of the Act is equally clear that the local authority and the other relevant partner agencies have duties to co-operate with each other.

### 1.3. Local implementation.

Each local Safeguarding Adults Board (SAB) is asked to adopt the policy and procedures so that there is consistency across the West Midlands in the way in which adults with care and support needs are safeguarded from abuse. However, some local SABs may want to adapt certain aspects of the procedures to meet their local needs. Local SABs are therefore welcome to add an appendix to the policy and procedures outlining any local variations.

### 1.4. Individual implementation.

The policy and procedures described in this resource should also be used in conjunction with individual organisations' adult safeguarding procedures, and policy and procedure on related issues; such as domestic violence and abuse, fraud, disciplinary procedures, and health and safety.

### 1.5. Legal framework.

#### 1.5.1. **The Care Act 2014**

The Care Act 2014 sets out a clear legal framework for how local authorities and other statutory agencies should work together to protect adults with care and support needs at risk of abuse or neglect. The duties include the Local Authority's duty to make enquiries or cause them to be made, and to establish a Safeguarding Adults Board; statutory members are the Local Authority, NHS Integrated Care Boards, and the Police. Safeguarding Adults Boards must arrange Safeguarding Adult Reviews (SARs) as per defined criteria, publish an annual report and strategic plan.

#### 1.5.2. **Mental Capacity Act (Including DoLS) 2005**

The Mental Capacity Act 2005, covering England and Wales, provides a statutory framework for people who lack capacity to make decisions for themselves, or who have capacity and want to make preparations for a time when they may lack capacity in the future. These can be small decisions – such as what clothes to wear – or major decisions- such as where to live, or what happens if abuse has occurred. The Act sets out who can take decisions, in which situations, and how they should go about this

In addition - in some cases, people lack the capacity to consent to particular treatment or care that is recognised by others as being in their best interests, or which will protect them from harm. Where this care might involve depriving vulnerable people of their liberty in either a hospital or a care home, extra safeguards have been introduced in law – Deprivation of Liberty Safeguards - to protect their rights and ensure that the care or treatment they receive is in their best interests.

**Mental Capacity (Amendment) Act 2019 including the Liberty Protection Safeguards**

The Mental Capacity (Amendment) Act 2019 introduces a new process for authorising deprivations of liberty, known as the Liberty Protection Safeguards (LPS).

#### 1.5.3. **Human Rights Act 1998**

The Act applies to all public authorities (such as central government departments, local authorities and NHS Trusts) and other bodies performing public functions (such as private companies operating prisons). These organisations must comply with the Act – and individual's human rights – when providing a service or making decisions that have a decisive impact upon an individual's rights. Section 73 of the Care Act (2014) extends the scope of the Human Rights Act (1998). This incorporates registered care providers (residential and non-residential) providing care and support to an adult, or support to a carer, where the care and support is arranged or funded by the local authority (including Direct Payment situations). It does not incorporate entirely private arrangements concerning care and support.

Although the Act does not apply to private individuals or companies (except where they are performing public functions), sometimes a public authority has a duty to stop people or companies abusing an individual's human rights. For example, a public authority that

knows a child is being abused by its parents has a duty to protect the child from inhuman or degrading treatment.

The Human Rights act covers everyone in the United Kingdom, regardless of citizenship or immigration status. Anyone who is in the UK for any reason is protected by the provisions in the Human Rights Act.

## 1.6. Timescales

The West Midlands adult safeguarding procedures do not set definitive timescales for each element of the safeguarding process; however, target timescales are indicated. In addition, individual local authorities or SABs may make decisions on timescales for their own performance monitoring. Local guidance on timescales should reflect the ethos of the Making Safeguarding Personal agenda.

The approach within the West Midlands procedures is as follows:

*Managing immediate risks*- Some adult safeguarding concerns will require an immediate assessment and response to safeguard the adult. This policy and procedure set out some target timescales for responding to and managing immediate risks.

*Making decisions about safeguarding concerns and undertaking enquiries*- There are some target timescales, however, as with all adult safeguarding work, responses must be timely.

REMEMBER- It is important to respond at the pace that is right for the adult, and puts them in greatest control of what happens in their life.

# 2. Principles and values.

## 2.1. Introduction.

The West Midlands Policy for Adult Safeguarding is based on a shared view across the region of the principles that underpin the Care Act 2014 - those of promoting wellbeing, and putting the adult at the centre of all adult safeguarding by making it personal to each individual.

## 2.2. Government policy.

The Government policy objective is to prevent and reduce the risk of harm to adults from abuse or other types of exploitation, whilst supporting individuals in maintaining control over their lives and in making informed choices without coercion.

The Government believes that safeguarding is everybody's business, with communities playing a part in preventing, identifying and reporting neglect and abuse and measures need to be in place locally to protect adults with care and support needs.

The State's role in safeguarding is to provide the vision and direction and ensure that the legal framework, including powers and duties, is clear, and proportionate, whilst maximising local flexibility.

Local multi-agency partnerships should support and encourage communities to find local solutions. These solutions will be different in different places, reflecting, for example local population, environment, and communities.

Adult safeguarding requires working collaboratively to improve outcomes, rather than duplicating or superseding existing responsibilities for providing safe and effective care. The critical factor is providing care and support, which leads to a positive experience for individuals.

Providers' core responsibility, across health and social care, is to provide safe, effective and high quality care. Safeguarding concerns will require a variety of responses including a provider or other agency investigation, a disciplinary process, a clinical governance response from within or by external bodies, the involvement of police, regulators, staff training or other activities.

All adult safeguarding work should reflect the following key Principles.
*[Note: The Principles are not in order of priority; they are all of equal importance.]*

| Principles | "I" Statements |
|---|---|
| **Empowerment** – People being supported and encouraged to make their own decisions and informed consent. | I am consulted about the outcomes I want from the safeguarding process and these directly inform what happens. |
| **Prevention** – It is better to take action before harm occurs. | I am provided with easily understood information about what abuse is, how to recognise the signs and what I can do to seek help. |

| | |
|---|---|
| **Proportionality** – The least intrusive response appropriate to the risk presented | I am confident that the responses to risk will take into account my preferred outcomes or best interests. |
| **Protection** – Support and representation for those in greatest need. | I am provided with help and support to report abuse. I am supported to take part in the safeguarding process to the extent to which I want and to which I am able. |
| **Partnership** – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse. | I am confident that information will be appropriately shared in a way that takes into account its personal and sensitive nature. I am confident that agencies will work together to find the most effective responses for my own situation. |
| **Accountability** – Accountability and transparency in delivering safeguarding. | I am clear about the roles and responsibilities of all those involved in the solution to the problem. |

## 2.3. Making safeguarding personal

> 'Making safeguarding personal means it should be person-led and outcome-focused. It engages the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety.'
>
> Care & Support statutory guidance. Para 14.15

Making Safeguarding Personal (MSP) is a sector led initiative aiming to shift culture and practice in response to what we know about what makes safeguarding effective from the perspective of the person being safeguarded. It is about having conversations with people about how we might respond in safeguarding situations in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. It is about seeing people as experts in their own lives and working alongside them. **It is a shift from a process supported by conversations to a series of conversations supported by a process.**

MSP requires professionals to see adults as experts in their own lives and to work with them to identify strengths-based and outcomes focused solutions.

MSP seeks to achieve:

- a personalised approach that enables safeguarding to be done with, not to, people;
- practice that focuses on achieving meaningful improvement to people's circumstances (outcomes) rather than just the process of 'investigation' and reaching a 'conclusion';
- an approach that utilises social work skills rather than just 'putting people through a process', with the ultimate aim of improving outcomes for people at risk of harm.

Key areas for effective practice

- **Person led and person centred**: being safe and well means different things to different people. This means the safeguarding process should be person-led and recognise people as the experts in their own lives. It should engage the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. Professionals should be interested, and look for the whole picture of a person's experience.
- **Focussed on outcomes, not process**: safeguarding is not about undertaking a process, but is a commitment to improving outcomes by working alongside people experiencing abuse or neglect. The key focus is on developing a real understanding of what people wish to achieve, agreeing, negotiating and recording their desired outcomes, working out with them (and their representatives or advocates if they lack capacity) how best those outcomes might be realised and then seeing, at the end, the extent to which desired outcomes have been realised. This approach involves adults being encouraged to define their own meaningful improvements to change their circumstances and to be involved throughout the safeguarding enquiry, support planning and response.

> 'A great judge once said, "all life is an experiment," adding that "every year if not every day we have to wager our salvation upon some prophecy based upon imperfect knowledge"…
>
> The fact is that all life involves risk, and the young, the elderly and the vulnerable, are exposed to additional risks and to risks they are less well equipped than others to cope with. But just as wise parents resist the temptation to keep their children metaphorically wrapped up in cotton wool, so too we must avoid the temptation always to put the physical health and safety of the elderly and the vulnerable before everything else. Often it will be appropriate to do so, but not always. Physical health and safety can sometimes be bought at too high a price in happiness and emotional welfare. The emphasis must be on sensible risk appraisal, not striving to avoid all risk, whatever the price, but instead seeking a proper balance and being willing to tolerate manageable or acceptable risks as the price appropriately to be paid in order to achieve some other good – in particular to achieve the vital good of the elderly or vulnerable person's *happiness*. **What good is it making someone safer if it merely makes them miserable?**'
>
> Mr Justice Munby. *(§ 120 Local Authority X v MM & Anor (No. 1) (2007))*

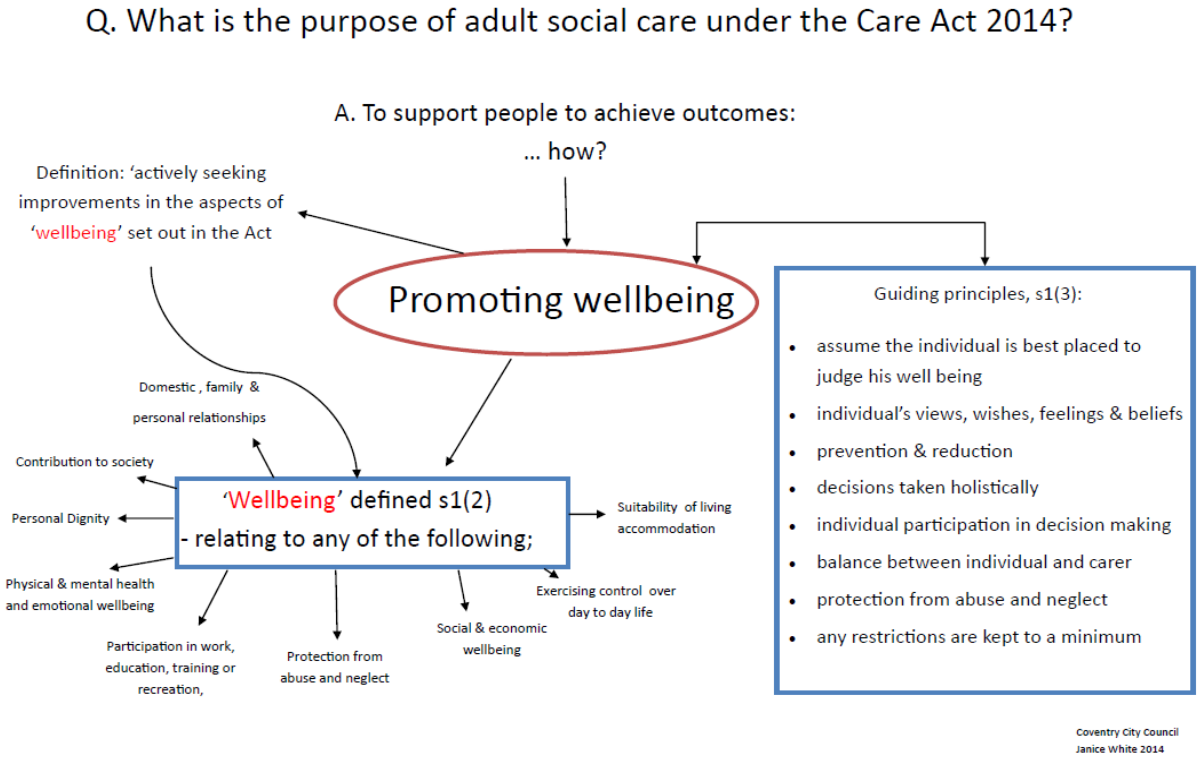
## 2.4. 'Wellbeing' principle

The Care Act 2014 introduces a duty to promote wellbeing when carrying out any care and support functions in respect of a person. This is sometimes referred to as "the wellbeing principle" because it is a guiding principle that puts wellbeing at the heart of care and support.

The wellbeing principle applies in all cases where carrying out any care and support function, or making a decision, or safeguarding. It applies equally to adults with care and support needs and their carers.

"Wellbeing" is a broad concept, and it is described as relating to the following areas in particular:

- personal dignity (including treatment of the individual with respect);
- physical and mental health and emotional wellbeing;
- protection from abuse and neglect;
- control by the individual over day-to-day life (including over care and support provided and the way it is provided);
- participation in work, education, training or recreation;
- social and economic wellbeing;
- domestic, family and personal relationships;
- suitability of living accommodation;
- the individual's contribution to society.




Promoting wellbeing means actively seeking improvements, at every stage in relation to the adult with care and support needs (regardless of whether they have eligible needs or not) and carers. It is a shift from providing services to the concept of "meeting needs".

Promoting wellbeing should inform: planning of individual care packages, delivery of universal services and strategic planning. To promote wellbeing it should be assumed that individuals are best placed to judge their own wellbeing, their individual views, beliefs, feelings, wishes are paramount and individuals should be empowered to participate as fully as possible. Promoting the wellbeing of the individual should be balanced with those of their informal carers.

### 2.5. Professional curiosity

## Good Practice Guide – Professional curiosity

**What is Professional Curiosity?**

Professional curiosity is the capacity and communication skill to explore and understand what is happening within a family or with the individual rather than making assumptions or accepting things at face value. National analysis of Safeguarding Adults Reviews – HERE - found that professional curiosity was commended as an important skill in gaining an understanding of the individual, and recognising the significance of their history; including childhood trauma, loss, and bereavement.

It is about enquiring deeper and using proactive questioning and challenge.

Curious professionals will spend time engaging with families on visits. Do not presume you know what is happening in the family/individual's home – ask questions and seek clarity if you are not certain. Do not be afraid to ask questions of families and individuals and do so in an open way so they know that you are asking to keep the individual safe, not to judge or criticise. Be open to the unexpected and incorporate information that does not support your initial assumptions into your assessment of what life is like for the individual in the family.

**Developing Skill in Professional Curiosity**

- Be flexible and open-minded, not taking everything at face value. Check your own emotional state and attitudes. Leave time to prepare yourself for managing risk and uncertainty and processing the impact it has on you.
- Think the unthinkable; believe the unbelievable. Consider how you can articulate 'intuition' into an evidenced, professional view.
- Always try to see the person separately. Pay as much attention to how people look and behave as to what they say.
- Have empathy ('walk in the shoes') of the person to consider the situation from their lived experience.
- Be alert to those who prevent professionals from seeing or listening to the person.
- Use your communication skills: review records, record accurately, check facts and feedback to the people you are working with and for. Develop the skills and knowledge to hold difficult conversations. Never assume and be wary of assumptions already made.
- Use case history and explore information from the person themselves, the family, friends and neighbours, as well as other professionals (triangulation).

- Actively seek full engagement. If you need more support to engage the person or their family, think about who in the network can help you. Consider calling a multiagency meeting to bring in support from colleagues in other agencies.
- Take responsibility for the safeguarding role you play, however large or small, in the life of the person in front of you.

Never be concerned about asking the obvious question and share concerns with colleagues and managers. A 'fresh pair of eyes' looking at a case can help practitioners and organisations to maintain a clear focus on good practice and risk assessment and develop a critical mindset.

*Content taken from Solihull SAB Guidance on Professional Curiosity and Persistence.*

## 2.6. Think Family

Everyone has a responsibility to take a 'Think Family' approach in the context of safeguarding adults and children.

**What do we mean by 'Think Family'?**

A Think Family approach refers to the steps taken by adult, young peoples, and children's practitioners to identify wider family needs which extend beyond the individual they are supporting. This can be their family networks in a traditional sense, or social networks that people consider to be their "family".

For example, in relation to safeguarding, if you work primarily with adults, you still consider the safeguarding needs of children, and if you work with children you still consider the needs of adults at risk. Safeguarding is everyone's responsibility.

Think Family means securing better outcomes for adults, children and families by coordinating the support and delivery of services from all organisations. Neither adults or children exist in isolation and Think Family aims to promote the importance of a whole-family approach.

Contact with any service offers an open door into a system of joined-up support and coordination between adult and children's services. Services working with both adults and children should take into account family circumstances and responsibilities.
Working together effectively will help improve lives, so 'Think Family'.

## 2.7. Adults with care and support needs

- The services provided must be appropriate to the adult with care and support needs and not discriminate because of disability, age, gender, sexual orientation, race, religion, culture or lifestyle.
- The primary focus/point of decision-making must be as close as possible to the adult with care and support needs, and individuals must be supported to make their own choices. Adults with care and support needs must be offered support services as appropriate to their needs.
- There is a presumption that adults have the mental capacity to make informed decisions about their lives. If someone has been assessed as not having mental capacity to make safeguarding decisions, those decisions will be made in their best

interests as set out in the MCA 2005 and the MCA Code of practice.

- Adults with care and support needs should be given information, advice and support in a form that they can understand and have their views included in all forums that are making decisions about their lives.
- All decisions taken by professionals about a person's life should be timely, reasonable, justified, proportionate, ethical and fully recorded.

**2.8. Organisations working with adults with care and support needs.**

- Staff have a duty to report promptly any concerns or suspicions that an adult with care and support needs is experiencing, or is at risk of, abuse or neglect (including self-neglect).
- Actions to protect the adult from abuse should always be given high priority by all organisations involved. Concerns or allegations should be reported without delay.
- Organisations working to safeguard adults with care and support needs should make the dignity, safety and wellbeing of the individual a priority in their actions.
- As far as possible organisations must respect the rights of the person causing, or alleged to be causing, harm. If the person alleged to have caused harm is also an adult with care and support needs they must receive support and their needs must be addressed. Staff should fully understand their role and responsibilities in regard to the policy and procedures.
- Every effort must be made to ensure that adults with care and support needs are afforded appropriate protection under the law.
- Organisations will have their own internal operational procedures which relate and adhere to the West Midlands Adult Safeguarding policy and procedures, including complaints by citizens who use the service, and by staff who raise concerns ('whistleblowers'), always in compliance with the Public Interest Disclosure Act (PIDA) 1998, the Employment Rights Act 1996 and the Enterprise and Regulatory Reform Act 2013.
- Organisations will ensure that all staff and volunteers are familiar with policies relating to adult safeguarding, that they know how to recognise abuse and how to report and respond to it.
- Organisations will ensure that staff and volunteers have access to training that is appropriate to their level of responsibility and will receive clinical and/or management supervision that allows them to reflect on their practice and the impact of their actions on others.

**2.9. Organisations working together.**

- Partner organisations will contribute to effective inter-agency working, multi-disciplinary assessments and joint working partnerships in order to provide the most effective means of safeguarding adults. Action taken under these procedures does not affect the obligations on partner organisations to comply with their statutory responsibilities, such as notification to regulatory authorities under the Health and Social Care Act (HSCA) 2008, employment legislation or other regulatory requirements.
- Organisations continue to have a duty of care to adults who purchase their own care through personal budgets (PBs) (including direct payments), and/or who fund their own care. Organisations are required to ensure that reasonable care is taken

to avoid acts or omissions that are likely to cause harm to adults with care and support needs.

- Partner organisations will have information about individuals who may be at risk from abuse and may be asked to share this where appropriate, with due regard to confidentiality and information sharing protocols.

# 3. Definitions.

### 3.1. Introduction.

This section provides commonly and nationally used definitions and should be used to guide all adult safeguarding work across all partner agencies and individuals.

### 3.2. Adult(s) with care and support needs.

The adult safeguarding duties under the Care Act 2014 apply to an adult, aged 18 or over, who:

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

Care and support is the mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems, and carers. Care and support includes assessment of people's needs, provision of services and the allocation of funds to enable a person to purchase their own care and support. It could include care home, home care, personal assistants, day services, or the provision of aids and adaptations[2].

### 3.3. Wellbeing.

The Care Act 2014 introduces a duty to promote wellbeing when carrying out any care and support functions in respect of a person. This is sometimes referred to as "the wellbeing principle" because it is a guiding principle that puts wellbeing at the heart of care and support. See Section 2.4 for further detail on wellbeing and what this means.

### 3.4. Abuse or neglect

Abuse and neglect occur when someone causes another person or people harm or distress. It can take place in any environment, including online, it can involve one or multiple incidents, and anyone can be an abuser. Abuse and neglect are often the result of deliberate intent to cause harm, but sometimes abuse isn't intentional. It happens because someone doesn't have the skills or support needed to care for someone. That doesn't make the impact of it any less, but it can help to understand how it happened.

To understand the experience of the adult, it is important to consider the context of the abuse and what combination of push and pull factors may be present, as this will affect the approach taken to engage with the adult. Push factors are things that drive the adult to detach from people who keep them safe. This, in turn, leaves them vulnerable to abuse. Pull factors are actions that lure the adult in. This concept will be explored further in Section 3.5 Context of abuse.

[2] Care and Support statutory guidance 2016.

## 3.5 Context of Abuse

### 3.5.1. **Exploitation**

The West Midlands (Metropolitan) Area Definition for Exploitation is:

An individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child, young person or adult and exploits them:

a) through violence or the threat of violence, and/or

b) for financial or other advantage of the perpetrator or facilitator and/or

c) in exchange for something the victim needs or wants.

The victim may have been exploited even if the activity appears consensual and exploitation does not always involve physical contact; it can also occur through the use of technology.

Exploitation happens to adults as well as children and it is vitally important that strategies that consider how the risk of exploitation will be managed for adults as well as children are put in place. Perpetrators of exploitation can be skilled and determined at identifying and exploiting vulnerability, and it is the vulnerability of victims that is the commonality.

The dynamics of exploitation are often complex and blurred. Perpetrators of exploitation may be victims themselves either currently or in the past, or may be coerced, threatened or groomed into exploiting others. When someone is exploited, they may be forced to take part in activities that may make it harder to recognise that they are a victim. It's important to remember that anyone is a victim if they are involved in a situation which limits their freedom and ability to make decisions about their own actions.

Exploitation includes a combination of:

**Pull factors**: performing tasks for others resulting in them gaining accommodation, food, gifts, status or a sense of safety and belonging, love or being wanted; money or drugs; often the hook is through the perpetrator supplying drugs, alcohol, access to somewhere to "party" to the person.

**Push factors**: Individuals escaping from situations where their needs are neglected and there is exposure to unsafe individuals, where there is high family conflict or the absence of support.

**Control**: Coercion, grooming, manipulation, violence and threats of violence by those exploiting the individual particularly when they are identified by the police, they are expected (by the abuser) to take full responsibility for the offences for which they are charged – i.e., possession and supply of Class A Drugs.

Exploitation does not stop on a person's 18th birthday, and if a child is experiencing exploitation, and is seen as a victim at the age of 17 then all agencies need to recognise that in all likelihood this young person will continue to be a victim and will continue to require support after their 18th birthday.

This was particularly evident in a Safeguarding Adults Review (SAR) which was commissioned by Solihull Safeguarding Adults Board in May 2017 following the death of Rachel who was 20 years old. Rachel had previously been a victim of sexual abuse and had a history of mental health difficulties and self-harming behaviours. She was also a victim of sexual exploitation and trafficking from the age of 17 onwards. The recommendations from the SAR were a key driver for Solihull to develop policy, procedure and guidance for children and adults at risk of or experiencing exploitation. Link to Rachel SAR overview report

3.5.2. **Sexual exploitation**

Sexual exploitation is a form of sexual abuse that involves someone taking advantage of a person, sexually, for their own benefit, through threats, bribes, and violence. Anybody can be a victim of sexual exploitation. While it mainly affects women, men can also be victims.

Sexual exploitation can happen through:

- individuals being forced into sexual activity for financial gain of the perpetrator or for something the adult being exploited needs or wants, e.g. accommodation or drugs,
- individuals being made to work off drug debts through sexual exploitation as "payment" (this might be after an individual has been coerced into becoming dependent on drugs),
- individuals being groomed into what they believe is a romantic relationship with a perpetrator which was actually a perpetrator grooming the individual leading to exploitation.

3.5.3. **Criminal exploitation**

Criminal exploitation is a form of modern slavery that sees victims being forced to work under the control of highly organised criminals in activities such as forced begging, shoplifting and pickpocketing, cannabis cultivation, drug dealing and financial exploitation.

This type of exploitation can be particularly prevalent in the homeless sector, often amongst young men. Traffickers are known to exploit individuals by approaching them in homeless shelters, food banks and soup kitchens with a view to recruiting them to carry out short term work under the guise of cash in hand payment. In some cases, the recruiter may use drugs and/or alcohol as a means of control over the victim.

Traffickers also recruit potential victims from other countries into to the UK with promises of work, money and a better way of life. The reality is that they are forced into working, begging and stealing to fund the criminal gangs.

3.5.4. **County Lines**

County lines is a form of criminal exploitation where criminal gangs persuade, coerce or force individuals, either online of offline, to store drugs and money and/or transport them

to suburban areas, market towns and coastal towns. This helps the criminal gangs to distance themselves from the criminal act of physically dealing drugs and those they exploit end up taking the most risk. Some people are forced to transport drugs in ways that are invasive and harmful to their bodies and are potentially life threatening, e.g., by swallowing bags of drugs or inserting them into their vagina or rectum – a form of sexual abuse.

The 'lines' refer to mobile phones that are used to facilitate drug deals. They are usually cheap, disposable and old fashioned because they are changed frequently to avoid detection by the police. County lines gangs are highly organised criminal networks that use sophisticated, frequently evolving techniques to groom people and evade capture by the police.

3.5.5. **Cuckooing also known as Home Invasion**

This term was developed because a cuckoo will often take over another bird's nest destroying the eggs in it and lay its own eggs for the bird to look after. It means someone is trying to invade a person's home and take it over. It is what happens when a person's home is used by other people for criminal activities. These activities are usually the production, storage and/or supply of drugs or weapons and can sometimes involve holding parties & encouraging sexual activity. It can be part of a bigger, organised plan to move drugs, weapons and people around the country. This places the adult and/or families at an increased risk of eviction (if they are in social or privately rented housing) and isolation from their communities due to the anti-social activity it can create.

These are some of the most common signs to look out for. If any of these things are noticed by professionals, friends and family or neighbours it could mean that the person's home is being invaded:

- An increase in people leaving or entering the home
- An increase in cars, taxis or bikes outside
- Increase in litter outside
- Increase in antisocial behaviour
- Property falls into disrepair
- Signs of drug/ alcohol use and/or parties
- Person no longer wants family or friends to visit them at home
- Person becomes withdrawn
- Person has items that they may not usually be able to afford

3.5.6 **Modern Slavery**

The Care and Support Statutory guidance defines modern slavery as encompassing:

- Slavery
- human trafficking
- forced labour and domestic servitude.
- traffickers and slave masters using whatever means they have at their disposal to coerce, deceive, and force individuals into a life of abuse, servitude, and inhumane treatment

There is an assumption that victims of modern slavery are often trafficked to the UK from other countries, but residents of the UK are also among the victims that are exploited in the UK and other countries.

Victims may struggle to leave their situation because of threats, punishment, violence, coercion and deception, and some may believe that they are not in a situation of exploitation.

Modern slavery crimes are punishable under The Modern Slavery Act (2015).

The National Referral Mechanism (NRM) is a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support. There is separate guidance for children and adults including what action to take if an adult does not give their consent to be referred to the NRM. There is government guidance on reporting modern slavery as a first responder. This guidance covers the duty to refer to the NRM where the adult consents or lacks the mental capacity to consent, and the duty to notify where the adult refuses consent to a referral and has mental capacity to refuse.

Once a referral to the NRM has been completed by a First Responder and submitted, the NRM team has a target date of 5 working days from receipt of referral in which to decide whether there are reasonable grounds to believe the individual is a potential victim of human trafficking or modern slavery. This may involve seeking additional information from the first responder or from specialist NGOs or social services. The threshold at Reasonable Grounds stage for the trained decision makers is “from the information available so far I believe but cannot prove” that the individual is a potential victim of trafficking or modern slavery.

If the decision is affirmative, then the potential victim will be:

- allocated a place within Government funded safe house accommodation, if required
- granted a reflection and recovery period of 45 calendar days. This allows the victim to begin to recover from their ordeal and to reflect on what they want to do next, for example, co-operate with police as required, return home etc.

3.5.7 **Contextual Safeguarding**

When it comes to identifying safeguarding risks and early intervention, a lot of focus is put on the individual themselves, the family members they have direct and frequent contact with, and their physical and mental health. However, many other risks pose a threat to an adult’s safety that come from their wider environment, which are equally important to consider when identifying safeguarding concerns.

Contextual safeguarding is an approach that takes this into account and offers up a framework for understanding the wider factors and scenarios that could put someone at risk. It was first developed by Dr Carlene Firmin at the University of Bedfordshire as a framework for understanding the influences that young people specifically are exposed to in adolescence and how these might lead to safeguarding concerns. It acknowledges

that extra-familial relationships can be just as harmful as those a person has with their family and that these relationships need to be considered when assessing whether someone could be harmed.

The most important thing to consider when working in a contextual safeguarding way is the area that you are working in and the location that the person lives in. The approach works by considering the risks that are going to be present outside of a person's immediate home environment, so you should identify the other places they are likely to spend time, the people they may interact with there and the impact this might have.

The contextual safeguarding framework identifies key dynamics that should be considered when understanding where threats or risks may come from:

- Home/family
- Peer group
- Education/employment
- Neighbourhood/community
- Online

3.5.8. **Transitional Safeguarding**

Transitional safeguarding complements contextual safeguarding and describes the need for an approach to safeguarding young people and adults across developmental stages building on the best available evidence. It focuses on safeguarding young people, from adolescence into adulthood, recognising this period of transition will be experienced differently by young people at different times.

Working this way includes seeking to prevent harm for these young people, protecting them where harm is occurring and also recognising and responding in ways that can help them recover from the impact of harm. As such it is a multi-agency issue, dependent on collaboration and connection between services and with communities.

Bridging the Gap:Transitional Safeguarding and the role of social work with adults-Knowledge briefing (2021) has more information on what transitional safeguarding is, why it is needed and how to develop a more transitional approach to safeguarding young people into adulthood. It focuses particularly on sexual and criminal exploitation.

3.5.9. **Tackling exploitation**

An understanding of the impact of exploitation requires unpicking common misconceptions around a victim's ability to protect themselves from abuse and recognising the need for long-term support for victims of exploitation. Work in this area has also shaped the need for a tenacious approach to working with individuals, recognising factors which may mean that it is difficult for professionals to engage a victim or that their level of engagement may fluctuate. Professionals will need to be persistent in their attempts to build up trusting relationships over time and be prepared to work through periods of non-engagement.

Disruption of perpetrators is vital and should always be considered as it is their actions, not the actions of the victim, which poses the risk. When considering disruption of perpetrators, any potential safeguarding issues which may arise out of the disruption tactic must be eradicated or reduced to a minimum. The welfare of victims is always the absolute priority. Exploitation can be very difficult to safeguard people from: it can include extreme violence or risk to life for the victims and/or their families. All risks to victims and 3rd parties must be considered and mitigated against prior to any disruption option being employed (Criminal, Civil and partnership disruption options for perpetrators of child and adult victims of exploitation prevention, NWG 2019).

The West Midlands region has produced an exploitation toolkit- link HERE. The aim of the toolkit is to provide guidance and tools to help practice approaches when working with adults at risk of exploitation.

3.5.10. **Prevent**

With effect from 1st July 2015, the Counter Terrorism & Security Act gives specified authorities a legal duty to have "due regard to the need to prevent people from being drawn into terrorism". This is the **Prevent Duty**.

The Act requires specified authorities to:

- Work in partnership to share risk and coordinate activity
- Incorporate the duty into existing policies so it becomes part of day-to-day work
- Develop an action plan to address identified risks
- Train frontline staff
- Make appropriate referrals to safeguard people from extremism
- Ensure that resources are not used to promote extremism
- Incorporate other agencies working with children (e.g. school clubs and groups, supplementary schools) into local authority safeguarding arrangements

The specified authorities defined in the Act are:

- Local Authorities
- Schools & Early Years
- Higher Education
- Further Education
- The Health Sector
- Prisons & Probation
- Police

In all West Midlands specified authorities there will be a Prevent lead who has responsibility of delivering the Prevent Duty for their organisation. Some areas are of a higher risk to terrorism and these local authorities will be funded by the Home Office to have a dedicated Prevent team who coordinate Prevent activity across the area. This will include a Strategic Prevent Coordinator and a Prevent Education Officer, and possibly other support officers. Each local authority works in partnership through a Prevent Delivery Group board, which is made up of partners from the above specified authorities. The group works to deliver the actions from their areas local Counter Terrorism Local Profile (CTLP), which is produced by the Counter Terrorism Unit of West

Midlands Police. The CTLP considerations join a wider strategic plan which is also influenced by achieving Home Office benchmarks and an action plan.

Prevent usually sits within wider the Community Safety team but this can differ depending on the area. It can be governed through overarching partnership boards as well as local children's and adults safeguarding board processes.

Some risks factors that somebody could be vulnerable to radicalisation can be found below. Please note this list is not exhaustive. Also, one factor may not make someone vulnerable, but a few may, based on your personal knowledge of the individual.

| **Risk Factors/underlying issues** | **Counter Terrorism/Extremism Vulnerability factors** |
|---|---|
| • Mental Health difficulties / learning difficulties<br>• Elective Home Education (EHE)<br>• Unsupervised / secretive access to internet<br>• Issues in the home / family issues / Domestic Violence/Abuse<br>• Social isolation<br>• Lacking a stable life<br>• Misplaced theological / religious understanding<br>• Grievances or sense of injustice<br>• Lack of belonging / self-identity<br>• Low self esteem<br>• Easily controlled or controlling of others<br>• Express hatred to others from different groups<br>• Lack of trust in authorities / anti-authority<br>• Alcohol and / or drug issues<br>• Not in education / unemployed<br>(Although many susceptible individuals are in school or Higher Education/Further Education also) | • Family/associates linked to extremism<br>• Attend vulnerable locations permissive to extremist ideology<br>• Express support for extremist ideology or extremist groups (including proscribed terrorist groups i.e. (not limited to) ISIS/IS or Right-Wing groups<br>• Attended extremist protests or gatherings<br>• Viewing extremist material online<br>• Access to extremist literature<br>• Express desire to travel to/return from theatres of war/conflict zones, i.e. (but not limited to) parts of Iraq, Syria, Yemen, Afghanistan, Pakistan, Russia and Ukraine<br>• Parts of Africa with rebel militant AQ/IS affiliated networks i.e. (not limited to) Somalia/Libya/Nigeria/Mozambique<br>• Concerning contact with others in vulnerable countries<br>(see FCO travel advice website for up to date guidance www.gov.uk/foreigntravel-advice) |

### 3.5.11. **Working with trauma**

Trauma results from an event, series of events, or set of circumstances that is experienced by an individual as harmful or life threatening. While unique to the individual, generally the experience of trauma can cause lasting adverse effects, limiting the ability to function and achieve mental, physical, social, emotional or spiritual well-being.

Trauma can be caused by many different situations and experiences, and at any stage in a person's life; including adverse childhood experiences, experiencing abuse, neglect or exploitation, and loss and bereavement.

The Government has developed a working definition of trauma-informed practice – HERE – that has some key practice messages for anyone who works with adults with needs for care and support.

- **Realise that trauma can affect individuals, groups and communities**

Trauma-informed practice is an approach to health and care interventions which is grounded in the understanding that trauma exposure can impact an individual's neurological, biological, psychological and social development.

- **Recognise the signs, symptoms and widespread impact of trauma.**

Trauma-informed practice aims to increase practitioners' awareness of how trauma can negatively impact on individuals and communities, and their ability to feel safe or develop trusting relationships with health and care services and their staff.

It aims to improve the accessibility and quality of services by creating culturally sensitive, safe services that people trust and want to use. It seeks to prepare practitioners to work in collaboration and partnership with people and empower them to make choices about their health and wellbeing.

Trauma-informed practice acknowledges the need to see beyond an individual's presenting behaviours and to ask, 'What does this person need?' rather than 'What is wrong with this person?'.

- **Prevent re-traumatisation**

It seeks to avoid re-traumatisation which is the re-experiencing of thoughts, feelings or sensations experienced at the time of a traumatic event or circumstance in a person's past. Re-traumatisation is generally triggered by reminders of previous trauma which may or may not be potentially traumatic in themselves.

The purpose of trauma-informed practice is not to treat trauma-related difficulties, which is the role of trauma-specialist services and practitioners. Instead, it seeks to address the barriers that people affected by trauma can experience when accessing health and care services.

### 3.6. Types of abuse

Whilst it is acknowledged that abuse or neglect can take different forms, the Care Act guidance identifies the following types of abuse or neglect:

- Physical abuse;
- Domestic abuse;
- Sexual abuse;
- Psychological abuse;
- Financial or material abuse;
- Discriminatory abuse;
- Organisational abuse;
- Neglect and acts of omission;
- Self-neglect;
- Modern slavery.

#### 3.6.1. **Physical abuse.**

Physical abuse includes assault, hitting, slapping, pushing, kicking, misuse of medication, being locked in a room, inappropriate sanctions or force-feeding, inappropriate methods of restraint, and unlawfully depriving a person of their liberty.

***Possible indicators***

- Unexplained or inappropriately explained injuries;
- Adult exhibiting untypical self-harm;
- Unexplained cuts or scratches to mouth, lips, gums, eyes or external genitalia;
- Unexplained bruising to the face, torso, arms, back, buttocks, thighs, in various stages of healing. Collections of bruises that form regular patterns which correspond to the shape of an object or which appear on several areas of the body;
- Unexplained burns on unlikely areas of the body (e.g. soles of the feet, palms of the hands, back), immersion burns (from scalding in hot water/liquid), rope burns, burns from an electrical appliance;
- Unexplained or inappropriately explained fractures at various stages of healing to any part of the body;
- Medical problems that go unattended;
- Sudden and unexplained urinary and/or faecal incontinence. Evidence of over/under-medication;
- Adult flinches at physical contact;
- Adult appears frightened or subdued in the presence of particular people;
- Adult asks not to be hurt;
- Adult may repeat what the person causing harm has said (e.g. ‘Shut up or I’ll hit you’);
- Reluctance to undress or uncover parts of the body;
- Person wears clothes that cover all parts of their body or specific parts of their body;
- An adult without capacity not being allowed to go out of a care home when they ask to;
- An adult without capacity not being allowed to be discharged at the request of an unpaid carer/family member.

3.6.2. **Domestic abuse.**

The definition of domestic abuse is defined in the Domestic Abuse Act 2021 as:

The "Behaviour of a person ("A") towards another person ("B") is "domestic abuse" if-

(a) **A and B** are each aged 16 or over and **are *personally connected*** to each other (see below for meaning of "personally connected"), and

(b) **the behaviour is abusive**.

Behaviour is "abusive" if it consists of any of the following—

- physical or sexual abuse;
- violent or threatening behaviour;
- controlling or coercive behaviour;
- economic abuse*;
- psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

* "Economic abuse" means any behaviour that has a substantial adverse effect on B's ability to-
  (a) acquire, use or maintain money or other property, or
  (b) obtain goods or services".

**Definition of "personally connected"**.

Two people are "personally connected" to each other if any of the following applies-

- they are, or have been, married to each other;
- they are, or have been, civil partners of each other;
- they have agreed to marry one another (whether or not the agreement has been terminated);
- they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
- they are, or have been, in an intimate personal relationship with each other;
- they each have, or there has been a time when they each have had, a parental relationship* in relation to the same child.
- they are relatives.

* A person has a parental relationship in relation to a child if-
- the person is a parent of the child, or
- the person has parental responsibility for the child.

In this section-
- "child" means a person under the age of 18 years;
- "civil partnership agreement" has the meaning given by section 73 of the Civil Partnership Act 2004;
- "parental responsibility" has the same meaning as in the Children Act 1989 (see section 3 of that Act);
- "relative" has the meaning given by section 63(1) of the Family Law Act 1996.

Many people think that domestic abuse is about intimate partners, but it is clear that other family members are included and that much safeguarding work that occurs at home is, in fact, concerned with domestic abuse.

**Children as victims of domestic abuse**
This section applies where behaviour of a person ("A") towards another person ("B") is domestic abuse.

Any reference in this Act to a victim of domestic abuse includes a reference to a child who—

(a) sees or hears, or experiences the effects of, the abuse, and
(b) is related to A or B.

(3) A child is related to a person for the purposes of subsection (2) if—
(a) the person is a parent of, or has parental responsibility for, the child, or
(b) the child and the person are relatives.
(4) In this section—

- "child" means a person under the age of 18 years;
- "parental responsibility" has the same meaning as in the Children Act 1989 (see section 3 of that Act);
- "relative" has the meaning given by section 63(1) of the Family Law Act 1996.

**Definition of coercive controlling behaviour**
Coercive control is an act or a *pattern* of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

This controlling behaviour is designed to make a person dependent by isolating them from support, exploiting them, depriving them of independence and regulating their everyday behaviour, coercive control underpins all forms of domestic abuse, and can be a factor in other types of exploitation and abuse *(Home Office 2020).*

A pattern of coercive and controlling behaviour can be well established before a single incident is reported. In many cases the conduct might seem innocent – especially if considered in isolation of other incidents – and the victim may not be aware of, or be ready to acknowledge, abusive behaviour.

Section 76 Serious Crime Act 2015 (SCA 2015) created the offence of controlling or coercive behaviour in an intimate or family relationship (CCB). It can be tried summarily or on indictment and has a maximum penalty of **five years' imprisonment**.

Section 76 SCA 2015 provides that an offence is committed by a suspect ("A") against a victim ("B") if:

- A repeatedly or continuously engages in behaviour towards another person, B, that is controlling or coercive,
- at the time of the behaviour, A and B are personally connected,
- the behaviour has a serious effect on B, and
- A knows or ought to know that the behaviour will have a serious effect on B. *(cps.gov 2023)*

**Gas Lighting & Psychological abuse**
Gaslighting is a form of emotional abuse, which involves psychologically manipulating someone to make them doubt their own sanity. Gaslighting is a strategy often used by abusers because it is so effective. It increases the abuser's power and control over the victim as it makes them doubt their mind and lose confidence, thereby making them more dependent on the abuser and less likely to leave the abusive relationship.

Essentially gaslighting is an aspect of coercive controlling behaviour. It increases the isolation and vulnerability of the victim, thereby increasing the abusers control. It aims to destroy the victim's sense of self, as they lose the ability to think clearly or trust her perceptions and instincts.

Psychological abuse involves trauma to the victim caused by verbal abuse, acts, threats of acts, or coercive tactics

Perpetrators use psychological abuse to control, terrorise, and denigrate their victims. It frequently occurs prior to or concurrently with physical or sexual abuse.

**Predatory Marriage**

Predatory Marriage is the practice of intentionally targeting and marrying a vulnerable (often older) person to persuade them to marry for financial, material or other gain. It is often done in order to gain access to the person's estate and assets upon their death. Legally in the UK a marriage revokes any former Will made, and the newly married predatory spouse will benefit from the person's estate and assets on their death.

There will likely be aspects of coercion and control within a predatory marriage relationship, and aspects and behaviours such as-

- Grooming: Predators may identify a vulnerable target and spend time "grooming" them to persuade them that they hold them in high esteem and to make them feel valued and loved.

- Isolation: Predators may spend time creating physical/emotional divisions between the individual and their friends and family.

- Harassment: Predators may stimulate or create conflict and division within families & friend groups.

**Forced Marriage**

A forced marriage is where one or both people do not (or in cases of people with learning disabilities or reduced capacity), cannot consent to the marriage as they are pressurised, or abuse is used, to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights.

The pressure put on people to marry against their will may be:

- physical: for example, threats, physical violence or sexual violence
- emotional and psychological: for example, making someone feel like they are bringing 'shame' on their family
- financial abuse, for example taking someone's wages, may also be a factor.

Adults with care and support needs may be particularly vulnerable if they are reliant on their families for care – they may have communication difficulties, they may have fewer opportunities to tell anyone outside the family about what is happening to them, or they may not recognise the marriage as forced.

The Marriage and Civil Partnership (Minimum Age) Act 2022 implemented in 2023 increased the legal age to marry in the UK to 18 years, and means that 16 and 17 year olds will no longer be allowed to marry or enter a civil partnership, even if they have parental consent.

In a situation where there is concern that an adult with care and support needs is being forced into a marriage they do not or cannot consent to, there needs to be adherence to the government *Multi-agency statutory guidance for dealing with cases of forced marriage* – link HERE- alongside existing adult safeguarding processes.

**Honour-based violence** is a crime, and referring to the police must always be considered. It has or may have been committed when families feel that dishonour has been brought to them. 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. Many of these victims will contact the police or other organisations. However, many others are so isolated and controlled that they are unable to seek help.

Adult safeguarding concerns that may indicate honour-based violence include domestic violence, concerns about forced marriage, enforced house arrest and missing person's reports. If an adult safeguarding concern is raised, and there is a suspicion that the adult is the victim of honour-based violence, referring to the police must always be considered as they have the necessary expertise to manage the risk.

**Female genital mutilation (FGM)** involves procedures that intentionally alter or injure female genital organs for non-medical reasons. The procedure has no health benefits for girls and women. The Female Genital Mutilation Act (FGMA) was introduced in 2003 and came into effect in March 2004. The Act makes it illegal to practise FGM in the UK or to take girls who are British nationals or permanent residents of the UK abroad for FGM whether or not it is lawful in another country. It also makes it illegal to aid, abet, counsel or procure the carrying out of FGM abroad.

## Good Practice Guide – Using the DASH with adults with needs for care and support.

**What is the DASH?**

The Domestic Abuse, Stalking & Harassment Risk Indicator Checklist (DASH RIC) is a risk assessment tool developed by SafeLives designed to help identify adult victims of domestic abuse who are at high risk of harm and whose cases should be referred to a local level Domestic Abuse Multi-Agency Risk Assessment Conference meeting (MARAC) to manage their risk.

Link to SafeLives DASH RIC HERE

Your local MARAC process will set its own thresholds for referral, but this usually includes any adult who is assessed at high risk of harm through the DASH RIC process - indicated by a score of 14 or above - and will usually include the ability for referrals based on professional judgement even when the DASH score is lower than 14.

**Using the DASH with adults with needs for care and support.**

When used with adults with needs for care and support (and particularly where there are no children in the household), the DASH score may well come out as medium or low. However, there is a section in the DASH where the vulnerability of the individual and risks associated with their needs for care and support can be considered and described-

| | |
|---|---|
| **Is there any other relevant information (from victim or professional) which may increase risk levels? Consider victim's situation in relation to disability, substance misuse, mental health issues, cultural / language barriers, 'honour'- based systems, geographic isolation and minimisation.<br>Are they willing to engage with your service? Describe.** | |

Practitioners working with adults with needs for care and support should consider such factors as-

If the source of risk is a family or informal carer:

- If the adult is reliant on the source of risk for personal care this represents a significant point of vulnerability/ point of intimidation
- Is there a claim that food or drink is being withheld or otherwise manipulated?
- Is there suspicion that weight loss may be due to food being withheld?
- Is medication administration controlled by source of risk and is there a concern it is not being administered correctly; used to overdose, etc
- The adult is dependent on the source of risk at key times and there are comments (e.g. adult is a burden) or intimidation at these points (e.g. when the adult needs any aspect of support outside of the planned home care calls)
- The source of risk can control or mediate contact with professionals and there can be situations where care calls have been cancelled/ care staff turned away/ health appointments not attended or cancelled
- Where the adult funds their own care and a support plan is reduced/ cancelled by the source of risk amid claims that it is not needed/ too expensive/ care staff never turn up on time/ care staff do nothing
- There are concerns that the source of risk is not acknowledging the increased care needs of the adult and this is aggravating the situation by making them angrier/short tempered
- The source of risk is mocking the adult since the adult has periods of confusion/ incontinence/ general reliance on the family carer

For some adults there may have been a history of domestic abuse before they developed needs for care and support. It could be that the adult previously found ways to manage the abuse. The abuse may have been intermittent. As the adult develops care and support needs this has the dual aspect – the adult's previous strategies to manage domestic abuse events may now be no longer an option; at the same time the

appearance of care and support needs in their partner may trigger the source of risk to initiate new domestic abuse events as they seek to re-establish control.

Increased vulnerability of the adult could include:

- The increased frailty/ reduction in mobility of the adult means that they are no longer able to protect themselves (even by moving into a different room)
- The adult's social network of support has now reduced through bereavement and /or siblings/friends are equally frail and unable to support
- The dependence of the adult on the source of risk is such that there is an oppressive atmosphere in the household - they are not able to make meaningful choices relating to staying or leaving
- Due to the level of dependency and the cared for/carer relationship there is little or no access to the adult.
- Where finances have been entwined for so long the adult cannot envisage how they can be financially independent and this stifles their sense of alternative options
- The adult has a level of confusion which means they may not be able to reliably report abusive events
- The adult may increase substance use due to domestic abuse which could increase vulnerability and limit their ability to make informed choices
- The adult has mental health issues that inhibit their ability to sense they have choices and their ability to initiate actions.

*Content taken from Herefordshire Council "Considerations for the DASH when used in Adult Social Care".*

3.6.3. **Sexual abuse.**

Sexual abuse including rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.

It includes penetration of any sort, incest and situations where the person causing harm touches the abused person's body (e.g. breasts, buttocks, genital area), exposes his or her genitals (possibly encouraging the abused person to touch them) or coerces the abused person into participating in or looking at pornographic videos or photographs. Denial of a sexual life to consenting adults is also considered abusive practice.

***Possible indicators***

- Adult has urinary tract infections, vaginal infections or sexually transmitted diseases that are not otherwise explained;
- Adult appears unusually subdued, withdrawn or has poor concentration;
- Adult exhibits significant changes in sexual behaviour or outlook;
- Adult experiences pain, itching or bleeding in the genital/anal area;
- Adult's underclothing is torn, stained or bloody;
- A woman who lacks the mental capacity to consent to sexual intercourse becomes pregnant;
- Sexual exploitation.

**Intimate and sexual relationships with people in a position of trust.**
Any sexual relationship that develops between adults where one is in a position of trust, power or authority in relation to the other (e.g. care worker/health worker/social worker/Police officer etc.) may also constitute sexual abuse. People in a position of trust may misuse their position in order to pursue a sexual or improper emotional relationship with an adult with needs for care and support. This behaviour can include: committing a sexual act, initiating sexual contact with, or responding to any perceived sexually motivated behaviour from another person; entering into any communication that could be perceived as sexually motivated or lewd; or for any other sexual purpose.

Intimate relationships that are initiated between a worker in a position of trust, power or authority in relation to an adult with needs for care and support will usually trigger an enquiry under this procedure, and in certain circumstances, can be a criminal offence. Sections 38-44 of the Sexual Offences Act 2003 outline a number of sexual offences that apply to health and social care workers in certain circumstances where the care worker has engaged in sexual activity with, or in the presence of, an adult with a mental disorder, incited sexual activity or caused the adult to watch sexual activity. See also Section 4.12 Position of Trust.

3.6.4. **Psychological abuse.**

Psychological abuse includes 'emotional abuse' and takes the form of threats of harm or abandonment, deprivation of contact, humiliation, rejection, blaming, controlling, intimidation, coercion, indifference, harassment, verbal abuse (including shouting or swearing), cyber bullying, isolation or withdrawal from services or support networks.

Psychological abuse is the denial of a person's human and civil rights including choice and opinion, privacy and dignity and being able to follow one's own spiritual and cultural beliefs or sexual orientation.

It includes preventing the adult from using services that would otherwise support them and enhance their lives. It also includes the intentional and/or unintentional withholding of information (e.g. information not being available in different formats/languages etc.).

***Possible indicators***

- Untypical ambivalence, deference, passivity, resignation;
- Adult appears anxious or withdrawn, especially in the presence of the alleged abuser;
- Adult exhibits low self-esteem;
- Untypical changes in behaviour (e.g. continence problems, sleep disturbance);
- Adult is not allowed visitors/phone calls;
- Adult is locked in a room/in their home;
- Adult is denied access to aids or equipment, (e.g. glasses, dentures, hearing aid, crutches, etc.);
- Adult's access to personal hygiene and toilet is restricted;
- Adult's movement is restricted by use of furniture or other equipment;
- Bullying via social networking internet sites and persistent texting.

3.6.5. **Financial or material abuse.**

This includes theft, fraud, internet scamming, coercion in relation to an adult's financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.

***Possible indicators***

- Lack of heating, clothing or food;
- Inability to pay bills/unexplained shortage of money;
- Lack of money, especially after benefit day;
- Inadequately explained withdrawals from accounts;
- Unexplained loss/misplacement of financial documents;
- The recent addition of authorised signatories on an adult's accounts or cards
- Disparity between assets/income and living conditions;
- Power of attorney obtained when the adult lacks the capacity to make this decision;
- Recent changes of deeds/title of house or will;
- Recent acquaintances expressing sudden or disproportionate interest in the adult and their money;
- Adult not in control of their direct payment or individualised budget;
- Mis-selling/selling by door-to-door traders/cold calling;
- Illegal money-lending.

**Scams** – Financial scams come in many forms; uninvited contact is received by email, letter, and telephone or in person making false promises to con victims out of money.

There are many of these sorts of scams but some of the most common are fake lotteries, deceptive prize draws or sweep stakes, clairvoyants, computer scams, and romance scams. The criminals attempt to trick people with flashy, official looking documents or websites, or convincing telephone sales patter, with the aim of persuading them to send a processing or administration fee, pay postal or insurance costs, buy an overvalued product or make a premium rate phone call.

Doorstep Scams are crimes carried out by bogus callers, rogue traders and unscrupulous sales people who call, often uninvited, at people's home under the guise of legitimate business or trade[3].

3.6.6. **Discriminatory abuse.**

Discriminatory abuse refers to forms of abuse motivated by prejudice or bias, including but not limited to, those who have protected characteristics. It can be a feature of any other form of abuse (e.g., neglect arising from ageist attitudes or financial abuse due to homophobic views) but may not be recognised as abuse in its own right because it appears alongside other abuse types (Discriminatory abuse briefing for practitioners, Local Government Association 2022).

Broader societal issues also make discriminatory abuse more likely, due to widening societal inequalities – for example inadequate housing or experiences of poverty.
Discriminatory abuse also links with hate crime and mate crime.

A **hate crime** is any criminal offence that is motivated by hostility or prejudice based upon parts of a person's identity *or perceived identity* in relation to disability, race, religion, sexual orientation, or transgender identity. Anyone can be affected by hate crime, and it can occur anywhere including online. It can feel particularly personal as someone has been targeted because of who they are or who they are perceived to be.

[3] Friends against scams – www.friendsagainstscams.org.uk

These crimes are covered by legislation (Crime and Disorder Act 1998 and section 66 of the Sentencing Act 2020) which allows prosecutors to apply for an uplift in sentence for those convicted of a hate crime.

**Mate crime** happens when someone befriends another person, then goes on to abuse or exploit that relationship. This may involve but is not limited to, financial, physical, sexual or emotional abuse. Mate crimes are likely to happen in private, often in the person's own accommodation but also online. They often occur within long-term relationships, which may appear to be real friendships to observers and to the person being abused.

People with learning disabilities may be situationally vulnerable to mate crimes. They may be living very isolated lives, but – like everyone – need friends. This need is easily exploited. In addition, many people with learning disabilities haven't had the usual opportunities to become 'streetwise' when growing up. Incidents can therefore be more likely to take place when they are in the community, on public transport or using services without support.

3.6.7. **Organisational abuse.**

Including neglect and poor care practice within an institution or specific care setting such as a hospital or care home, or where care is provided within their 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.

Organisational abuse is the mistreatment, abuse or neglect of an adult by a regime or individuals in a setting or service where the adult lives or that they use. Such abuse violates the person's dignity and represents a lack of respect for their human rights.

Organisational abuse occurs when the routines, systems and regimes of an institution result in poor or inadequate standards of care and poor practice which affect the whole setting and deny, restrict or curtail the dignity, privacy, choice, independence or fulfilment of adults with care and support needs

Organisational abuse can occur in any setting providing health or social care. Several inquiries into care in residential settings have highlighted that organisational abuse is most likely to occur when staff:

- receive little support from management;
- are inadequately trained;
- are poorly supervised and poorly supported in their work;
- receive inadequate guidance;

or where there is:

- Unnecessary or inappropriate rules and regulations;
- Lack of stimulation or the development of individual interests;
- Inappropriate staff behaviour, such as the development of factions, misuse of drugs or alcohol, failure to respond to leadership;
- Restriction of external contacts or opportunities to socialise.

3.6.8. **Neglect and acts of omission.**

These include ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, social care or educational services, and the withholding of the necessities of life such as medication, adequate nutrition and heating. Neglect also includes a failure to intervene in situations that are dangerous to the person concerned or to others, particularly when the person lacks the mental capacity to assess risk for themselves.

Neglect and poor professional practice may take the form of isolated incidents or pervasive ill treatment and gross misconduct. Neglect of this type may happen within a adult's own home or in an institution. Repeated instances of poor care may be an indication of more serious problems. Neglect can be intentional or unintentional.

***Possible indicators***

- Adult has inadequate heating and/or lighting;
- Adult's physical condition/appearance is poor (e.g. ulcers, pressure sores, soiled or wet clothing);
- Adult is malnourished, has sudden or continuous weight loss and/or is dehydrated;
- Adult cannot access appropriate medication or medical care;
- Adult is not afforded appropriate privacy or dignity;
- Adult and/or a carer has inconsistent or reluctant contact with health and social services;
- Callers/visitors are refused access to the person;
- Person is exposed to unacceptable risk.

3.6.9. **Self-neglect.**

Self-neglect covers a wide range of behaviour, neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding. Self-neglect it is also defined as the inability (intentional or non-intentional) to maintain a socially and culturally accepted standard of self-care with the potential for serious consequences to the health and well-being of the individual and sometimes to their community.

***Indicators of self-neglect may be****:*

- living in very unclean, sometimes verminous, circumstances;
- poor self-care leading to a decline in personal hygiene;
- poor nutrition;
- poor healing/sores;
- poorly maintained clothing;
- long toenails;
- isolation;
- failure to take medication or treat illness/injury;
- keeping a large number of pets in inappropriate conditions;
- neglecting household maintenance.

3.6.10. **Modern slavery**

This is covered in section 3.5.6 above.

# 4. Related issues and supporting processes.

## 4.1. Introduction.

This section covers key issues and other processes which may need to be considered when working to safeguard adults with needs for care and support.

## 4.2 Capacity & consent.

### 4.2.1. Mental capacity.

The presumption in the Mental Capacity Act 2005 is that adults have the mental capacity to make informed choices about their own safety and how they live their lives. Issues of mental capacity and the ability to give informed consent are central to decisions and actions in adult safeguarding. 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. This includes their ability:

- to understand the implications of their situation and to take action themselves to prevent abuse.
- to participate to the fullest extent possible in decision-making about interventions.

The MCA 2005 provides a statutory framework to empower and protect people who may lack 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 in the adult safeguarding process must comply with the Act.

The Mental Capacity Act (MCA) states that if a person lacks mental capacity to make a particular decision then whoever is making that decision or taking any action on that person's behalf must do this in the person's best interests.

The person who has to make the decision is known as the 'decision-maker', and depending on the decision to be made, this may be a carer responsible for the day to day care (including both care staff, relatives or friends), or a professional such as a doctor, nurse or social worker where decisions about treatment, care arrangements or accommodation have to be made.

The impact of controlling and coercive behaviours, and application of undue influence, is a factor that needs active consideration for those with or without capacity. Early consultation with legal advisors is recommended in high risk situations where this is indicated.

**Executive capacity and executive function[4]**

Executive functioning has been described as "the ability to think, act, and solve problems, including the functions of the brain which help us learn new information, remember and retrieve the information we've learned in the past**,** and use this information to solve problems of everyday life."[5]

It relates to the ability to put into practice knowledge and information about a decision in the moment or at the time that a decision or action is required. It is a clinical term and relates to a set of cognitive skills pertaining to working memory, planning, attention focus,

[4] Content abridged from *Thematic Review of South West Safeguarding Adult Reviews (SAR): Mental Capacity* ADASS South West, January 2024.
[5] *A Local Authority v AW* **[2020] EWCOP 24**

remembering instructions, self-control and juggling multiple tasks. These issues sometimes come to the fore in relation to mental capacity assessments when there is a disconnect between rational verbal answers the adult may give when talking about risk situations and what decisions they would make to stay safe, and in the moment functioning. For example, an individual may be able to verbally detail the risks of a decision and that they would make a 'wise' decision but when in the moment, they take an alternative risky decision, or are unable to enact the decision they previously said they would make.

When working within the Mental Capacity Act, we need to be mindful of the third principle and not treating the individual as lacking mental capacity because they have made an unwise decision/s, but repeated unwise decisions within a context of verbal reports to the contrary may be an indication of difficulties with executive function. In an assessment this would typically be considered as part of the 'sufficiently weigh up and use information to make a decision' assessment criteria.

The terms executive functioning and executive capacity are not referenced in the Mental Capacity Act or the MCA Code of Practice, but there is recognition of these concepts in case law.

4.2.2. **Consent.**

It is essential in adult safeguarding work to consider whether the adult can give informed consent in all aspects of their life. If they are able, their consent should be sought. This may be in relation to whether they give consent to:

- An activity that may be abusive – if consent to abuse or neglect was given under duress (e.g. as a result of exploitation, pressure, fear or intimidation), this apparent consent should be carefully explored;
- An adult safeguarding Enquiry going ahead in response to a concern that has been raised. The person must be given information and have the opportunity to consider all the risks and fully understand the likely consequences of that decision over the short and long term.
- The recommendations of an individual safeguarding plan being put in place.
- A medical examination.
- An interview.
- Certain decisions and actions taken during the adult safeguarding process with the person or with people who know about their abuse and its impact on the adult.

If, after discussion with the adult who has mental capacity, they refuse any intervention, their wishes should be respected unless:

- there is an aspect of substantial public interest (e.g. not acting will put other adults or children at risk).
- there is a duty of care on a particular agency to intervene (e.g. the police if a crime has been or may be committed).

## 4.3. Information sharing and confidentiality[6].

Sharing the right information, at the right time, with the right people, is fundamental to good practice in adult safeguarding but has been highlighted as a difficult area of practice.

[6] Content drawn from *SCIE Adult safeguarding: sharing information guide*, updated January 2019

Sharing information between organisations as part of day-to-day safeguarding practice is covered in the common law duty of confidentiality, the Data Protection Act 2018, the General Data Protection Regulation (GDPR) the Human Rights Act and the Crime and Disorder Act. The Mental Capacity Act is also relevant as all those coming into contact with adults with care and support needs should be able to assess whether someone has the mental capacity to make a decision concerning risk, safety and the sharing of their personal and confidential information.

Organisations need to share safeguarding information with the right people at the right time to:

- prevent death or serious harm;
- coordinate effective and efficient responses;
- enable early interventions to prevent the escalation of risk;
- prevent abuse and harm that may increase the need for care and support;
- maintain and improve good practice in adult safeguarding;
- reveal patterns of abuse that were previously undetected and that could identify others at risk of abuse;
- identify low-level concerns that may reveal people at risk of abuse;
- help people to access the right kind of support to reduce risk and promote wellbeing;
- help identify people who may pose a risk to others and, where possible, work to reduce offending behaviour; and
- reduce organisational risk and protect reputation.

Adults have a general right to independence, choice and self-determination including control over information about themselves. In the context of adult safeguarding these rights can be overridden in certain circumstances which may warrant the sharing of relevant information without consent, such as emergency or life-threatening situations.

The law does not prevent the sharing of sensitive, personal information **within** organisations. If the information is confidential, but there is a safeguarding concern, sharing it may be justified. In addition, the law does not prevent the sharing of sensitive, personal information **between** organisations where the public interest served outweighs the public interest served by protecting confidentiality – for example, where a serious crime may be prevented.

The Data Protection Act 2018 and the General Data Protection Regulation (GDPR) enables the lawful sharing of information.

There should be a local agreement or protocol in place setting out the processes and principles for sharing information between organisations.

An individual employee cannot give a personal assurance of confidentiality.

Frontline staff and volunteers should always report safeguarding concerns in line with their organisation's policy – this is usually to their line manager in the first instance except in emergency situations. However, it is good practice to try to gain the person's consent to share information and as long as it does not increase risk, practitioners should inform the person if they need to share their information without consent.

Organisational policies should have clear routes for escalation where a member of staff feels a manager has not responded appropriately to a safeguarding concern. All organisations **must** have a whistleblowing policy.

The management interests of an organisation should not override the need to share information to safeguard adults at risk of abuse. All staff, in all partner agencies, should understand the importance of sharing safeguarding information and the potential risks of not sharing it. All staff should understand who safeguarding applies to and how to report a concern.

The six adult safeguarding principles (Empowerment, Protection, Prevention, Proportionality, Partnership and Accountability) should underpin all safeguarding practice, including information-sharing.

**4.4. Record Keeping.**

Good record-keeping is an essential part of the accountability of organisations to those who use their services. Maintaining proper records is vital to an individual's care and safety. If records are inaccurate, future decisions may be wrong and harm may be caused to the individual. Where an allegation of abuse is made all agencies have a responsibility to keep clear and accurate records. It is fundamental to ensure that evidence is protected and to show what action has been taken and what decisions have been made and why.

It is equally important to record when actions have not been taken and why e.g. an adult with care and support needs with mental capacity may choose to make decisions professionals consider to be unwise.

Staff should be given clear direction as to what information should be recorded and in what format. The following questions are a guide:

- What information do staff need to know in order to provide a high quality response to the adult concerned?
- What information do staff need to know in order to keep adults safe under the service's duty to protect people from harm?
- What information is not necessary?
- What is the basis for any decision to share (or not) information with a third party?

**4.5. Cooperation**.

It is important within adult safeguarding for all partners to cooperate and work in a joined-up way, to eliminate the disjointed care that is a source of frustration to adults with care and support needs, other individuals, and staff, and which often results in poor care, with a negative impact on health and wellbeing.

All organisations should work together and co-operate where needed, in order to ensure the wellbeing and safety of adults with care and support needs (including carers' support).

Co-operation between partners should be a general principle for all those concerned, and all should understand the reasons why such co-operation is important. The Care Act sets out five aims of co-operation between partners which are relevant to care and support, although it should be noted that the purposes of co-operation are not limited to these matters:

- promoting the wellbeing of adults needing care and support and of carers;
- improving the quality of care and support for adults and support for carers (including the outcomes from such provision);
- smoothing the transition from children's to adults' services;

- protecting adults with care and support needs who are currently experiencing or at risk of abuse or neglect;
- identifying lessons to be learned from cases where adults with needs for care and support have experienced serious abuse or neglect.

**4.6. Risk assessment and management**.

Achieving balance between the right of the individual to control his or her care package and ensuring adequate protections are in place to safeguard well-being is a very challenging task.

The assessment of the risk of 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 dynamic and ongoing, especially during the adult safeguarding process, and should be reviewed throughout so that adjustments can be made in response to changes in the levels and nature of risk.

Risk is often thought of in terms of danger, loss, threat, damage or injury, although in addition to potentially negative characteristics, risk taking can have positive benefits for individuals and their communities. As well as considering the dangers associated with risk, the potential benefits of risk-taking should therefore also be identified; a process which should involve the individual using services, their families and health or social care practitioners.

Positive risk taking is a process which starts with the identification of potential benefit or harm. The desired outcome is to encourage and support people in positive risk taking to achieve personal change or growth. This involves:

- assuming that people can make their own decisions (in line with the Mental Capacity Act) and supporting people to do so;
- working in partnership with adults with care and support needs, family carers and advocates and recognising their different perspectives and views ;
- developing an understanding of the responsibilities of each party;
- empowering people to access opportunities and take worthwhile chances;
- understanding the person's perspective of what they will gain from taking risks; and understanding what they will lose if they are prevented from taking the risk;
- promoting trusting working relationships;
- understanding the consequences of different actions;
- making decisions based on all the choices available and accurate information;
- being positive about risk taking;
- understanding a person's strengths and finding creative ways for people to be able to do things rather than ruling them out;
- knowing what has worked or not in the past;
- where problems have arisen, understanding why;
- supporting people who use services to learn from their experiences;
- ensuring support and advocacy is available;
- sometimes supporting short-term risks for long-term gains;
- ensuring that services provided promote independence not dependence.

*Reference: A Positive Approach to Risk & Personalisation: A Framework Developed by ADASS West Midlands, Joint Improvement Partnership & NHS West Midlands.*

**4.7. Deprivation of Liberty Safeguards.**

The Deprivation of Liberty Safeguards (DoLS) provides protection for people who have a mental disorder and lack mental capacity to decide whether they should be accommodated to receive care or treatment. DoLS applies to people in hospitals and care homes and the process ensures that the deprivation of their liberty is in their best interests and that there is no less restrictive option for providing their care and treatment.

Care homes and hospitals must make requests to their Local Authority Supervisory Body for authorisation to deprive someone of their liberty if they believe it is in their best interests.

In March 2014 a Supreme Court judgment regarding two cases had a significant effect on the application of the Deprivation of Liberty Safeguards. The two cases are:

- "P v Cheshire West and Chester Council and another"
- "P and Q v Surrey County Council"

The full judgment can be found on the Supreme Court website HERE.

The judgment introduced the "acid test", which states that a person is deprived of their liberty if they:

- lack capacity to consent to their care/treatment arrangements;
- are under continuous supervision and control;
- are not free to leave.

Deprivations of liberty in other settings

The Supreme Court judgment also established that deprivations of liberty need to be authorised in domestic settings such as supported living arrangements. Applications should be made directly to the Court of Protection in these cases.

Please refer to your local policies and procedures for more information relating to DoLS.

DoLS and Adult Safeguarding Enquiries

In DoLS cases where the Best Interests requirement is not met, meaning that the deprivation of liberty is not authorised, a safeguarding concern must be raised with the relevant Local Authority.

**4.8. Abuse by another adult with care and support needs.**

Where the potential source of risk is also an adult with care and support needs, the safety of the person who may have been abused is paramount. Organisations may also have responsibilities towards this person, and certainly will have if they are both in a care setting or have contact because they attend the same place (e.g. a day centre). In this situation it is important that the needs of the adult who is the alleged victim are addressed separately from the needs of the potential source of risk.

It may be necessary to reassess the adult who is the potential source of risk. This may involve a meeting where the following could be addressed:

- the extent to which this person is able to understand his or her actions
- the extent to which the abuse or neglect reflects the needs of this person not being met (e.g. risk assessment recommendations not being met)
- the likelihood that this person will further abuse the adult or others.

The principles and responsibilities of reporting a crime apply regardless of whether this person is deemed to be an adult with care and support needs.

## 4.9. Allegations against carers who are relatives or friends.

### 4.9.1. Informal carers

Carers are from a diverse range of backgrounds. Carers may be parents, daughters, sons, partners, neighbours and friends. Carers may be adults or children, and at risk themselves. In situations involving carer unintentional or intentional harm or neglect of the adult they support; safeguarding work will need to consider the following:

- Does the carer have unmet or unrecognised needs including health needs?
- Does the carer have insight into the condition and needs of the person they care for?
- Is the carer vulnerable to abuse and neglect?
- Is the carer being abused by the person they care for?
- Is the carer receiving practical and/or emotional support from others?
- Is the carer feeling emotionally and socially isolated, undervalued or stigmatised?
- Does the carer have other responsibilities such as family or work?
- Does the carer have time away from their caring role?
- Has the carer requested help, but problems have not been solved?
- Is there a young carer involved? (Young carers have the right to an assessment by their local council under the Children and Families Act 2014.)
- Is this domestic abuse? (The definition of domestic abuse in the Domestic Abuse Act 2021 extends to carers if they are also personally connected, such as a family member)

A needs assessment for the person receiving care (Care Act 2014 Section 9) and/or a carer's assessment for the carer (Care Act 2014 Section 10) is an important opportunity to explore the individuals' circumstances and consider whether it would be possible to mitigate or remove the risk of abuse. For example, by providing information, or support that prevents abuse or neglect from occurring, such as providing training to the carer about the condition that the adult they care for has, or how to support them to care more safely. Assessment of both the carer and person they care for must include consideration of the wellbeing of both people.

There is a clear difference between unintentional harm caused inadvertently and a deliberate act of either abuse or omission. Safeguarding enquiries will need to explore the circumstances of each situation and consider:

- whether it is safe and appropriate to involve the carer in safeguarding enquiries relating to the adult they care for. Informal carers will usually be important and key parts of the adult's life. Direct engagement with carers, even when they pose a risk of harm to the adult, will often be integral to achieving the outcomes the adult wants, and trying to manage the risk.
- whether or not joint assessment with the carer and adult they care for is appropriate.
- the risk factors that may increase the likelihood of abuse or neglect occurring.
- whether a change in circumstance changes the risk of abuse or neglect occurring. A change in circumstance should also trigger the review of the care and support plan and, or support plan.
- whether other agencies should be involved; in some circumstances where a criminal offence is suspected this will include alerting the police, or in others the primary healthcare services may need to be involved in monitoring.

### 4.9.2. **Fabricated and Induced Illness (FII)**

Fabricated and Induced Illness is more commonly associated with children and is described as a rare form of child abuse. However, there is the potential for FII to present in dependent adults and their caregivers. A Safeguarding Adult Review (SAR) in 2022 featured suspected Fabricated and Induced Illness (FII) in a young adult- report HERE. It highlighted the lack of familiarity or experience with FII among some local authority adult social care practitioners. It also highlighted the lack of safeguarding guidance related to FII in adults for adult social care safeguarding teams.

FII happens when a parent or caregiver exaggerates or deliberately causes symptoms of illness in the child or dependent adult. The parent or carer tries to convince doctors that the child or dependent adult is ill, or that their condition is worse than it really is.

The parent or carer does not necessarily intend to deceive doctors, but their behaviour is likely to harm the child or dependent adult. For example, the child or dependent adult may have unnecessary treatment or tests, be made to believe they're ill, have their education disrupted or opportunities for independence curtailed.

FII used to be known as "Munchausen's syndrome by proxy" (not to be confused with Munchausen's syndrome, where a person pretends to be ill or causes illness or injury to themselves).

Much of the research and practice guidance is framed in terms of risk of FII to children- for example the Royal College of Paediatrics and Child Health guidance HERE- and care should be taken when applying this in an adult context.

Behaviours in FII can include a parent or carer who:

- persuades healthcare professionals that their child or dependent adult is ill when they're healthy.
- exaggerates or lies about their child or dependent adult's symptoms.
- manipulates test results to suggest the child or dependent adult is ill, for example, by putting glucose in urine samples to suggest the child has diabetes.
- deliberately induces symptoms of illness, for example, by poisoning their child or dependent adult with unnecessary medicine or other substances.

Most cases of FII involve false or exaggerated reports of illness or symptoms. Illness induction is far less common, and it is not known whether false or exaggerated reporting progresses to illness induction.[7]

Where there are concerns of FII in relation to adults with needs for care and support, Health colleagues will need to be involved and lead enquiries. The Local Authority should consider formally causing local relevant NHS agencies to undertake enquiries to ensure the correct level of specialist health practitioner is involved.

[7] RCPCH. College report 223, P11.

**4.10**. **Abuse by children.**

If a child or young person under the age of 18 is causing harm to an adult with care and support needs, this should be dealt with under the adult safeguarding policy and procedures but will also need to consider involving or informing the local authority children's services.

**4.11. Preparing for adulthood – transitional safeguarding.**

In law a person becomes an adult on their 18th birthday (Age of majority: Family Law Reform Act 1969). The law relating to children (Children Act 2004, amended by the Children and Social Work Act 2017) and adult safeguarding, (Care Act 2014), also changes the Local Authority safeguarding duties at the point a person turns 18 years old. There is a safeguarding duty to prevent and protect all children from significant harm. Once a person turns 18 years old the safeguarding duty under the Care Act 2014 is to prevent and protect a person from the experience or risk of abuse or neglect if they are considered to have care and support needs, and are unable to protect themselves from abuse or neglect due to those needs for care and support. It is advisable to check the local guidance in your area to understand your local agencies approach transitional safeguarding arrangements.

In reality; becoming an adult is not a single event on one's 18th birthday. It is a transitional period recognised as adolescence. Latest research proposes the definition of adolescence as 10-24 years[8]. From the age of 16, children are given greater rights and responsibilities relating to consent and capacity and so should be encouraged and supported to have greater independence and control over their own lives in a way which promotes their wellbeing (as outlined in Section 1 Care and Statutory Support Guidance). This time is a significant period of change for a person, which can create many opportunities but also challenges and concerns. Care planning during this period needs to ensure that a person's safety is not put at risk through delays in providing the services they need to maintain their independence, wellbeing and choice.

Statutory Guidance for both Children's and Adults Safeguarding (Working Together:2023 and Care and Support:2016) both highlight the importance of agencies, working together with the person, to plan for this transition to adulthood in advance of a person's 18th birthday. This will ensure that everyone involved is prepared for changes to the care, support and protection they will receive.

Learning from various Safeguarding Adults Reviews "demonstrates the ways in which poor transitional planning can contribute to young adults 'slipping through the net', sometimes with tragic consequences"[5].

Services working with children from the age of approximately 16 years old, who are likely to need ongoing involvement from agencies beyond their 18th birthday, should conduct a transition assessment and plan with the child and their family. This should include consulting with Adult Social Care if it is deemed likely that the child may become an adult with care and support needs as defined in the Care Act 2014. If it is assessed as likely that a child between the ages of 16 to 18 years is likely to remain at risk of or experiencing abuse or neglect when they become an adult; consideration should also be given to raising adult safeguarding concerns at the earliest possible point before the person's 18th birthday. This is to ensure there is clarity about who could be involved in ensuring the help and protection of the person into their adulthood. If the child is not assessed as having eligible care and support needs on turning 18 years old; it is important that services working with the person across this transitional period, work together before

[8] RiPfA/RiP, 2018, *Strategic Briefing: Transitional safeguarding – adolescence to adulthood.*

and beyond their 18th birthday to ensure a robust transition plan is in place and implemented. This plan should include and address the identified risk(s) to the person and ensure they are helped and if necessary protected into adulthood.

If a person has received targeted early help or children's social care and support or protection services prior to their 18th birthday; and adult safeguarding concerns are raised after they turns 18 years old; it is equally important that there is ongoing information sharing and co-operation between services who have and who are working with a person.

### 4.12. Position of trust (PoT).

The Care Act statutory guidance 2016 formalised the expectations on local safeguarding adults boards to establish and agree a framework and process for how allegations against people working with adults with care and support needs (i.e. those in a position of trust) should be notified and responded to.

The Care Act does not set out any primary legal duties on the local authority associated with managing allegations against people who work in a position of trust with adults with care and support needs, but the statutory guidance sets out the expectation for local authorities and their relevant partners (as described in section 6 (7) of the Care Act) to have clear policies in line with those from the safeguarding adults board for dealing with allegations against people who work, in either a paid or unpaid capacity, with adults with care and support needs.

A Position of Trust (PoT) concern would arise when:

- a person who works with adults with care and support needs in a position of trust, whether an employee, volunteer or student (paid or unpaid); and,

- there are concerns or allegations that indicate the person in a position of trust poses a risk of harm to adults with care and support needs.

These concerns or allegations could include, for example, concerns or allegations that the person in a position of trust has:

- behaved in a way that has harmed or may have harmed an adult or child;
- possibly committed a criminal offence against, or related to, an adult or child;
- behaved towards an adult or child in a way that indicates they may pose a risk of harm to adults with care and support needs.

*Interface with this Procedure*

The West Midlands has produced a regional Adult Position of Trust Framework. This may have been adopted within your local Safeguarding Adults Board area – check your local arrangements. It is important to note that allegations against people who work with adults should not be dealt with in isolation. Any action necessary to address corresponding welfare concerns in relation to an adult involved, including under this procedure, should be taken without delay and in a coordinated manner.

**4.13. Prisoners and persons in approved premises.**

Most Care Act duties apply to adults who are prisoners or who live in approved premises, for example, Local Authorities have a duty to undertake Care Act section 9 needs assessments for adults who are prisoners or who live in approved premises. However, the Care Act section 42 duty of enquiry does not apply to adults who are prisoners or who live in approved premises. In these circumstances, HM Prison Service and the Probation Service have responsibility.

**4.14. Personal budgets (PB) and self-directed support.**

Increasingly people are deciding to use less traditional ways of having their eligible social care and health care needs met. Many are taking the opportunity to exercise greater choice and control over what kinds of services they receive, who provides them and the way in which they are delivered. This change brings with it opportunities and challenges from the perspective of risk enablement and safeguarding.

Regardless of the person's preferred method of managing a PB (e.g. local authority managed account, direct payment, Personal Health Budget, individual service account or a combination of these), the local authority still retains its duty of care with regard to the person and their protection from abuse, including the Care Act section 42 duty of enquiry. However, the balance of power and consequently how risk is managed can be significantly different from previous, traditional models of social care management. This model is more about the co-production of risk enablement, with the person having a greater say and therefore greater control over how risk is managed.

Please refer to your own local practice guidance and guidance around Personal Budgets and self-directed support.

**4.15. Those who fund their own care arrangements.**

The Care Act adult safeguarding duties apply equally to adults who fund or organise their own care arrangements as they do to adults funded by the Local Authority or other state agency. They are also entitled to the protections of the Deprivation of Liberty Safeguards / Liberty Protection Safeguards processes.

**4.16. Homelessness**

The term 'homelessness' is often considered to apply only to people 'sleeping rough'. Rough sleepers are defined as:

- people sleeping, about to bed down (sitting on/in or standing next to their bedding) or actually bedded down in the open air (such as on the streets, in tents, doorways, parks, bus shelters or encampments)
- people in buildings or other places not designed for habitation (such as stairwells, barns, sheds, car parks, cars, derelict boats, stations, or 'bashes').

Rough sleeping is the most visible form of homelessness but there are a wide range of situations that are also described as homelessness.

The majority of homelessness is not in the literal sense of individuals being without a roof over their heads, but are more likely to be threatened with the loss of, or are unable to continue with, their current accommodation.

Homelessness includes temporary accommodation such as: night/winter shelters; hostels; B&Bs; woman's refuges; private and social housing.

The majority of homeless people are hidden from statistics and services as they are dealing with their situation informally. This means staying with family and friends, sofa surfing, living in unsuitable housing such as squats or in 'beds in shed' situations.

A person is deemed to be experiencing statutory homelessness when they are owed a duty by their local authority to secure a home, in such circumstances, a person may be homeless or threatened with homelessness if:

I. They have no accommodation available for his occupation, in the UK or elsewhere which he is entitled to occupy (by interest, license, right, tenancy, court order etc)
II. They have accommodation but:
    a) cannot secure entry to it
    b) It is a moveable structure used as a home and there is no place where they are entitled to place it and to reside in it
III. The accommodation available is unreasonable for them to continue to occupy.

Statutory homelessness also applies if an individual is experiencing or threatened with domestic abuse by a partner, former partner or family member. Statutory homelessness extends to those experiencing violence or serious threats in their home from someone unrelated to them. This includes: racial abuse; witness intimidation; gang-related violence; serious neighbour nuisance. Violence or abuse could be directed at you personally or anyone in your household (Shelter, 2019).

The Homelessness Reduction Act 2017 reformed England's homelessness legislation by placing duties on local housing authorities to intervene at earlier stages to prevent homelessness in their areas, and to provide homelessness services to all those who are eligible.

Additionally, the Act introduced a duty on specified public authorities, which includes adult social care services, to refer service users who they think may be homeless or threatened with homelessness to local authority homelessness/housing options teams.

The application of Adult Safeguarding duties are the same for those experiencing homelessness and rough sleeping as for the housed population.

### 4.17. Complaints.

Complaints received from any source about adult safeguarding practice or arising from the adult safeguarding process should be handled by the relevant complaints procedures of the organisation about which the complaint has been made. See local guidance for details.

### 4.18. MARAC (Multi Agency Risk Assessment Conference).

A MARAC is a meeting where information is shared on the highest risk domestic abuse cases between representatives of the local police, probation, health, children and Adults Safeguarding bodies, housing practitioners, substance misuse services, independent domestic violence advisers (IDVAs) and other specialists from the statutory and voluntary sectors.

The four aims of a MARAC are as follows:

- to safeguard adult victims who are at high risk of future domestic violence;
- to make links with other public protection arrangements in relation to children, people causing harm and adults with care and support needs;

- to safeguard agency staff;
- to work towards addressing and managing the behaviour of the person causing harm.

**4.19. Domestic homicide reviews (DHRs)**.

Domestic Homicide Reviews were established on a statutory basis under Section 9 of the Domestic Violence, Crime and Victims Act (DVCVA) 2004. For further guidance see - Home Office – Multi-Agency Statutory Guidance for the Conduct of Domestic Homicide Reviews.

A Domestic Homicide Review would be required when the definition in section 9 of the Domestic Violence Crime and Victims Act (2004) is met in that:

…the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by –

(a) a person to whom he was related or with whom he was or had been in an intimate personal relationship, or

(b) a member of the same household as himself.

This provision came into force on 13 April 2011 and the purpose is to:

- establish what lessons are to be learned from the domestic homicide regarding the way in which local professionals and organisations work individually and together to safeguard victims.
- identify clearly what those lessons are, both within and between agencies, how and within what timescales they will be acted upon, and what is expected to change as a result.
- apply these lessons to service responses including changes to policies and procedures as appropriate.
- prevent domestic homicide and improve service responses for all domestic violence victims and their children through improved intra- and inter-agency working.

DHRs are not enquiries into how the victim died or into who is culpable and are not specifically part of any disciplinary inquiry or process. The rationale for the review process is to ensure agencies are responding appropriately to victims of domestic violence by offering and putting in place:

- appropriate support mechanisms procedures
- resources and interventions with the aim of avoiding future incidents of domestic homicide and violence.

A DHR will also assess whether agencies have sufficient and robust procedures and protocols in place, which were in turn understood and adhered to by staff. The DHR process is similar to that of Safeguarding Adults Reviews (SAR's) and children's serious case reviews (SCRs). The main purpose is to learn lessons.

**4.20. MAPPA (Multi-Agency Public Protection Arrangements)**

The purpose of the multi-agency public protection arrangements (MAPPA) framework is to reduce the risks posed by sexual and violent offenders in order to protect the public, including previous victims, from serious harm. The responsible authorities in respect of MAPPA are the Police, Prison and Probation Services who have a duty to ensure that MAPPA is established in each of their geographic areas and to undertake the risk assessment and management of all identified MAPPA offenders (primarily violent offenders on licence or mental health orders and all registered sex offenders). The

Police, Prison and Probation Services have a clear statutory duty to share information for MAPPA purposes.

Other organisations have a duty to co-operate with the responsible authority, including the sharing of information. These include:

- local authority children, family and adult social care services
- NHS ICB's, other health trusts and the National Health Service Executive;
- Jobcentre Plus
- youth offender teams
- local housing authorities
- registered social landlords with accommodation for MAPPA offenders.

**4.21. Child protection**

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.

Everyone must be aware that in situations where there is a concern that an adult with care and support needs is or could be being abused or neglected and there are children in the same household, they too could be at risk. Reference should be made to the local child protection procedures, the local Safeguarding Children Board, inter-agency guidelines and internal protocols dealing with cross-boundary working if there are concerns about abuse or neglect of children and young people under the age of 18. Referral must be made to the relevant children and families department and any multi-agency safeguarding children policy and procedures.

Professionals should be alert to the possibility of child sexual exploitation and must report any such concerns to local authority childrens services and/or the police. Child sexual exploitation (CSE) is a crime that can affect any child, anytime, regardless of their social or ethnic background. It is child abuse and involves perpetrators grooming their victims in various ways, such as in person, via mobiles or online, to gain their trust before emotionally and sexually abusing them. It can take place in many forms, whether through a seemingly consensual relationship, or a young person being forced to have sex in return for some kind of payment, such as drugs, money, gifts or even protection and affection.

The Mental Capacity Act 2005 applies to young people aged 16 years and over apart from the following aspects:

- only people aged 18 or over can make a lasting power of attorney
- only people aged 18 or over can make an advance decision to refuse treatment
- the law generally does not allow anyone below the age of 18 to make a will
- DOLS authorisations under the MCA apply only to people aged 18 or over.

**4.22. Community Safety Partnerships.**

Community safety partnerships (CSPs) are made up of representatives from the 'responsible authorities', which are the:

- police
- local authorities
- fire and rescue authorities
- probation service
- health

The responsible authorities work together to protect their local communities from crime and to help people feel safer. They work out how to deal with local issues like antisocial behaviour, drug or alcohol misuse and reoffending. They annually assess local crime priorities and consult partners and the local community about how to deal with them.

**4.23. Harm Reduction Forums and Anti-Social Behaviour processes**.

Such forums are also known as VARMS - Vulnerable Adult Risk Management Strategy and many were set up in response to the Stephen Hoskins and Fiona Pilkington Serious Case Reviews to effectively case manage and provide a multi-agency response to vulnerable individuals who may be victims of hate crime, anti-social behaviour and repeat callers to emergency services and partner agencies.

The purpose of the Forums is to coordinate services in response to the identified needs of individuals in order to prevent, protect and address behaviour affecting the individuals and/or to address their needs.

**4.24. Child Safeguarding Practice Review and Child Death Overview Panel**

Child Safeguarding Practice Review

The responsibility for how the system learns the lessons from serious child safeguarding incidents lies at a national level with the Child Safeguarding Practice Review Panel and at local level with the safeguarding partners.

Working Together 2023[9] identifies the local statutory safeguarding partners as the Local Authority, the NHS Integrated Care Board for an area any part of which falls within a local authority area, and the Chief Officer of Police for an area, any part of which falls within a local authority area.

The Child Safeguarding Practice Review Panel is responsible for identifying and overseeing the review of serious child safeguarding cases which, in its view, raise issues that are complex or of national importance. The Panel should also maintain oversight of the system of national and local reviews and how effectively it is operating.

Locally, safeguarding partners must make arrangements to identify and review serious child safeguarding cases which, in their view, raise issues of importance in relation to their area. They must commission and oversee the review of those cases, where they consider it appropriate for a review to be undertaken.

Serious child safeguarding cases are those in which:

- abuse or neglect of a child is known or suspected and,
- the child has died or been seriously harmed.

Child Death Overview Panel (CDOP).

The Local Safeguarding Children's Board (LSCB) is responsible for ensuring that a review of each death of a child normally resident in its area is undertaken by a Child Death Overview Panel (CDOP). The purpose of this review is to conduct a comprehensive, multidisciplinary review of child deaths, to better understand how and why children die, and use the findings to take action that can prevent other deaths and improve the health and safety of children.

[9] Working Together to Safeguard Children; A guide to multi-agency working to safeguard and promote the welfare of children, HM Government, December 2023

**4.25. Multi Agency Public Protection Arrangements (MAPPA) Serious Case Review**.

A MAPPA SCR is required when the main purpose is to examine whether the MAPP arrangements were effectively applied and whether the agencies worked together to do all they reasonably could to manage effectively the risk of further offending in the community.

**4.26. Serious Further Offending (SFO) Notification and Review Procedures**.

SFO Notification and Review Procedures are intended to ensure rigorous scrutiny of those cases where offenders under the management of the Probation Service have been charged with a specified violent or sexual offence in order that:-

- the public may be reassured that the Probation Service and all other providers of probation and community services are committed to reviewing practice in cases where offenders managed by them are charged with certain serious offences;
- areas of continuous improvement to risk assessment, risk management and offender management practice and policy within the Probation Service and all other providers of probation and community services (together with other parts of the HM Prison and Probation Service or beyond as appropriate) are identified and disseminated locally and nationally, as appropriate; and

**4.27. NHS Serious Incidents.**

Serious incidents are events in health care where the potential for learning is so great, or the consequences to patients, families and carers, staff or organisations are so significant, that they warrant using additional resources to mount a comprehensive response. Serious incidents can extend beyond incidents which affect patients directly and include incidents which may indirectly impact patient safety or an organisation's ability to deliver ongoing healthcare (NHSE, 2015).

Serious incidents are often triggered by events leading to serious outcomes for patients, staff and/or the organisation involved. (NHSE, 2015). They may be identified through various routes including, but not limited to, the following:

- Incidents identified during the provision of healthcare by a provider e.g. patient safety incidents or serious/distressing/catastrophic outcomes for those involved;
- Allegations made against or concerns expressed about a provider by a patient or third party;
- Initiation of other investigations for example: Serious Case Reviews (SCRs), Safeguarding Adult Reviews (SARs), Safeguarding Adults Enquiries (Section 42 Care Act), Domestic Homicide Reviews (DHRs) and Death in Custody Investigations (led by the Prison Probation Ombudsman). NB: whilst such circumstances may identify serious incidents in the provision of healthcare this is not always the case and SIs should only be declared where the definition above is fulfilled;
- Information shared at Quality Surveillance Group meetings;
- Complaints;
- Whistle blowing;
- Prevention of Future Death Reports issued by the Coroner

Serious Incidents include acts or omissions in care that result in; unexpected or avoidable death, unexpected or avoidable injury resulting in serious harm - including

those where the injury required treatment to prevent death or serious harm, abuse, Never Events, incidents that prevent (or threaten to prevent) an organisation's ability to continue to deliver an acceptable quality of healthcare services and incidents that cause widespread public concern resulting in a loss of confidence in healthcare services.

Serious Incidents in healthcare settings will usually be reported and investigated retrospectively, with the incident itself and resultant risk having been already managed. However, in some circumstances, the serious incident will indicate that an identified adult with care and support needs is experiencing or is at ongoing risk of abuse or neglect. In such cases, the Care Act section 42 duty of Enquiry may be triggered, and the Serious Incident investigation process may form all or part of the Enquiry process to decide what action is required in the adult's case.

The needs of those affected should be the primary concern of those involved in the response to and the investigation of serious incidents. Patients and their families/carers and victims' families must be involved and supported throughout the investigation process.

There is no definitive list of events/incidents that constitute a serious incident and lists should not be created locally as this can lead to inconsistent or inappropriate management of incidents. Where lists are created there is a tendency to not appropriately investigate things that are not on the list even when they should be investigated, and equally a tendency to undertake full investigations of incidents where that may not be warranted simply because they seem to fit a description of an incident on a list.

Serious Incidents must be declared internally as soon as possible and immediate action must be taken to establish the facts, ensure the safety of the patient(s), other services users and staff, and to secure all relevant evidence to support further investigation. Serious Incidents should be disclosed as soon as possible to the patient, their family (including victims' families where applicable) or carers. The commissioner must be informed (via STEIS and/or verbally if required) of a Serious Incident within 2 working days of it being discovered. Other regulatory, statutory and advisory bodies, such CQC, Monitor or NHS Trust Development Authority, must also be informed as appropriate without delay. Discussions should be held with other partners (including the police or local authority for example) if other externally led investigations are being undertaken. This is to ensure investigations are managed appropriately, that the scope and purpose is clearly understood (and those affected informed) and that duplication of effort is minimised wherever possible (NHSE 2015).

Serious Incidents should be closed by the relevant commissioner when they are satisfied that the investigation report and action plan meets the required standard.

Healthcare providers must contribute towards safeguarding reviews (and enquiries) as required to do so by the Local Safeguarding Board. Where it is indicated that a serious incident within healthcare has occurred the necessary declaration must be made.

Whilst the Local Authority will lead Safeguarding Adults Reviews and initiate Safeguarding Enquiries, healthcare must be able to gain assurance that, if a problem is identified, appropriate measures will be undertaken to protect individuals that remain at risk and ultimately to identify the contributory factors and the fundamental issues (in a timely and proportionate way) to minimise the risk of further harm and/or recurrence. Providers and commissioners must liaise regularly with the local authority safeguarding lead to ensure that there is a coherent multi-agency approach to investigating and responding to safeguarding concerns, which is agreed by relevant partners. Partners

should develop a memorandum of understanding to support partnership working wherever possible.

Incidents can be closed before all actions are complete but there must be mechanisms in place for monitoring on-going implementation. This ensures that the fundamental purpose of investigation (i.e. to ensure that lessons can be learnt to prevent similar incidents recurring) is realised.

**4.28. Whistleblowing.**

The Public Interests Disclosure Act 1998 provides a framework for whistleblowing across the private, public and voluntary sectors. Each member organisation of the SAB will have its own whistleblowing policy. These policies should provide people in the workplace with protection from victimisation or detriment when genuine concerns have been raised about malpractice. The aim is to reassure workers that it is safe for them to raise concerns, and partner organisations should establish proper procedures for dealing with such concerns.

**4.29. Duty of Candour**.

The statutory duty of candour was introduced for providers of health and social care services under Regulation 20 of the Health and Social Care act 2008: Regulations 2014. The regulation applies to registered persons when they are carrying on a regulated activity.

The intention of this regulation is to ensure that providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in general in relation to care and treatment. It also sets out some specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology when things go wrong.

**4.30. Responding to organisational failure and abuse.**

The Care and Support statutory guidance clarifies that the Adult Safeguarding duties under the Care Act are 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) assuring that regulated providers comply with the fundamental standards of care or by taking enforcement action; and
- the core duties of the police to prevent and detect crime and protect life and property.

Local areas will generally have arrangements and systems in place that are designed to respond to quality and safety concerns in provider services. In most areas there will be regular information sharing meetings between commissioners and regulators, for example, the Local Authority, the CQC, NHS Integrated Care Boards, NHS England, or there will be frameworks in place that can call such meetings as and when required.

The West Midlands region have produced a "*Framework and Guidance for Responding to Organisational Failure or Abuse*" that is available to be adopted or adapted by local Safeguarding Adults Boards - check your local arrangements.

Local quality surveillance/quality escalation frameworks will often need to interface closely and work alongside responses under this procedure. This will need to reflect the individual circumstances of individual cases, but could be, for example, to pass information arising from adult safeguarding concerns and enquiries to commissioners and regulators to inform quality monitoring and regulatory processes, to help to address concerns raised that relate to service quality but that do not meet the criteria for the Section 42 duty of Enquiry, or to seek to address and remedy underlying service quality concerns that are leading to risk of abuse of neglect in identifiable cases.

It is recognised that in a critical few cases where the service quality and safety issues are so great and pose such a high risk to users of that service that consideration of the duty of Enquiry applying to all or groups of individuals may apply. However, it is expected that such circumstances would be rare, and that the statutory principles of proportionality and protection should be balanced carefully when considering extending the Care Act section 42 duty of Enquiry to all or groups of individuals in organisational settings.

# 5. Roles and responsibilities.

## 5.1 Introduction

This section describes the roles and responsibility for all agencies and individuals within the adult safeguarding context, specific duties and responsibilities under section 42 of the Care Act, and the different roles and functions key agencies and individuals can play in the Enquiry process.

## 5.2. General roles and responsibilities within the wider context of adult safeguarding

Adult safeguarding is everyone's business. The Care and Support statutory guidance states that Adult Safeguarding in its wider sense 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 and neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feeling and beliefs in deciding on any action".[10]

All agencies and individuals who work with or support adults with care and support needs have a role to play within this wider context of adult safeguarding. Seen in this way, effective "safeguarding" – supporting the adult to live safely, promoting wellbeing and preventing the risk of abuse or neglect – takes place within the core duties and responsibilities of health, social care, and criminal justice agencies; for example;

- adults can be supported to live safely through good quality assessment and support planning.

- adults' right to live free from crime can be supported through Police interventions, and to recover from the experience of crime through victim support services.

- adults' health & wellbeing, and experience of safe services, can be promoted through patient safety approaches in the NHS and good quality responses under Clinical Governance processes.

As a minimum, agencies and individuals who work with adults with care and support needs in the West Midlands should-

- Be alert to the possibility of abuse or neglect, and know how to respond to and report abuse or neglect concerns in line with the procedure outlined in this document; and;

- Ensure that individual and agency practice and policy contributes to promoting adults' right to live in safety, and does not cause or contribute to the experience of abuse or neglect.

## 5.3. Roles and responsibilities in Care Act section 42 Adult Safeguarding Enquiries

Section 42 of the Care Act gives Local Authorities the primary duty to make, or cause to be made, whatever enquiries are necessary to enable the Local Authority to decide whether any action should be taken in the adult's case, and if so, what and by whom.

When "causing" enquiries to be made, the Local Authority may request other agencies or individuals undertake all or part of the enquiries needed in the adults case. Relevant partners (as described under Section 6 of the Care Act) have a legal duty to cooperate

[10] Care and Support Statutory Guidance: Issued under the Care Act 2014 (DoH, 2016), s14.7

with such requests under Section 7 of the Care Act, unless that agency or individual considers that doing so would be incompatible with their own duties, or would otherwise have an adverse effect on the exercise of their functions. If an agency or individual feels these exceptions apply, they are required under the Care Act to provide the reasons for refusal in writing to the Local Authority making the request.

### 5.4. Adult(s) with care and support needs

Adults with care and support needs who are at risk of or are experiencing abuse or neglect should always be involved in activities being taken to safeguard them unless there are exceptional circumstances that would increase the risk of abuse. This includes knowing a concern is being raised, being offered the opportunity to raise the concern themselves, being central to all decisions including how they view the risk, and their opinions and desired outcomes from the Enquiry must be sought. They must be included throughout the process, invited to meetings as appropriate, recognising that in some exceptional circumstances the level of involvement could increase the risks and at the conclusion a check must be made to establish whether their desired outcomes from the Enquiry have been met.

If an adult has substantial difficulty in being involved, and where there is no suitable person to support them, then the local authority must arrange for an independent advocate to represent them for the purpose of facilitating their involvement.

### 5.5 'Carers' - Family and friends

The Care Act recognises the key role of informal carers in relation to adult safeguarding. Informal carers may witness or report abuse or neglect, experience intentional or unintentional harm from the adult they are trying to support, or an informal carer may (unintentionally or intentionally) harm or neglect the adult they support.

'Carers', relatives and friends are frequently helpful in supporting an adult with care and support needs to participate in the adult safeguarding process when dealing with difficult and distressing issues.

Relatives or friends may have a range of roles depending on the circumstances and the wishes of the adult with care and support needs.

Relatives and friends have a role in:

- Supporting the adult to tell us what their wishes are and to make sure they are heard, or speak on their behalf in their best interest if they do not have mental capacity;
- Supporting them through difficult meetings and interviews about distressing experiences;
- Sharing information and knowledge about the risks their relative/friend is experiencing and their support needs;
- Supporting an assessment of needs, sometimes this may include their needs as a carer;
- Contributing to the Safeguarding Plan to prevent the abuse or reduce the possibility for further abuse.

It is important to view the situation holistically and look at the safety and well-being of both. The Act makes it clear throughout, there is a need for preventing abuse and neglect wherever possible. Observant professionals and other staff making early, positive

interventions with individuals and families can make a huge difference to their lives, preventing the deterioration of a situation or breakdown of a support network.

Further guidance about Carers and adult safeguarding can be found in the LGA/ADASS paper; *Carers and safeguarding: A briefing for people who work with carers*.

### 5.6 Advocates

Local authorities must involve people in decisions made about them and where there is to be a safeguarding enquiry. The local authority must help people to understand how they can be involved, how they can contribute and take part and sometimes lead or direct the process. People should be active partners in any enquiries in relation to abuse or neglect. No matter how complex a person's needs, local authorities are required to involve people, to help them express their wishes and feelings, to support them to weigh up options, and to make their own decisions.

Safeguarding situations can be distressing and difficult and safeguarding meetings can be complex and daunting to people who would not normally experience them, advocacy can help people to be involved and in control.

Advocacy services help people – particularly those who are most vulnerable in society – to:

- access information and services
- be involved in decisions about their lives
- explore choices and options
- defend and promote their rights and responsibilities.

The Care Act 2014 requires local authorities to support people to be involved. Where someone has difficulties then the local authority must make reasonable adjustments and provide support.

Where someone has substantial difficulties in being involved the local authority will look to see if there is an 'suitable person' – for example, an informal carer or relative who is willing and able to represent the adult. This person must be able to understand the adult safeguarding process, so they can support and represent their relative/friend and help their involvement in the processes. They must not voice or express their own opinions. It is not sufficient for the person to know the adult well; the role is to actively support their participation in the process.

If there is no 'suitable person' then the local authority has a duty to arrange for an independent advocate. Sometimes having a relative or friend to act as the advocate is difficult, for example, perhaps because the adult does not wish to discuss the nature of the abuse with them, then the local authority can help and provide an independent advocate.

There are also times when an independent advocate should be provided even where the adult's family or others are involved. These are:

- when it is suspected that the family member or other person is causing the harm;
- where there is a disagreement, relating to the individual, between the local authority and the suitable person whose role it would be to facilitate the individual's involvement, and the local authority and the suitable person agree that the involvement of an independent advocate would be beneficial to the individual.

The advocate cannot be someone who is already providing care and treatment in a professional capacity or on a paid basis (regardless of who employs or pays them). That means it cannot be, for example, a GP, or a nurse, a key worker or a care and support worker involved in the adults care or support.

## 5.7 Local Authorities

The Care Act sets out the local authority's responsibility for protecting adults with care and support needs from abuse or neglect for the first time in primary legislation. Local authorities must make enquiries, or cause another agency to do so, whenever abuse or neglect are suspected in relation to an adult and the local authority thinks it necessary to enable it to decide what (if any) action is needed to help and protect the adult.

The local authority retains the responsibility for ensuring that the Enquiry is referred to the right place and is acted upon. The local authority, in its lead and coordinating role, should assure itself that the Enquiry satisfies its duty under section 42 to decide what action (if any) is necessary to help and protect the adult and by whom and to ensure that such action is taken when necessary. In this role if the local authority has asked someone else to make enquiries, it is able to challenge the body making the Enquiry if it considers that the process and/or outcome is unsatisfactory.

### 5.7.1 Safeguarding Adult Boards

s43 of the Care Act 2014 requires each local authority to set up a Safeguarding Adults Board (SAB). The main objective of a SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults in its area who have a need for care and support (whether or not the local authority is meeting any of those needs) and is experiencing, or at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

The SAB has a strategic role to oversee and lead adult safeguarding across the locality and will be interested in a range of matters that contribute to the prevention of abuse and neglect. The SAB can be an important source of advice and assistance, for example in helping others improve their safeguarding mechanisms. It is important that the SAB has effective links with other key partnerships in the locality.

*Also see: SCIE Resources. SCIE has developed resources to help social workers, local authority staff and their partners, chairs and members of Safeguarding Adults Boards, to meet their safeguarding duties under the Care Act 2014.*

### 5.7.2 Directors of Adult Social Services

The Director of Adult Social Services (DASS) has a particularly important leadership and challenge role to play in adult safeguarding. The DASS is also responsible for promoting prevention, early intervention and partnership working, critical roles in the development of effective safeguarding.

Taking a personalised approach to adult safeguarding requires a DASS to promote a culture that is person-centred, supports choice & control and aims to tackle inequalities

5.7.3 **Councillors and Lead Member**

The Local Government Association identifies there are crucial roles for councillors in examining how safeguarding is experienced by local people, how people were consulted and involved in developing policies and monitoring services, and how they were involved in their own safeguarding plans and procedures.

Councillors as community leaders, championing the wellbeing of their constituents, are in a key position to raise awareness of adult safeguarding. They may also become aware of individual cases of abuse through their work with constituents and so have a duty to report it.

As part of their governance role, holding council executives and their partners to account, and accounting to their constituents for what has been done, all councillors have a responsibility to ask questions of the executive and other partner organisations about the safety of adults in their area, and about the outcomes of adult safeguarding.
Portfolio holders. The lead member in councils with social services responsibilities has responsibility for the political leadership, accountability and direction of the council's services for adults. The portfolio holder has a role in ensuring that the various departments within a council work together to promote wellbeing, prevent social exclusion and to protect adults from abuse.

Members of Overview and Scrutiny Committee (OSC). Councillors in OSC have a crucial role in ensuring that the system works through holding leaders to account. OSC members need to review the work of safeguarding in the local authority, and to consider the annual report of the Safeguarding Board to find out:

- how abuse is being prevented through good multiagency work and assuring quality care
- how well services work to improve outcomes for people who have experienced harm and abuse
- how far care and protection plans are keeping people safe from abuse
- how agencies are ensuring that people's human rights are respected
- how agencies are enabling people to make decisions about their lives
- how agencies are ensuring that people who lack capacity are able to have their best interests represented
- how services uphold the right to justice for people who have experienced harm or abuse
- how well services address what happens to the people who have harmed or abused others.

Councillors in other relevant roles.
Councillors who are members of bodies which have a safeguarding remit such as Health and Wellbeing Boards, Crime and Disorder Partnerships, Hate Crime or Domestic Violence Partnerships, Community Safety Partnerships, Community Cohesion bodies, and NHS Trusts will need some knowledge of adult safeguarding in order to fulfil their responsibilities and know what questions to ask. Many of these bodies may be represented on SABs.

Councillors who are portfolio holders for children's services will need to be aware of the links with adult safeguarding. There may be specific examples where the crossover is particularly clear, for example, the period of transition from children's to adult services or when an adult may be a risk to children.
*Also see: Local Government Association (LGA) Councillors briefing 2015 - Safeguarding adults*

5.7.4 **Managing officers**

This is a generic term used to describe the individual responsible for the lead coordinating role in safeguarding cases.

The managing officer has overall responsibility to ensure that:

- the action being taken by organisations is co-ordinated and monitored
- the adult with care and support needs is involved in all decisions that affect their daily life as far as possible
- those who need to know are kept informed
- consultation with relevant people and agencies takes place
- the West Midlands Adult Safeguarding procedure is followed specific to the individual and their situation
- the response of the organisations involved is co-ordinated and information is shared in line with legislation
- if required a safeguarding plan is agreed with the adult if they have mental capacity to participate in this, or in the best interests of the person if they have been assessed not to have mental capacity
- all safeguarding documentation is completed including monitoring information.

5.7.5 **Out of hours services and emergency duty teams**

Local out of hours teams (social services and health) and emergency duty teams operate out of normal working hours, at weekends and over statutory holidays.

If a safeguarding concern is made to the out of hours service which indicates an immediate or urgent risk, the officer receiving the alert will take any steps necessary to protect the adult including arranging emergency medical treatment, contacting the police and taking any other action to ensure that the adult is safe. Out of hours staff must also be aware that, if responding to emergency, other adults may also be at risk.

A member of the out of hours service would not usually be responsible for an Adult Safeguarding enquiry but it may be necessary to make enquiries or take immediate action where:

- the allegation is serious that is, life-threatening or likely to result in serious injury (in which case action would be co-ordinated with the police to ensure any evidence is preserved),
- the detail of the concern is unclear,
- there is a need to interview the adult to ensure they can be safeguarded against further abuse if necessary (if appropriate this would need to be co-ordinated with the police to ensure the preservation of evidence).

Whether or not any immediate action is necessary the out of hours worker or emergency duty officer will record the facts concerning the alleged abuse or neglect and pass all relevant information to the appropriate safeguarding team, duty team in adult social care or to a mental health team on the next working day. If the case is already allocated the out of hours worker will notify the allocated worker.

In a situation where staff who work for other organisations, including health services and those who work out of hours, become aware that an adult is being abused or neglected, they should call the emergency services if the adult is at serious risk of immediate harm, and the local authority emergency duty team or emergency out of hours service if an

immediate safeguarding plan needs to be put in place. If this action has been taken, the emergency duty team or out of hours service will then deal with the concern as above.

If the situation does not indicate an immediate risk of harm, staff working out of hours will refer to the appropriate local authority point of contact the next working day. They will also pass the information to the appropriate point in their own organisation.

### 5.8 Commissioners

Health and Social Care commissioners of services should set out clear expectations for provider agencies and monitor compliance. Commissioners have a responsibility to:

- ensure that people who commission their own care are given the right information and support to do so from providers who engage with Adult Safeguarding principles and protocols
- ensure that agencies from whom services are commissioned 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 West Midlands Adult Safeguarding Policy and Procedures.
- ensure that managers are clear about their leadership role in Adult Safeguarding in ensuring the quality of the service, the supervision and support of staff, and responding to and investigating a concern about an adult with care and support needs
- commission a workforce with the right skills to understand and implement Adult Safeguarding principles
- ensure staff have received induction and training appropriate to their levels of responsibility
- liaise with the local SAB and regulatory bodies and make regular assessments of the ability of service providers to effectively safeguard service users
- 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 commissioners (and regulators) regularly audit reports of risk of harm and require providers to address any issues identified.

### 5.9 Complaints officers

Local authorities and other bodies including NHS providers have statutory complaints procedures. If a complaint received by a complaints officer indicates safeguarding concerns that meet the conditions stated in this procedure, the officer will consider raising a safeguarding concern to the relevant agency.

If a complaint is made to the local authority that leads to an Adult Safeguarding Enquiry, the local authority can decide not to commence the complaints investigation if this would compromise the Enquiry. The complainant would be informed of this course of action and the reason for it. In other circumstances, the complaint may form all or part of the Adult Safeguarding Enquiry.

## 5.10 Police and judicial system

5.10.1. **Police**

The Care Act reinforces the fact that the police play a critical role in safeguarding adults who are at risk of abuse or neglect. The Act places a requirement (schedule 2) upon the local chief officer of police as a statutory core member of the SAB. The police can take direct action to protect adults and bring perpetrators to justice. They also have a role in researching their systems and sharing information about those identified in a safeguarding concern, in order to inform the assessment of risk posed to an adult, and to allow swift and effective single or multi-agency safeguarding action to take place that will protect vulnerable people from harm.

Within the hierarchy of enquiries a criminal investigation will take precedence. It is the responsibility of the police to lead investigations where criminal offences are suspected, although the Local Authority will need to ensure steps are taken to safeguard and support the adult concerned. In conducting an investigation the police will secure and preserve evidence at the earliest opportunity and where necessary will interview the victim (who may well need support), witnesses and suspects. There will be occasions where other enquiries can proceed alongside a criminal investigation to ensure minimum delays.

As the lead investigating agency, the police should work with the local authority and other partner agencies to ensure that all relevant information is identified and shared, and a risk management or safeguarding plan is agreed at an early stage. In cases where criminal proceedings are deemed inappropriate, the police should agree a course of action with partner agencies to protect the adult/s concerned.

Police Officers and Staff leading adult safeguarding police investigations must be up to date with their legal powers and duties, including their responsibilities in relation to the Mental Capacity Act and Mental Health Act. They must also take into consideration that the adult may have difficulty in engaging due to learning difficulties or other disabilities as well as cultural, language or other communication difficulties.

Not every case with a criminal offence will result in a full police investigation. Each case will be considered individually and, as part of multi-agency discussions that take into account the needs and wishes of the adult concerned, it may be agreed that an alternative course of action is the most appropriate way to protect them from harm. Such cases are likely to be few in number and relate to only the least serious offences, but it is important to recognise that in some circumstances the best course of action for the adult concerned may be an alternative to pursuing a formal criminal prosecution.

5.10.2 **Witness support and special measures**

If there is a police investigation, the police will ensure that any interviews with the adult at risk are conducted in accordance with Achieving Best Evidence (ABE) guidance. This includes consideration of the use of an appropriate Intermediary where necessary.

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 deliver their best evidence for the police and the courts.

In all cases 'special measures', as specified in the Youth Justice and Criminal Evidence Act 1999, must be considered by the police and Crown Prosecution Service. These measures can be used to assist eligible witnesses during the judicial process and can include the use of screens in court proceedings, the removal of wigs and gowns, the sharing of visually recorded evidence-in-chief (the evidence given by a witness for the party who called him or her), directions about cross-examination and re-examination, and the use of intermediaries and other aids to communication within the court.

Adults should be supported to access relevant national and local services to support them through the judicial process. This includes access to the Witness Service, which is free and independent of the police or courts and provides practical and emotional support to victims and witnesses (either for the defence or the prosecution). The support from the Witness Service is available before, during and after a court case to enable the witness, their family and friends to have information about the court proceedings, and can include arrangements to visit the court in advance of the trial.

5.10.3 **Victim support**

Victim support is a free service for anyone who has been a victim of any crime or have been affected by a crime committed against someone they know, and can help people to find the strength to deal with what they have been through. It is available whether or not the crime has been reported and regardless of when it happened. Victim support can provide emotional support, practical help and information.

5.10.4 **Crown Prosecution Service**

The Crown Prosecution Service (CPS) is the principal 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 other adults with care and support needs, who may also be vulnerable witnesses. They also have a policy on prosecuting disability hate crime.

Support is available within the judicial system for those at risk to enable them to bring cases to court and to give the best evidence. If a person has been the victim of abuse that is also a crime, their support needs can 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 to play in making sure that special measures are put in place to support vulnerable or intimidated witnesses. Special measures were introduced by the Youth Justice and Criminal Evidence Act (YJCEA) 1999 and are available in both Crown and the magistrates' courts. They include the use of screens, trained intermediaries to help with communication and arrangements for evidence and cross-examination to be given by video link.

## 5.11 The NHS

National Health Service England (NHSE) sets out the safeguarding roles, duties and responsibilities of all organisations commissioning NHS and social care whilst recognising the responsibilities set out in the Care Act 2014 in the framework document *Safeguarding Children, Young People and Adults at Risk in the NHS: Safeguarding Accountability and Assurance Framework* - HERE. The following section draws directly from this document in explaining the roles and responsibilities of NHSE, Clinical Commissioning Groups, NHS provider organisations and others working from the NHS.

### 5.11.1 NHS England

NHS England's safeguarding role is discharged through the Chief Nursing Officer (CNO), who has a national safeguarding leadership role. The CNO is the Lead Board Executive Director for Safeguarding and has a number of forums through which assurance and oversight is sought. The system wide National Safeguarding Steering Group (NSSG) coordinates these forums and gains assurance on behalf of the CNO.

### 5.11.2 Integrated Care Boards (ICB's) and other place-based system leadership

Currently, ICBs are responsible in law for the safeguarding element of services they commission. As commissioners of local health services, ICBs need to assure themselves that organisations from which they commission have effective safeguarding arrangements in place. It is worth acknowledging the changing landscape of place-based system leadership with the introduction of Integrated Care Systems (ICSs) and Primary Care Networks (PCNs). Safeguarding must be considered in these new integrated systems, however, currently the responsibility to provide safeguarding services still sits with ICBs.

ICBs need to demonstrate that their designated clinical experts (for children, children in care and adults), are embedded in the clinical decision-making of the organisation, with the authority to work within local health economies to influence local thinking and practice and the capacity to do so.

The Long Term Plan states that ICSs will have a key role in working with Local Authorities at 'place' level. Through ICSs, commissioners will make shared decisions with providers on population health, service redesign and Long Term Plan implementation. Primary Care Networks will be at the centre of these ICSs; building on the core of current primary care services enabling greater provision of proactive, personalised, coordinated and more integrated health and social care systems.

Integral to the development of these networks is the support, guidance and peer review that can be provided for safeguarding children, young people, adults at risk and for the development of robust Mental Capacity Act processes. Local safeguarding leaders must work in collaboration with their local ICS, PCN and GPs to ensure safeguarding and Mental Capacity Act legal requirements are integral to their networks.

ICBs are required to undertake regular capacity reviews to ensure that there is sufficient safeguarding expertise available via the designated professionals. The requirements for ICB designated capacity are outlined in the Intercollegiate Documents which are built upon the legislative requirements for safeguarding.

It is crucial that designated safeguarding professionals play an integral role in all parts of the commissioning cycle, from procurement to quality assurance, if appropriate services are to be commissioned that support children, young people and adults at risk of abuse or neglect, as well as effectively safeguarding against abuse and neglect.

Safeguarding forms part of the NHS Standard Contract (Service Condition 32) and commissioners will need to agree with their providers, through local negotiation, what contract monitoring processes are used to demonstrate compliance with safeguarding duties. These will be measured using the Safeguarding Commissioning Assurance Toolkit (Safeguarding CAT) which is due to be prototyped in specific regions by August 2019.

ICBs are also required to demonstrate that they have appropriate systems in place for discharging their statutory duties in terms of safeguarding. These include:

- A clear line of accountability for safeguarding, properly reflected in the ICB governance arrangements, i.e. a named executive lead to take overall leadership responsibility for the organisation's safeguarding arrangements.
- Clear policies setting out their commitment, and approach, to safeguarding, including safe recruitment practices and arrangements for dealing with allegations against people who work with children and adults, as appropriate.
- Training their staff in recognising and reporting safeguarding issues, appropriate supervision, and ensuring that their staff are competent to carry out their responsibilities for safeguarding.
- Equal system leadership between LA children's services, the police and the ICB is now required under the Working Together to Safeguard Children Statutory Guidance 2018
- Effective inter-agency working with LAs, the Police and third sector organisations, including appropriate arrangements to co-operate with LAs in the operation of safeguarding children's partnerships, Corporate Parenting Boards, SABs and Health and Wellbeing Boards.
- Ensuring effective arrangements for information sharing.
- Employing the expertise of designated professionals for safeguarding children, children in care, safeguarding adults and a designated paediatrician for Sudden Unexpected Deaths in Childhood (SUDIC).
- Effective systems for responding to abuse and neglect of adults.
- Supporting the development of a positive learning culture across partnerships for safeguarding adults, to ensure that organisations are not unduly risk averse.
- Working with the Local Authority to ensure access to community resources that can reduce social and physical isolation for adults.
- ICBs need to demonstrate that their designated professionals are involved in the safeguarding decision-making of the organisation, with the authority to work within local health economies to influence local thinking and practice.
- For children in care, ICBs have a duty to cooperate with requests from LAs to undertake health assessments and help them ensure support and services to looked-after children are provided without undue delay.
- ICBs should ensure that adult and children's services work together to commission and provide health services that ensure a smooth transfer for young people and children in care, including a planned period of overlap to avoid the abruptness of a sudden change in clinicians, culture, frequency of appointments and environment.

### 5.11.3 **General Practitioners**

GPs have a significant role in Safeguarding Adults. They have a responsibility to ensure they have robust systems in place for adult safeguarding within their practices and that all their staff have received adequate training and supervision. They must work in partnership with the local authority and other agencies where there is a section 42 enquiry.

This includes:

- Raising safeguarding concern should they suspect or know of abuse;
- Playing an active role in Enquiry Discussions or Meetings and Safeguarding Plan Meetings;
- Undertaking relevant Enquiries where the Local Authority requests these are made;
- Providing professional evaluation of health information about an adult with care and support needs where appropriate.

GP's should make sure that effective training and reporting systems are in place to support GPs and GP practices in this work.

5.11.4 **Patient Advice and Liaison Service (PALs)**

The Patient Advice and Liaison Service (PALS) offers confidential advice, support and information on health-related matters. They provide a point of contact for patients, their families and their carers.

PALS provides help in many ways. For example, it can:

- help with health-related questions
- help resolve concerns or problems when using the NHS
- tell people how to get more involved in their own healthcare

PALS can give information about:

- the NHS
- the NHS complaints procedure, including how to get independent help if a person wants to make a complaint
- support groups outside the NHS.

5.11.5 **Ambulance services**

There are a number of ways in which Ambulance staff may receive information or make observations, which suggest that an adult with care and support needs is experiencing, or is at risk of, abuse or neglect. Ambulance staff will often be the first professionals on the scene and their actions and recording of information may be crucial to subsequent enquiries. Ambulance staff have the responsibility to ensure any information taken and recorded is factually accurate, is based on fact not assumption, and that, wherever possible, concerns are discussed at the time with the relevant people.

It is also the responsibility of ambulance staff to talk to the adult if they think a safeguarding concern needs to be raised, unless their medical condition prevents this or raising the concern will increase the risk to the adult.

If the patient is conveyed to hospital, the ambulance staff should inform a senior member of the Accident & Emergency staff, or nursing staff if conveying to another department, of their concerns about possible abuse or the risk of harm.

Ambulance staff will follow local procedures for contacting the Single Point of Referral and raising Adult Safeguarding concerns.

### 5.12 Public Health

Under the health reforms there are significant changes to arrangements for the provision and commissioning of public health services. At a national level, Public Health England (PHE) supports people to make healthier choices and provides expertise, information and intelligence to public health teams based in local authorities and the NHS. PHE also provides national leadership to support delivery of the public health outcomes framework. This includes tackling health inequalities, health improvement and the delivery of health protection services, including emergency planning and resilience. It also includes the development of national programmes and cross-government and international leadership.

At the local level, public health is the responsibility of local government, which provides local leadership to health and wellbeing boards, leads the development of the Joint Strategic Needs Assessment and commissions a range of services – including the 5 to 19 Healthy Child Programme (0 to 19 from 2015), school health services, drugs and alcohol services and sexual health services. Public health teams in local authorities will also provide public health advice to ICBs locally.

### 5.13 Housing

Housing commissioners and providers have a key role in adult safeguarding, particularly as their staff may be in the best position to spot signs of abuse or neglect at an early stage, especially where other services are not involved. While the Supporting People Programme regulates providers and builds safeguarding standards into its contracts, there are many other landlords outside these regulations who house adults with care and support needs.

### 5.14 Care Quality Commission (CQC)

The Care Quality Commission (CQC) roles and responsibilities for safeguarding children and adults are to monitor, inspect and regulate services to make sure they meet the fundamental standards of quality and safety. For safeguarding, they will do this by:

- Checking that care providers have effective systems and processes to help keep children and adults safe from abuse and neglect.
- Using intelligence monitoring of information they receive about safeguarding (intelligence, information and indicators) to assess risks to adults and children using services and to make sure the right people act at the right time to help keep them safe.
- Acting promptly on safeguarding issues they discover during inspections, raising them with the provider and, if necessary, referring safeguarding concerns to the local authority – who have the local legal responsibility for safeguarding – and the police, where appropriate, to make sure action is taken to keep children and adults safe.
- Speaking with people using services, their carers and families as a key part of their inspections so they can understand what their experience of care is like and to identify any safeguarding issues. They also speak with staff and managers in care services to understand what they do to keep people safe.
- Holding providers to account by taking regulatory action to ensure that they rectify any shortfalls in their arrangements to safeguard children and adults, and that that they maintain improvements. Regulatory action includes carrying out comprehensive and follow-up inspections, requiring providers to produce action

plans, taking enforcement action to remedy breaches of fundamental standards, and taking action against unregistered providers.

- Publishing their findings about safeguarding in inspection reports, and awarding services an overall rating within the key question 'Is the service safe?' which reflects their findings about the safety and quality of the care provided.
- Supporting the local authority's lead role in conducting enquiries regarding safeguarding children and adults. They do this by co-operating with them and sharing information where appropriate from their regulatory and monitoring activity. CQC will also assist the police in a similar way.
- Explaining their role in safeguarding to the public, providers and other partners so that there is clarity about what they are responsible for and how their role fits with those of partner organisations.

Health and Safety Executive (HSE) responsibilities for service users injured in regulated services now falls to the CQC. Examples include scalding, someone falling from a window, serious injury as a result of neglect. For more information refer to Memorandum of Understanding between the Care Quality Commission, the HSE and Local authorities in England.

Although they do not have a formal role on Safeguarding Adults Boards or Local Safeguarding Children Boards, the CQC work closely with the fora, sharing information and intelligence where appropriate to help them identify risks to children and adults.

See Care Quality Commission website – www.cqc.org.uk

### 5.15 Court of Protection

The Court of Protection deals with decisions and orders affecting people who lack capacity. The Court can make major decisions about health and welfare, as well as property and financial affairs. 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 capacity to make such decisions,
- appoint deputies to make decisions for people lacking capacity,
- 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.

### 5.16 Office of the Public Guardian (OPG)

The Public Guardian has a statutory duty to safeguard:

- any person who has a deputy appointed by the Court of Protection
- the donor of any registered enduring power of attorney (EPA) or lasting power of attorney (LPA)
- anyone for whom the Court of Protection has authorised someone else to carry out a transaction on their behalf, under s16 (2) of the Mental Capacity Act 2005 (single orders).

This includes some children and young people where the Court of Protection has appointed a deputy because the child or young person is likely to still lack capacity to make financial decisions when he or she turns 18.

The OPG has legal powers to carry out an investigation into the actions of a deputy, a registered attorney (LPA or EPA) or someone authorised by the Court of Protection to carry out a transaction for someone who lacks capacity, and report to the Public Guardian or Court of Protection.

*See also: Office of the Public Guardian – Safeguarding Policy (updated January 2023)*

**5.17 The Coroner**

Coroners are independent judicial officers who are responsible for investigating violent, unnatural deaths, 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 with care and support needs. 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)
- where a death falls 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 SAB should give serious consideration to instigating an SAR (Safeguarding Adults Review) where an adult with care and support needs is involved, and the review procedure should be agreed with the coroner.

**5.18 Healthwatch**

Healthwatch is the national consumer champion in health and care with significant 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 has potentially a central role to play, not least in empowering people to speak out on their own behalf and wherever they see signs that others' right to safety and protection are being breached. Healthwatch organisations have "Enter and View" powers in accordance with regulations so they can observe matters in relation to health and social care services.

They are active members of Safeguarding Adult Boards and have to receive copies of Board Annual reports and have to be consulted in relation to the Boards Strategic Plan.

**5.19 Fire and Rescue Service**

Fire Service personnel visit people in their homes when carrying out home fire safety visits. In cases where they have a concern about an adult they will inform their line manager who will then take appropriate action, which may involve referral to another agency.

The Fire Service has officers who are trained to recognise, report and respond to concerns that an adult may be at risk of harm, in line with the local Adult Safeguarding procedures and their powers.

**5.20 Probation**

The Probation Service is a statutory criminal justice service that supervises offenders released into the community, while protecting the public.

The Probation Service should be included in improving safeguarding locally. They work in partnership with other agencies through the Multi-Agency Public Protection Arrangements (MAPPA). They have a remit to be involved with victims of serious sexual and other violent crimes and are in a position to identify and help offenders who are at risk of abuse. They aim to reduce the re-offending behaviour of sexual and violent offenders in order to protect the public and previous victims from serious harm.

**5.21 Prisons**

Prisons and approved premises have their own safeguarding duties to prisoners with needs for care and support. The National Offender Management Service is working with a range of bodies in developing improved safeguarding arrangements that will offer equivalent protection to other adults with care and support needs. Prison Governors, or their senior representatives, are able to attend SABs with the agreement of the core partners. They are able to seek and share information to improve adult safeguarding when required. Additionally, prison staff may request help or advice from the local authority in a particular situation where they feel the need for more expertise or a different perspective.

Local Authorities' section 42 duties to make enquiries and section 44 duties (to carry out a SAR) do not apply to adults in prisons and approved premises.

**5.22 Community and faith groups**

It is expected that these groups have in place safeguarding systems, guidance and policies that are proportionate to the scale and nature of their organisation.

**5.23 Providers of Social Care Services and private Healthcare Services (including the voluntary sector and educational establishments).**

Where any user of the service is at risk of abuse or neglect, the first responsibility to act is with the employing organisation as provider of the service. When a provider/employer is aware of abuse or neglect in their organisation, then they are under a duty to correct this and protect the adult from harm as soon as possible, and may need to inform the local authority, the regulator, and the ICB where the latter is the commissioner.

All providers should expect that a local authority may cause them to undertake an enquiry in line with the West Midlands Policy and Procedure. Providers should ensure that there are appropriate arrangements in place to be able to respond to the requirement to undertake adult safeguarding enquiries, and that staff have the right levels of knowledge and skills to undertake enquiries.

The provider / employer should investigate any concern (and provide any additional support that the adult may need) unless there is compelling reason why it is inappropriate or unsafe to do this. For example, this could be a serious conflict of interest on the part of the provider, concerns having been raised about non-effective past enquiries or serious, multiple concerns, or a matter that requires investigation by the police.

An example of a conflict of interest where it is better for an external person to be appointed to investigate may be the case of a family-run business where organisational

abuse is alleged, or where the manager or owner of the service is implicated. All those carrying out such enquiries should have received appropriate training.

If someone is removed by being either dismissed or redeployed to a non-regulated activity, from their role providing regulated activity (as defined by the Disclosure and Barring Service) for harming or posing a risk of harm, satisfied the harm test; or received a caution or conviction for a relevant offence for example following a safeguarding incident, or a person leaves their role (resignation, retirement) to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation feels they would have dismissed the person based on the information they hold, the regulated activity provider has a legal duty to refer to the Disclosure and Barring Service.

Employers must ensure that staff, including volunteers, are trained in recognising the symptoms of abuse or neglect, how to respond and where to go for advice and assistance. These are best written down in shared policy documents that can be easily understood and used by all the key organisations.

Employers must also ensure all staff keep accurate records, stating what the facts are and what are the known opinions of professionals and others and differentiating between fact and opinion. It is vital that the views of the adult are sought and recorded. These should include the outcomes that the adult wants, 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.

It is considered best practice for employers/providers to record their rationale when not raising an adult safeguarding concern. This should include a summary of discussions with the adult and/or their representative about what has happened to them, an outline what has been done to make the adult safe (including care plan and risk management changes if relevant) and an explanation of why it is felt the abuse will not continue.

The employer/provider should regularly review any incidents logged which have not been raised as a safeguarding concern to identify themes, trends or lessons learned. This will support the implementation of preventive action to help mitigate the risk of further incidents. If the employer/provider is in doubt as to whether a safeguarding concern should be raised, they should seek advice from their organisations safeguarding lead or the local authority safeguarding team.

Social Care staff and volunteers provide support for some of the most vulnerable people in society. Care providers can promote safety within service provision through effective and safe recruitment practices. Those responsible for recruiting or supervising staff or volunteers, have an obligation to conduct a safe and fair recruitment process and ensure that pre-employment checks are robust so that the organisation safeguards the people being supported. The Better Hiring Institute has produced a *Better Hiring Toolkit for Care*- link HERE- that can support safe and effective recruitment.

# PROCEDURE.

# 7. Introduction.

7.1. The West Midlands adult safeguarding procedures are the result of a collaboration between the local authorities within the region.

7.2. This procedure is governed by a set of key principles and themes, so as to ensure that people who are at risk of abuse, neglect and exploitation experience the process in such a way that it is sensitive to individual circumstances, is person-centred and is outcome-focused. It is vital for successful safeguarding that the procedures in this section are understood and applied consistently by all organisations.

7.3. Although the responsibility for the coordination of adult safeguarding arrangements lies with local authorities, the implementation of these procedures is a collaborative responsibility and effective work must be based on a multi-agency approach.

7.4. The key principles which govern this procedure are set out in the Care & Support statutory guidance (para 14.13)-

- ***empowerment:*** presumption of person-led decisions and informed consent; consulting the person about their desired outcome throughout the safeguarding process
- ***protection:*** ensuring that people are safe and that they have support and representation as necessary during the process
- ***prevention:*** minimising the likelihood of repeated abuse and recognising the person's contribution to this in safeguarding plans
- ***proportionality:*** the ways in which the safeguarding procedure is used are proportionate, as unintrusive as possible and appropriate to the risk presented
- ***partnership:*** people can be satisfied that agencies are working constructively to make them safe
- ***accountability:*** the way in which the safeguarding process is conducted should be transparent and consistent; it should always be borne in mind that safeguarding procedures may be subject to external scrutiny (e.g. the courts).

7.5. The procedures are a *framework*. Adult safeguarding is a dynamic process that must be undertaken *with* people and not *to* people. The following key themes run throughout the adult safeguarding process:

- ***User outcomes:*** at the beginning and at every stage of the process what the individual wants to achieve must be identified and revisited. To what extent these views and desired outcomes have been met must be reviewed at the end of the safeguarding process regardless of at what stage it is concluded.

- ***Risk assessment and management:*** these are central to the adult safeguarding process. Assessments of risk should be carried out with the individual at each stage of the process so that adjustments can be made in response to changes in the levels and nature of risk. Risks to others must also be considered.

- ***Mental capacity:*** the MCA 2005 requires an assumption that an adult (aged 16 or over) has full legal capacity to make decisions unless it can be shown that they lack capacity to make a decision for themselves at the time the decision needs to be made. Individuals must be given all appropriate help and support to enable them to make their own decisions or to maximise their participation in any decision-making process. Unwise

decisions do not necessarily indicate lack of capacity. Any decision made, or action taken, on behalf of someone who lacks the capacity to make the decision or act for themselves must be made in their best interests. It is important that an individual's mental capacity is considered at each stage of the adult safeguarding process.

• ***Safeguarding planning****:* in response to identified risks a safeguarding plan can be developed and implemented at any time in the adult safeguarding process. The multi-agency plan aims to:

- prevent further abuse or neglect;
- keep the risk of abuse or neglect at a level that is acceptable to the person being abused or neglected and the agencies supporting them;
- support the individual to continue in the risky situation if that is their choice and they have the capacity to make that decision.

Safeguarding planning also involves promoting wellbeing and supporting anyone who has been abused or neglected to recover from that experience.

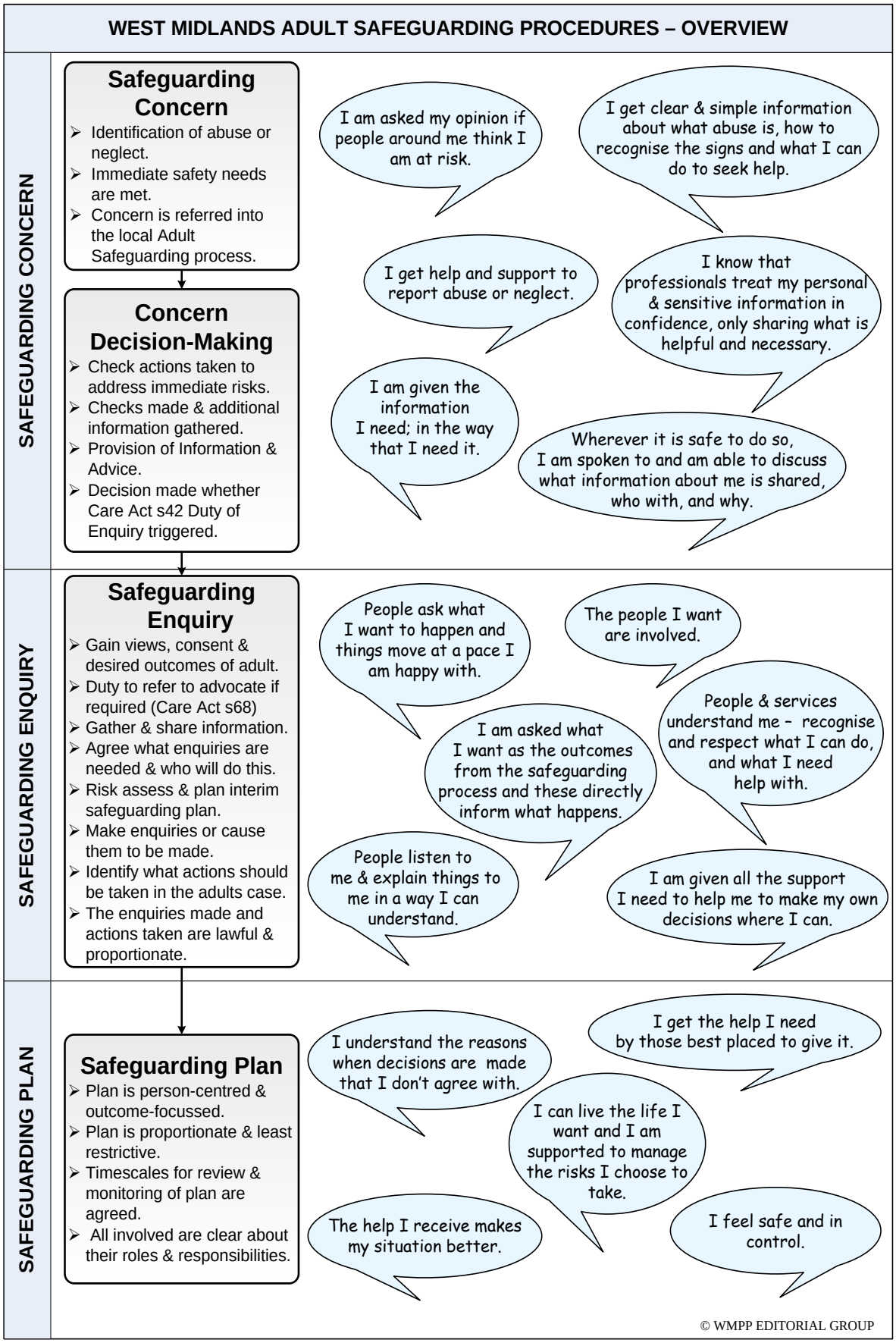
• ***Information sharing:*** this is key to delivering better and more efficient services that are coordinated around the needs of the individual. It is essential to enable early intervention and preventative work, for safeguarding, for promoting welfare and for wider public protection. Information sharing is a vital element in improving outcomes for all. Nevertheless, it is important to understand that most people want to be confident that their personal information is kept safe and secure and that practitioners maintain their privacy, while sharing appropriate information to deliver better services.

• ***Recording:*** good record-keeping is an essential part of the accountability of organisations to those who use their services. Maintaining proper records is vital to individuals' care and safety. If records are inaccurate, future decisions may be wrong and harm may be caused to the individual. Where an allegation of abuse is made all agencies have a responsibility to keep clear and accurate records. It is fundamental to ensure that evidence is protected and to show what action has been taken and what decisions have been made and why.

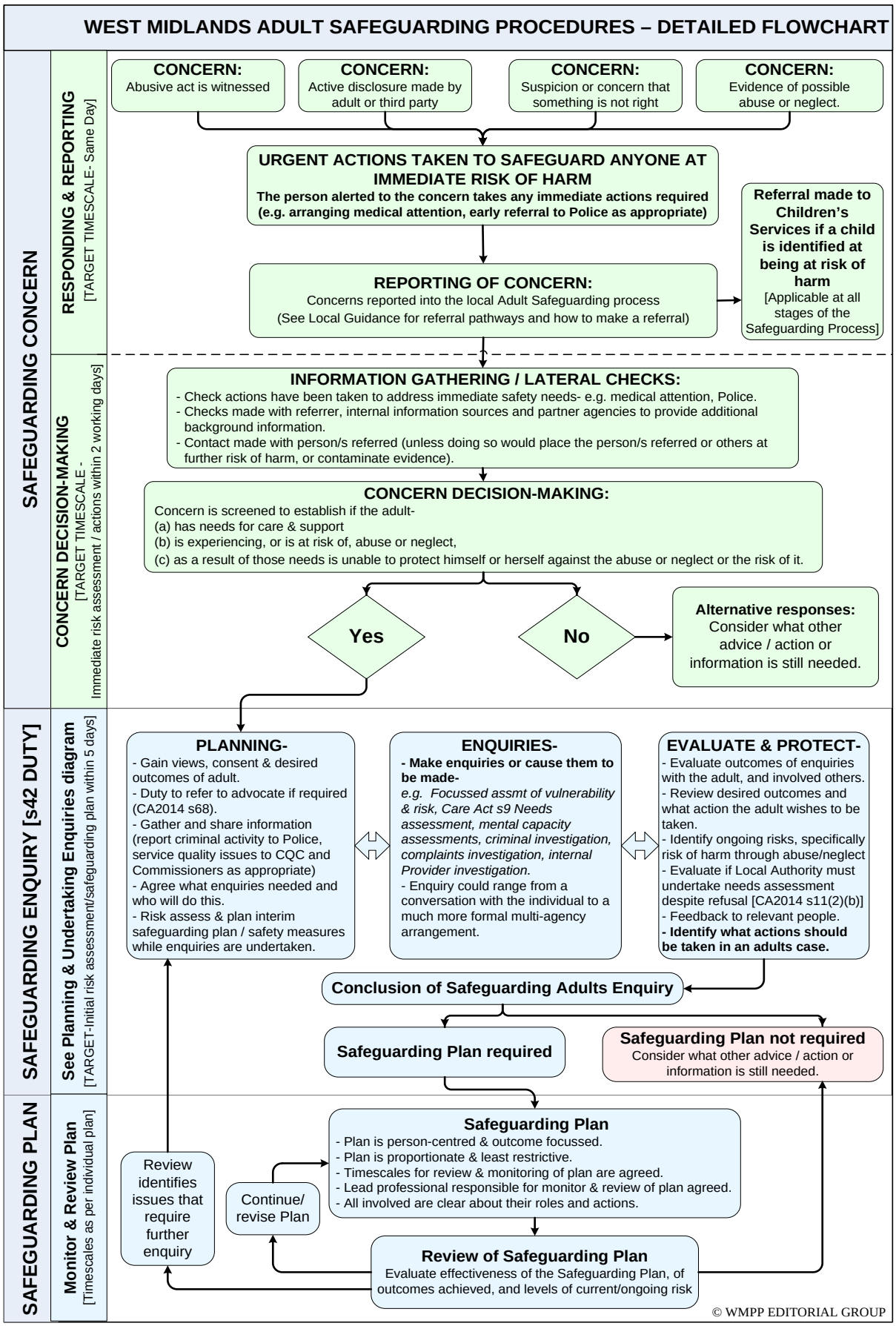
• ***Feedback:*** at each stage of the adult safeguarding process it is important to ensure feedback is given to the adult, people raising the concern and partners. People who raise adult safeguarding concerns are entitled to be given appropriate information regarding the status of the referral they have made. The extent of this feedback will depend on various things (e.g. the relationship they have with the victim, confidentiality issues and the risk of compromising an enquiry). At the very least it should be possible to advise people raising the concern that their information has been acted upon and taken seriously. Partners in provider organisations require feedback to allow them to continue to provide appropriate support, fulfil employment law obligations and make staffing decisions.

7.6. Finally, it is equally important that these procedures are managed and administered in such a way as to comply with all the articles of the Human Rights Act (HRA) 1998 (in particular Articles 5 and 8). What this means is that both the process and the outcome must be the least restrictive, proportionate and enable risk where appropriate. In addition, any actions falling under these procedures should be consistent with current legislation as it relates to social care, health, housing and education.

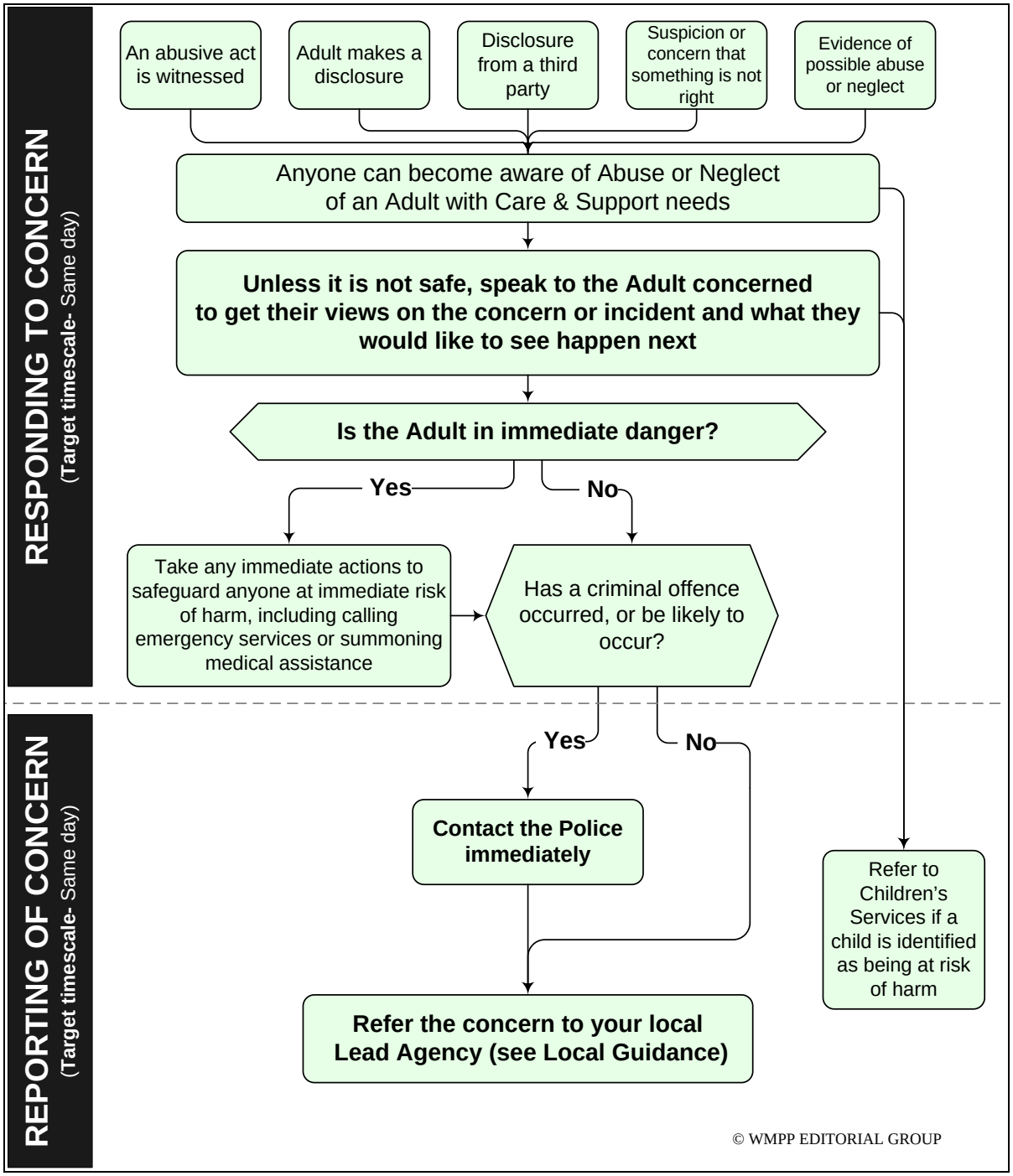
## Fig 7a - Adult Safeguarding procedure- Overview flowchart.



## Fig 7b- Adult Safeguarding procedure- Detailed flowchart.



# 8. Adult Safeguarding Concerns: Responding & Reporting-



### 8.1 Definition

An "adult safeguarding concern" describes the process where someone is first alerted to a concern or incident that indicates an adult with care & support needs-

(i) is experiencing or is at risk of abuse or neglect, and

(ii) as a result of their care & support needs, is unable to protect themself against abuse or neglect, or the risk of it,

and takes action to respond, and to report the concern.




### 8.2 Purpose

The steps to be taken when responding to a concern are-

- To ensure that immediate actions are taken to safeguard anyone at immediate risk of harm.
- Wherever it is safe to do so, to speak to the adult and get their views on the concern or incident,
- To report the concern to the local Lead Agency, (and to the Police where a criminal offence has occurred or will occur),
- To report concerns to Children's Services if a child is identified as being at risk of harm.




REMEMBER- follow good practice under the Mental Capacity Act when speaking to the adult. Assume the adult has capacity unless proven otherwise. If the person is proven to lack capacity, speak to the person's representative/s and always act in best interests.

### 8.3 Roles and responsibilities

A concern can be identified and reported by anyone, including the adult, a carer, family, friends, professionals or other members of the public.

Any individual or agency can respond to an adult safeguarding concern raised about an adult. This can include reporting the concern and seeking support to protect individuals from any immediate risk of harm (e.g. by contacting the police or emergency services).

Individual agencies should have internal procedures and guidance for responding to and reporting concerns.

### 8.4 Timeliness & risk

- Immediate actions may be required to safeguard the adult, when they request this or when they cannot safeguard themselves. An evaluation of the risk of harm to the adult must take place on the same day as the concern is identified.

- Adult safeguarding concerns should be reported to the lead agency for safeguarding without delay. See local guidance for how to report concerns in your Local Authority area. The target timescale for reporting the concern is within the same working day.

REMEMBER- see also the policy section for guidance on timescales.
This procedure outlines target timescales to guide timeliness of response to adult safeguarding concerns. However, it is also important to respond at the pace that is right for the adult, and puts them in greatest control of what happens in their life.

### 8.5 Process

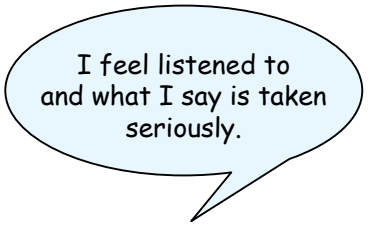
The following is primarily intended for people working (paid and/or unpaid) with adults who have care & support needs, but anyone may use it as guidance to respond to concerns of abuse or neglect.

REMEMBER- unless it is not safe or will increase the risk to the adult, it is always best practice to speak to the adult involved at as early a stage as possible to get their views and wishes on the concerns. This should help to guide what next steps should be taken and whether the concern should be reported as an adult safeguarding concern or should be dealt with by another means. See Section 8.5.6 for guidance.

#### 8.5.1. ***Responding to disclosures***

The possibility of abuse can come to light in various ways, for example:

- an active disclosure of abuse by the adult;
- a passive disclosure of abuse where someone's attention is drawn to the signs of abuse or neglect;
- an allegation of abuse by a third party;
- a complaint or concern raised by an adult or a third party who doesn't perceive that it is abuse or neglect.




## Good Practice Guide – Responding to Disclosures

It is often difficult to believe that abuse or neglect can occur. Remember, it may have taken a great amount of courage for the person to tell you that something has happened and fear of not being believed can cause people not to tell.

- Accept what the person is saying – do not question the person or get them to justify what they are saying – reassure the person that you take what they have said seriously.
- Don't 'interview' the person; just listen carefully and calmly to what they are saying. If the person wants to give you lots of information, let them. Try to remember what the person is saying in their own words so that you can record it later.
- You can ask questions to establish the basic facts, but try to avoid asking the same questions more than once, or asking the person to repeat what they have said- this can make them feel they are not being believed.
- Don't promise the person that you'll keep what they tell you confidential or "secret". Explain that you will need to tell another person but you'll only tell people who need to know so that they can help.
- Reassure the person that they will be involved in decisions about what will happen.
- Do not be judgemental or jump to conclusions.
- If the person has specific communication needs, provide support and information in a way that is most appropriate to them.

8.5.2. ***Acting to protect the adult, identified others, and dealing with immediate needs***

- Make an immediate evaluation of the risk and take steps to ensure that the adult is in no immediate danger. Where appropriate, call 999 for emergency services if there is a medical emergency, other danger to life or risk of imminent injury, or if a crime is in progress.
- Summon urgent medical assistance from the GP, or other primary healthcare service if there is a concern about the adult's need for medical assistance or advice. You can call the NHS 111 service for urgent medical help or advice when it's not a life-threatening situation.
- Consider if there are other adults with care & support needs who are at risk of harm, and take appropriate steps to safeguard them.
- Consider supporting and encouraging the adult to contact the Police if a crime has been or may have been committed.
- Take steps to preserve any physical evidence if a crime may have been committed, and preserve evidence through recording.

## Good Practice Guide – Preserving Physical Evidence

**What to do?**

In cases where there may be physical evidence of crimes (e.g. physical or sexual assault), **contact the Police immediately**. Ask their advice about what to do to preserve evidence.

As a guide-

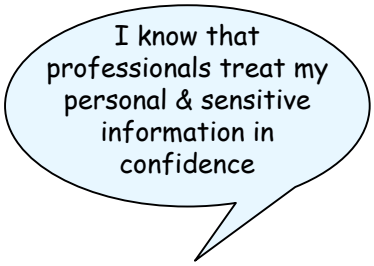
- Where possible leave things as and where they are. If anything has to be handled, keep this to an absolute minimum;
- Do not clean up. Do not touch anything you do not have to. Do not throw anything away which could be evidence;
- Do not wash anything or in any way remove fibres, blood etc;
- Preserve the clothing and footwear of the victim;
- Preserve anything used to comfort or warm the victim, e.g. a blanket;
- Note in writing the state of the clothing of both the victim and person alleged to have caused the harm. Note injuries in writing. As soon as possible, make full written notes on the conditions and attitudes of the people involved in the incident;
- Take steps to secure the room or area where the incident took place. Do not allow anyone to enter until the Police arrive.

In addition, in cases of sexual assault –

- Preserve bedding and clothing where appropriate, do not wash;
- Try not to have any personal or physical contact with either the victim or the person alleged to have caused the harm. Offer reassurance and comfort as needed, but be aware that anyone touching the victim or source of risk can cross contaminate evidence.

8.5.3. ***Making a written record***

It is vital that a written record of any incident or allegation of crime is made as soon as possible after the information is obtained. Written records must reflect as accurately as possible what was said and done by the people involved in the incident or concern.




## Good Practice Guide – Recording

As soon as possible on the same day, make a written record of what you have seen, been told or have concerns about. Try to make sure anyone else who saw or heard anything relating to the concern also makes a written report.

The written report will need to include:

- the date and time when the disclosure was made, or when you were told about / witnessed the incident/s,
- who was involved, any other witnesses including other adults and other staff,
- exactly what happened or what you were told, in the person's own words, keeping it factual and not interpreting what you saw or were told,
- the views and wishes of the adult,
- the appearance and behaviour of the adult and/or the person making the disclosure,
- any injuries observed,
- any actions and decisions taken at this point,
- any other relevant information, e.g. previous incidents that have caused you concern.

Remember to:

- include as much detail as possible,
- make sure the written report is legible, written or printed in black ink, and is of a quality that can be photocopied,
- make sure you have printed your name on the report and that it is signed and dated,
- keep the report factual as far as possible. However, if it contains your opinion or an assessment, it should be clearly stated as such and be backed up by factual evidence. Information from another person should be clearly attributed to them.
- keep the report/s confidential, storing them in a safe & secure place until needed.

8.5.4. ***Reporting to your line manager***

For people who work in a paid and/or unpaid role within organisations-

- If you are concerned that a member of staff in your organisation has abused an adult with care & support needs, you have a duty to report these concerns. You *must* inform your line manager immediately.

- In situations where informing a manager will involve delay in a high-risk situation you should report the concern to external agencies immediately.

- If you are concerned that your line manager has abused or neglected an adult with care & support needs, you must inform a senior manager, or another Adult Safeguarding lead, in your organisation. In exceptional circumstances where you do not feel safe or comfortable reporting the matter within your own organisation, or if you have already raised concerns with your managers but no action has been taken, you can report the concern to the local Lead Agency in your area.

- If you are concerned that an adult with care & support needs may have abused another adult, inform your line manager.

REMEMBER- the law gives protections to workers who have a reasonable belief there is wrongdoing at work, and who report it. See policy section on Whistle-blowing.

8.5.5. ***Taking management action to respond to the concern***

8.5.5.1. The line manager or the adult safeguarding lead within the organisation identifying the concern should then decide on the most appropriate course of action without delay. This should include-

- Check & review actions already taken and decisions made.
- If not already done so-
  - Make an evaluation of the risk to the adult.
  - Wherever it is safe, speak to (or decide who is the best placed person to speak to) the adult to gain their views about the concern and what they would like to happen next,
  - Take reasonable and practical steps to safeguard the adult.
  - Consider referring to the police if the suspected abuse is a crime.
  - If the matter is to be referred to the police, discuss risk management and any potential forensic considerations with the police.
  - Arrange any necessary emergency medical treatment. Note that offences of a sexual nature will require expert advice from the police.
- If the person alleged to have caused the harm is also an adult with care & support needs, arrange for a member of staff to attend to their needs.
- Make sure that other people are not at risk.
- Take action in line with the organisation's disciplinary procedures, as appropriate, if a member of staff is alleged to have caused harm.
- Ensure that records are made of any concerns, and that decisions are clearly recorded with the rationale for the decisions explained.

8.5.5.2. Organisations should ensure that they have procedures in place to provide appropriate line manager cover to respond to such concerns, despite leave or where services operate extended or 24-hour cover.

8.5.5.3. NHS staff will need to refer to their trust's procedures on clinical governance and Adult Safeguarding as well as their Adult Safeguarding policy and procedures.

8.5.6. ***Speaking to the adult who is experiencing, or is at risk of, abuse or neglect***

8.5.6.1. Integral to effective person-centred approaches to adult safeguarding is engaging the adult in a conversation about how best to respond to their situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. Engaging with the adult in a meaningful way, at as early a stage as possible, is key to promoting good person-centred practice.

8.5.6.2. From the very first stages of concerns being identified, the views of the adult should be gained. This will enable the person to give their perspectives about the potential abuse or neglect concerns that have been raised, and what outcomes they would like to achieve. These views should directly inform what happens next.




8.5.6.3. There will be occasions where speaking to the adult could put them at further or increased risk of harm. This could be, for example, due to retaliation, or a risk of fleeing or removal of the adult from the local area, or an increase in threatening or controlling behaviour if the person causing the risk of harm were to know that the adult had told someone about the abuse or neglect, or that someone else was aware of it.

The safety of the adult and the potential for increasing the risk should always be considered when planning to speak to the person. Any such situations where there is the potential for endangering safety or increasing risk should be assessed carefully and advice taken from your management, or from an external agency as appropriate.

**CASE STUDY – Gaining the views of the adult at the concern stage**

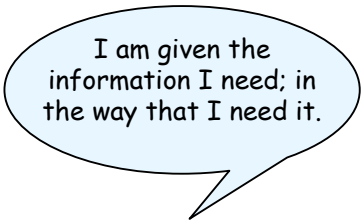
Mrs A is in her eighties and lives alone with her husband, Mr A. Mr A is also in his eighties and cares for his wife, with the support of three visits per day from a homecare agency. Mrs A has high physical care needs and she can be forgetful at times.

After a morning call, the homecarer reports to her line manager that she has witnessed Mr A shouting and verbally abusing Mrs A. The carer said there was no sign of any injury or harm and Mrs A did not seem distressed. The homecare manager decides it is safe to visit Mr and Mrs A with the lunchtime carer. The homecare manager was able to speak to Mrs A alone and discuss the concerns. Mrs A said that she remembered the incident, but that her husband had “blown up” because he is tired from doing things for her. She doesn’t feel that what happened was “abuse”, but said that he could probably do with more help. The homecare manager talked to Mrs A about the adult safeguarding process. Mrs A stated clearly that she did not wish for this to happen and that she was not afraid of her husband. The homecare manager then spoke to Mr and Mrs A about having more help. Mr A did not want this but said he would think about it.

After speaking to Mrs A, the homecare manager decided not to refer the issue as a safeguarding concern, but discussed the incident with the duty social worker from the Local Authority and agreed that the homecare agency will monitor the situation, and refer again if more help is asked for at a later point, or if repeated or more serious concerns arise.

8.5.6.4. When speaking to the adult -

- Speak to the adult in a private and safe place and inform them of the concerns. The person alleged to be the source of the risk should not be present in all but the most exceptional of circumstances,
- Get the adult's views on the concern and what they want done about it,
- Give the adult information about the adult safeguarding process and how that could help to make them safer,
- Explain confidentiality issues, how they will be kept informed and how they will be supported,




- Identify communication needs, personal care arrangements and access requests,
- Discuss what could be done to make them safer.

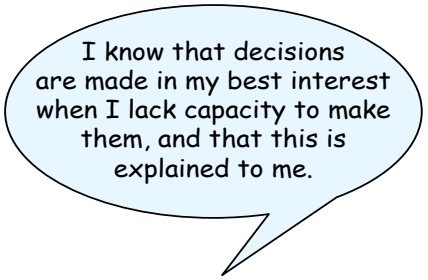
8.5.7. ***Capacity & consent.***

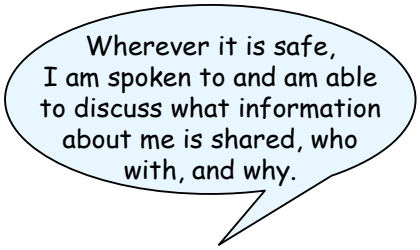
8.5.7.1. *Capacity*- Anyone who acts for, or on behalf of, a person who may lack capacity to make relevant decisions has a duty to understand and always work in line with the Mental Capacity Act (MCA) and MCA Code of Practice.

8.5.7.2. *Consent*- All adults have the right to choice and control in their own lives. As a general principle, no action should be taken for, or on behalf of, an adult without obtaining their consent.

8.5.7.3. At the concern stage, the most common capacity & consent issues to consider will usually be-

- whether the adult has the *mental capacity* to understand & make decisions about the abuse or neglect related risks, & any immediate safety actions necessary, and;




- whether the adult *consents* to immediate safety actions being taken, & whether the adult *consents* to information being referred / shared with other agencies.

If it is felt that the adult may not have the mental capacity to understand the relevant issues and to make a decision, it should be explained to them as far as possible, given the person's communication needs. They should also be given the opportunity to express their wishes and feelings.

It is important to establish whether the adult has the mental capacity to make decisions. This may require the assistance of other professionals. In the event of the adult not having capacity, relevant decisions and/or actions must be taken in the person's best interests. The appropriate decision-maker will depend on the decision to be made.

### 8.5.8. *Reporting without consent*

Wherever it is safe and possible to do so, consent from the adult to share their information should always be gained. However, the Data Protection Act 2018 does allow for information to be shared without consent if there is a substantial public interest – this includes adult safeguarding situations[11].

Where an individual or agency has reasonable cause to suspect that an adult with care and support needs is at risk of abuse or neglect - and is unable to protect themselves from that abuse/neglect due to their needs for care and support - then the information can be shared without consent if -

- the person is unable to give consent,
- the person/organisation cannot reasonably be expected to obtain consent, or
- trying to gain consent would work put the person at further risk of harm.

Individuals may not give their consent to the sharing of safeguarding information for a number of reasons. For example, they may be frightened of reprisals, they may fear losing control, they may not trust social services or other partners or they may fear that their relationship with the abuser will be damaged. Reassurance and appropriate support along with gentle persuasion may help to change their view on whether it is best to share information.

If a person refuses intervention to support them with a safeguarding concern, or requests that information about them is not shared with other safeguarding partners, their wishes should be respected. However, there are a number of circumstances where the practitioner can reasonably override such a decision, including:

- the person lacks the mental capacity to make that decision – this must be properly explored and recorded in line with the Mental Capacity Act,
- other people are, or may be, at risk, including children,
- sharing the information could prevent a crime,
- the alleged source of risk has care and support needs and may also be at risk,
- a serious crime has been committed,
- staff are implicated,
- the person has the mental capacity to make that decision, but they may be under duress or being coerced,
- the risk is unreasonably high and meets the criteria for a multi-agency risk assessment conference referral (See Section 4.18- MARAC),
- a court order or other legal authority has requested the information.

If none of the above apply and the decision is not to share safeguarding information with other safeguarding partners, or not to intervene to safeguard the person:

- support the person to weigh up the risks and benefits of different options,
- ensure they are aware of the level of risk and possible outcomes,
- offer to arrange for them to have an advocate or peer supporter,
- offer support for them to build confidence and self-esteem if necessary,
- agree on and record the level of risk the person is taking,
- record the reasons for not intervening or sharing information,
- regularly review the situation,
- try to build trust and use gentle persuasion to enable the person to better protect themselves.

[11] See Data Protection Act 2018. Schedule 1, Part 2, Section 18.

If it is necessary to share information outside the organisation:

- explore the reasons for the person's objections – what are they worried about?,
- explain the concern and why you think it is important to share the information,
- tell the person who you would like to share the information with and why,
- explain the benefits, to them or others, of sharing information – could they access better help and support?,
- discuss the consequences of not sharing the information – could someone come to harm?,
- reassure them that the information will not be shared with anyone who does not need to know,
- reassure them that they are not alone, and that support is available to them.

If the person cannot be persuaded to give their consent then, unless it is considered dangerous to do so, it should be explained to them that the information will be shared without consent. The reasons should be given and recorded. The safeguarding principle of proportionality should underpin decisions about sharing information without consent, and decisions should be on a case-by-case basis[12].

If any person is unsure whether to report, they should contact the relevant local Lead Agency for advice.

Disclosure without consent needs to be justifiable and the reasons recorded by professionals in each case.

REMEMBER- see also policy section for further detail on information-sharing.

There are only a limited number of circumstances where it would be acceptable not to share information and report adult safeguarding concerns.

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 (MARAC) referral – in domestic abuse situations
- no other legal authority has requested the information.

In such situations, you should discuss this with your manager or safeguarding lead in your organisation, and you may need to take legal advice. The reasons for not intervening or sharing information must always be clearly recorded.

[12] *SCIE Adult safeguarding: sharing information guide*, last updated January 2019

8.5.9. ***Reporting Adult Safeguarding concerns***

- Refer any safeguarding concern that meets the criteria at Section 8.1 to the Lead Agency in your locality. The Local Authority will usually be the lead agency, but some local authorities may ask other agencies to do this on their behalf. Information on how to make an adult safeguarding referral will be published by your Local Authority or local Safeguarding Adults Board – check their website/s.
    - In addition, if a criminal offence has occurred or may occur, contact the Police force where the crime has / may occur.
    - If a crime is in progress or life is at risk, dial emergency - **999**.
- You must contact the Local Authority Children's Services if a child is identified as being at risk of harm.
- If you are a paid employee, inform your manager. Report the matter internally through your internal agency reporting procedures (e.g. NHS colleagues may still need to report under clinical governance or serious incident processes, report to HR department if an employee is the source of risk).
- If your service is registered with the Care Quality Commission, and the incident constitutes a notifiable event, complete and send a notification to CQC.

8.5.10. ***Anonymous reporting & protecting anonymity***

8.5.10.1. *Anonymous reporting*- It is preferable to know who is reporting a concern. It can make it more difficult to follow up concerns if the identity or contact details of the referrer are not known. Workers in paid or unpaid positions should always be expected to state who they are when reporting concerns. However, if the identity of the referrer has been withheld, the adult safeguarding process will proceed in the usual way. This will include information being recorded as an adult safeguarding concern.

8.5.10.2. *Protecting anonymity*- While every effort will be made to protect the identity of anyone who wishes to remain anonymous, the anonymity of people reporting concerns cannot be guaranteed throughout the process. It is particularly important to remember the following-

- In cases where the police are pursuing a criminal prosecution, people reporting concerns may be required to give evidence in court.
- All information from adult safeguarding enquiries and disciplinary investigations will be shared with the person identified as causing harm where a referral to the DBS is made.
- There is a possibility that workers raising concerns may be asked to give evidence at an employment tribunal.
- Anybody can be requested to give evidence when the employer has referred a member of staff to a professional body such as the Health & Care Professionals Council (HCPC), Social Work England, the Nursing and Midwifery Council (NMC), or the General Medical Council (GMC).
- The person causing harm may request to see information held about them under the Data Protection Act (DPA) 2018.

8.5.11. ***People causing harm who are employed in paid or unpaid Positions of Trust***

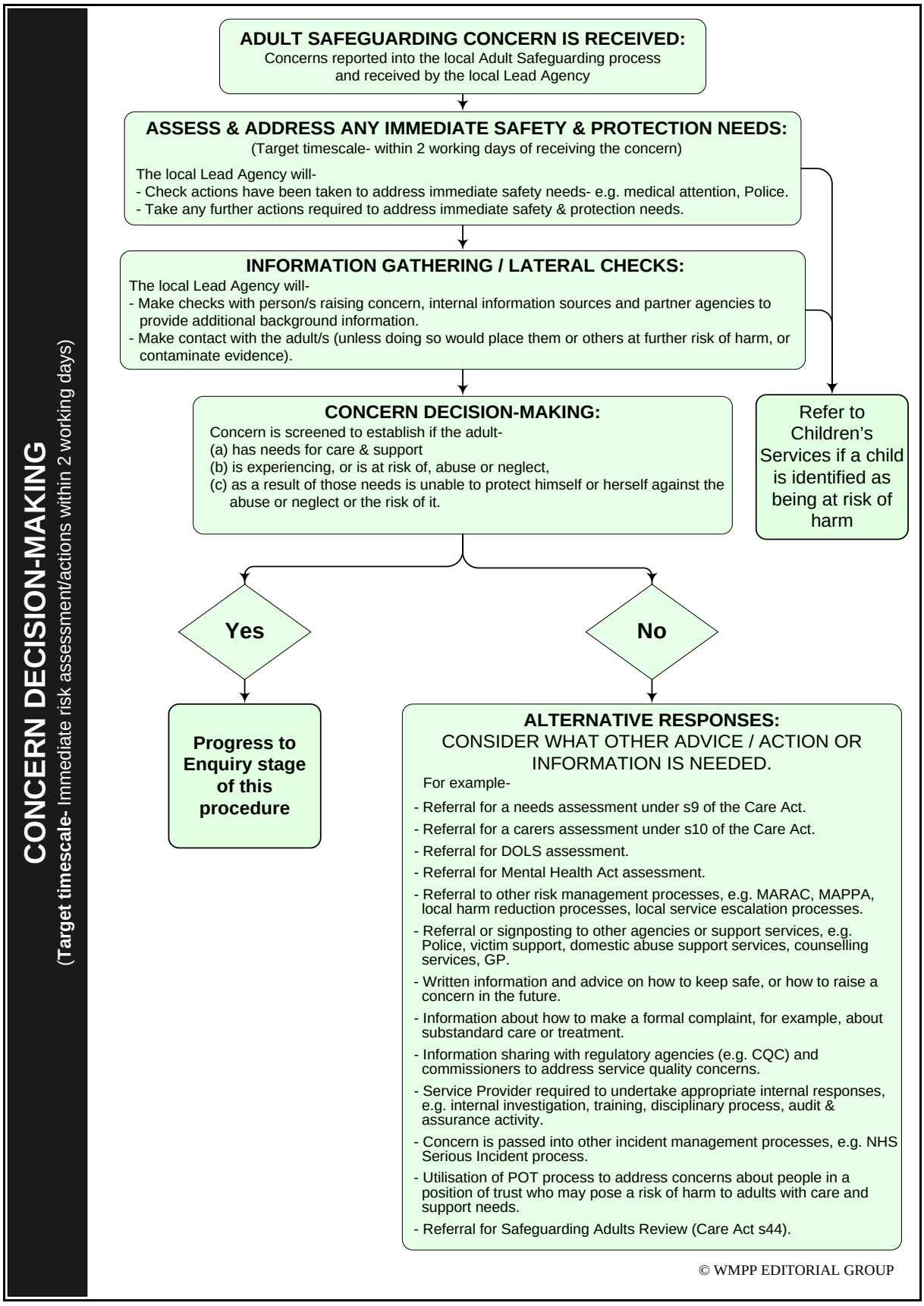
Proportionate action should be taken to ensure the immediate protection of the adult(s) with care and support needs.

Check your local Safeguarding Adults Board or individual agency arrangements for responding to concerns or allegations relating to people who work in a position of trust with adults with care and support needs.

If the concerns require Police involvement, wherever possible liaise with the Police prior to speaking or communicating with the person who works in a Position of Trust.

If the person is a member of staff in your organisation, HR advice should be sought, an immediate decision may have to be made to take action to protect the adult or other service users against any potential risk of harm (e.g. suspension without prejudice, supervised working). Actions taken will need to be compliant with employment law and the employee will have a right to know in broad terms that allegations or concerns have been raised about them.

# 9. Adult Safeguarding Concerns: Decision Making-



### 9.1 Definition

The “concern decision-making” stage refers to the actions taken by the lead agency, and the decision whether the concern meets the criteria for progression to a statutory Care Act s42 Enquiry, or whether other types of action, or provision of information & advice, are required to respond to the concern.

### 9.2 Purpose

When receiving a referral relating to an Adult Safeguarding Concern, the local Lead Agency will-

- Check actions have been taken to address immediate safety needs- e.g. medical attention, Police. If necessary, take action to address safety needs.

- Make checks with person raising the concern, internal information sources and partner agencies to provide additional background information.

- Make contact with the adult referred to understand their views and wishes about the concern (unless doing so would place them or others at further risk of harm, or contaminate evidence).




The purpose of making checks and gathering more information at this stage is (i) to assess/address any immediate safety & protection needs, and to gain the views of the adult, and (ii) to ascertain if the concern meets the criteria for a statutory enquiry under s42 of the Care Act, or if other action is required to respond to the concern.

The Local Authority statutory duty of enquiry applies where it has reasonable cause to suspect that an adult, aged 18 or over, in its area-

(i) has **needs for care & support** (whether or not the authority is meeting any of those needs),

(ii) is **experiencing, or is at risk of, abuse or neglect**, and

(iii) as a result of those needs **is unable to protect himself or herself** against the abuse or neglect or the risk of it.

### 9.3 Roles and responsibilities

Local processes for reporting adult safeguarding concerns should be followed. Although the local Lead Agency is ultimately responsible for making a decision about the adult safeguarding concern, all agencies and professionals must work together to gather and provide information, engage with the adult and other involved people, and make the necessary checks. Good cooperation and multi-agency working is essential.

In most circumstances, the Local Authority is the “Lead Agency” and will receive and deal with Adult Safeguarding concerns directly. In some circumstances the Local Authority may have formal partnership arrangements under Section 75 of the NHS Act 2006 where other agencies undertake the Concern Decision Making checks and decisions on its behalf, e.g. Mental Health NHS Trusts or NHS Care Trusts.

**9.4 Timeliness & risk**

*Managing immediate risks*- Some adult safeguarding concerns will require an immediate response to safeguard the adult. As a target, an assessment of immediate risks and action needed should be undertaken by the lead agency within 2 working days of receiving the adult safeguarding concern.

*Making the decision*- This procedure does not outline any specified target timescale to complete checks and make the decision about how the concern should be responded to. However, as with all adult safeguarding work, responses should be timely. Local guidance may outline specific timescales.

REMEMBER- It is important to respond at the pace that is right for the adult, and puts them in greatest control of what happens in their life.

**9.5 Process**

In some cases, the referral information may indicate clearly that immediate risks are managed, and that the criteria are met for a formal s42 enquiry. If so, the concern decision making stage will consist only of reviewing the referral information. However, in most cases a level of additional information gathering will be required in order to assess whether the criteria for s42 enquiry are met.

9.5.1. *Check actions have been taken to address immediate safety needs*

- Where appropriate, call 999 for emergency services if there is a medical emergency, other danger to life or risk of imminent injury, or if a crime is in progress.

- Summon urgent medical assistance from the GP, or other primary healthcare service if there is a concern about the adult's need for medical assistance or advice.

## Good Practice Guide – Medical treatment and examination

In some cases of abuse (e.g. physical or sexual) it may be unclear whether injuries have been caused by abuse or some other means (e.g. accidentally). Medical or specialist advice should be sought immediately.

- If medical treatment is needed, an immediate referral should be made to the person's GP, A&E or a relevant specialist health team.
- If forensic evidence needs to be collected, the Police should always be contacted. They will normally arrange for a police surgeon (forensic medical examiner) to be involved.
- Consent of the adult should be sought. Where the person does not have capacity to consent to a medical examination, a decision should be made on the basis of whether it is in the person's best interests for a possibly intrusive medical examination to be conducted.
- Should it be necessary to arrange for a medical examination, the following points should be considered:
  - the rights of the adult
  - issues of consent and ability to consent
  - the need to preserve forensic evidence
  - the involvement of any family members or carers
  - who should accompany the adult and provide support & reassurance.

9.5.2. *Make checks with person raising the concern, internal information sources and partner agencies*

- Clarify basic facts, including who is involved in the concern. Practitioners must be aware that this is not a formal s42 enquiry, but that facts are being collected and/or clarified to enable decisions to be made about the level of risk, whether the s42 enquiry criteria are met, and the process to be followed.
- If the concern relates to a potential crime there should be early liaison with the police to agree next steps, and to avoid contamination of evidence.
- Previous contacts and history should be checked for both the adult and the person alleged to have caused harm, including any information about possible risks to workers visiting.

REMEMBER – involvement & engagement with the adult throughout is key to promoting personalised approaches to adult safeguarding. Speak to the adult and get their views as early in the process as it is possible and safe to do so.

Once you have clarified the issues with the person raising the concern, it is good practice to speak to the adult and gain the adult's consent before speaking to other agencies and individuals.

9.5.3. *Make contact with the adult referred*

9.5.3.1. From the very first stages of concerns being identified, the views of the adult should be gained. This will enable the person to give their perspectives about the potential abuse or neglect concerns that have been raised, and what outcomes they would like to achieve. These views should directly inform what happens next.




9.5.3.2. There will be occasions where speaking to the adult could put them at further or increased risk of harm. This could be, for example, due to retaliation, or a risk of fleeing or removal of the adult from the local area, or an increase in threatening or controlling behaviour if the person causing the risk of harm were to know that the adult had told someone about the abuse or neglect, or that someone else was aware of it.

The safety of the adult and the potential for increasing the risk should always be considered when planning to speak to the person. Any such situations where there is the potential for endangering safety or increasing risk should be assessed carefully and advice taken from your management, or from an external agency as appropriate.

9.5.3.3. Where access to the adult is being denied for any reason (for example, as a result of a third party denying access to premises, or access to premises can be gained but a third party is insisting on being present and the adult cannot be spoken to alone), you should seek urgent line management advice, and legal advice where appropriate. Consider liaison with the Police, and consider the best practice guidance on *Gaining access to an adult suspected to be at risk of abuse or neglect* (SCIE, 2014).

REMEMBER- follow good practice under the Mental Capacity Act when speaking to the adult. Assume the adult has capacity unless proven otherwise. If the person is proven to lack capacity, speak to the person's representative/s and always act in best interests.

## Good Practice Guide – Information gathering

**What information do I need to gather?**

As a guide, the following sorts of information may be needed to enable effective decision-making-

**Details of the person raising the concern / making the referral-**

- Name, address and telephone number.
- Relationship to the adult.
- Name of the person raising the concern if different.
- Name of the organisation, if the concern is made from a care setting.
- Anonymous alerts will be accepted and acted on. However, the person raising the concern should be encouraged to give contact details.

**Details of the adult**

- Name, address and telephone number.
- Date of birth, or age.
- Details of informal carer/s.
- Details of any other members of the household including children.
- Information about the primary care needs of the adult (i.e. disability or illness).
- Funding authority, if relevant.
- Ethnic origin and religion.
- Gender (including transgender and sexuality).
- Communication needs due to sensory or other impairments (including dementia), including any interpreter or communication requirements.
- Whether the adult knows about the referral.
- Whether the adult has consented to the referral and, if not, on what grounds the decision was made to report the concern.
- What is known of the person's mental capacity.
- What are their views about the abuse or neglect.
- What they want done about it (if that is known at this stage).
- 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 potential abuse or neglect occur?
- Where did the potential abuse or neglect take place?
- What are the details of the potential abuse or neglect ?
- What impact is this having on the adult?
- What is the adult saying about the abuse or neglect?
- Are there details of any witnesses?
- Is there any potential risk to anyone visiting the adult?
- Is a child (under 18 years) at risk?

**Details of the person alleged to have caused the harm (if known)**

- Name, age and gender.
- What is their relationship to the adult?
- Are they the adult's main carer?
- Are they living with the adult?
- Are they a member of staff, paid carer or volunteer?
- What is their role?
- Are they employed through a Personal Budget / Direct Payment?
- 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?
- Details of any immediate plan that has been put in place to protect the adult with care and support needs from further harm.
- Have children's services been informed if a child (under 18 years) is a risk?

9.5.4. *Dealing with historic allegations of abuse or where the adult is no longer at risk.*

9.5.4.1. One of the criteria for undertaking statutory enquiry under the Care Act s42 duty is that the adult is "experiencing, or is at risk of, abuse or neglect". Therefore, the duty to make enquiry under the Care Act relates to abuse or neglect, or a risk of abuse or neglect, that is current. Concerns relating to historic abuse or neglect where the person is no longer at risk will not be the subject of statutory enquiry under these procedures, but further action under different processes may be needed.

9.5.4.2. All such historic concerns will be considered to determine whether they demonstrate a potential current risk of harm to other adults and also whether they require criminal or other enquiry through parallel processes (e.g. complaints, inquests, regulatory, commissioning, health and safety investigations).

9.5.4.3. Where an adult safeguarding concern is received for an adult who has died the same considerations will apply. Risk of abuse or neglect to any other identifiable adults at risk should be considered, and a statutory Enquiry will only be made for those other adults in these circumstances.

9.5.4.4. In cases where an adult has died or suffered serious abuse or neglect, and where there is concern that agencies should have worked more effectively to safeguard the adult, there is a statutory requirement for the Safeguarding Adults Board to undertake a Safeguarding Adults Review under section 44 of the Care Act.

9.5.5. *Making a decision*

9.5.5.1. Once all relevant information has been gathered- including the views of the adult in all circumstances where it is possible and safe to ask- the local Lead Agency should be in a position to make a decision about how the concern should be addressed and whether the criteria for statutory s42 duty of enquiry is met- i.e. where the Local Authority has reasonable cause to suspect that an adult aged 18 or over in its area-

(i) has **needs for care & support** (whether or not the authority is meeting any of those needs),

(ii) is **experiencing, or is at risk of, abuse or neglect**, and

(iii) as a result of those needs **is unable to protect himself or herself** against the abuse or neglect or the risk of it.

9.5.5.2. Where the above criteria are met, the case will progress to the Enquiry stage of this procedure.

9.5.5.3. Where the above criteria for statutory enquiry are not met, for example in circumstances where…

- The adult is at risk of abuse or neglect but does not have care & support needs,
- The adult has care & support needs, may have experienced abuse or neglect in the past, but is no longer experiencing or is at risk of abuse or neglect,
- The adult has care & support needs, is at risk of abuse or neglect, but is able to protect themselves from abuse or neglect should they choose to,

…the Lead Agency will consider what other action, or provision of advice/information, is required to respond to the concern.

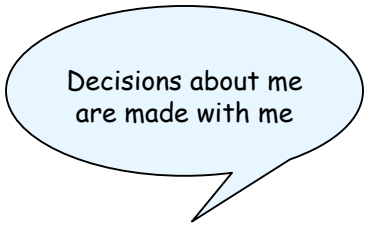
REMEMBER- Adult Safeguarding in its wider sense means "protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse and neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feeling and beliefs in deciding on any action".[13]

Viewed in this way, even when the criteria for statutory Adult Safeguarding Enquiry under section 42 of the Care Act is not met, effective "safeguarding" can happen within other different processes and services, for example:

- people can be supported to live safely through good quality assessment and support planning.
- people's right to live free from crime can be supported through Police interventions, and to recover from the experience of crime through victim support services.
- people's health & wellbeing, and experience of safe services, can be promoted through patient safety approaches in the NHS and good quality responses under Clinical Governance processes.

[13] Care and Support Statutory Guidance: Issued under the Care Act 2014 (DoH, 2016), s14.7

9.5.5.4. If the criteria for statutory enquiry are not met, when deciding what other action is required, the Lead Agency should work in partnership with the adult affected, and the agreed actions should reflect the views and wishes of the adult wherever possible.




## Good Practice Guide – other types of advice / action or information.

Where the criteria for statutory enquiry are not met, alternative responses, could be, for example-

- Referral for a needs assessment under s9 of the Care Act.
- Referral for a carers assessments under s10 of the Care Act.
- Referral for DOLS assessment.
- Referral for Mental Health Act assessment.
- Referral to other risk management processes, e.g. MARAC, MAPPA, local harm reduction processes.
- Referral or signposting to other agencies or support services, e.g. Police, victim support, domestic abuse support services, counselling services, GP.
- Written information and advice on how to keep safe, or how to raise a concern in the future.
- Information about how to make a formal complaint, for example, about substandard care or treatment.
- Information sharing with regulatory agencies (e.g. CQC) and commissioners to address service quality concerns.
- Service Provider to undertake appropriate internal responses, e.g. internal investigation, training, disciplinary process, audit & assurance activity.
- Concern is passed into other incident management processes, e.g. NHS Serious Incident process.
- Utilisation of the POT process to address concerns about people in a position of trust who may pose a risk of harm to adults with care and support needs.
- Referral for Safeguarding Adults Review (Care Act s44).

Actions taken, or information and advice provided, should aim to promote the adult's wellbeing, prevent harm and reduce the risk of abuse or neglect, and promote an approach that concentrates on improving life for the adults concerned, including enabling the adult to achieve resolution and recovery.

9.5.5.5. When deciding what other advice/action or information is required, the Lead Agency has a responsibility to ensure the actions decided are appropriate, and are satisfied that actions will be taken. For example, ensuring other agencies agree to & accept any referrals made, that the person has the ability and means to contact other sources of support if giving signposting advice, or that other agencies or provider services are willing and able to address concerns appropriately through their internal processes. If the Lead Agency has concerns that the issue will not be dealt with appropriately, internal management and local inter-agency escalation processes should be followed.

9.5.6. *Notifications / information sharing with other agencies* -

The Lead Agency will consider what feedback and information needs to be shared with other agencies. General information sharing principles apply – consent of the adult involved should be gained; if information is to be shared without consent, the adult should be informed what information will be shared, with whom, and why.

- In cases involving service quality concerns in regulated and/or commissioned services, information about the quality concern must be shared with the CQC and relevant commissioners of services (e.g. Local Authority, NHS ICB's, NHS England).

- In cases where a crime has been committed or may be committed, the Police should be informed.

- The person or agency who raised the concern should be notified of the decision and outcome wherever appropriate and safe to do so.

9.5.7. *Recording* –

The decision, and the rationale for the decision, should be recorded by the Lead Agency in each individual case.

9.5.8. *Supporting an adult who makes repeated allegations*

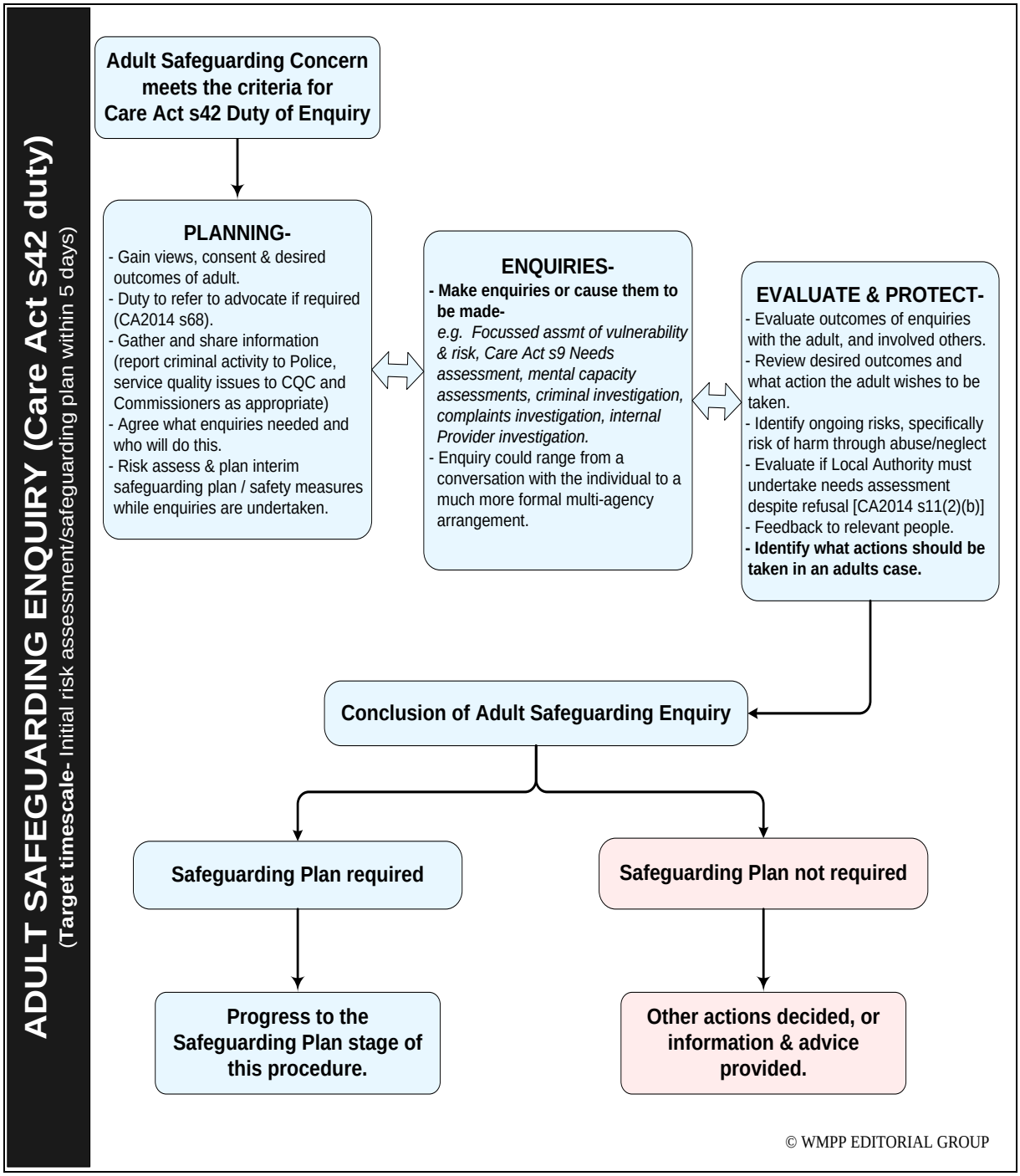
An adult who makes repeated allegations that have been looked into and are unfounded should be treated *without prejudice*.

- Each allegation must be risk assessed and reviewed to establish if there is new information that requires action under these procedures.
- A risk assessment must be undertaken and measures taken to protect staff and others, where appropriate.
- Each incident must be recorded.
- Organisations should have procedures for responding to such allegations that respect the rights of the individual, while protecting staff from the risk of unfounded allegations.

9.5.9 *Responding to family members, friends and neighbours who make repeated allegations*

Allegations of abuse or neglect made by family members, friends or neighbours should be responded to *without prejudice*. However, where repeated allegations are made and there is no foundation to them and further enquiries are not in the best interests of the adult, then local procedures apply for dealing with multiple, unfounded complaints.

# 10. Adult Safeguarding Enquiries-



### 10.1. Definition

A formal adult safeguarding Enquiry (Care Act s42) is the range of actions undertaken or instigated by the Local Authority in response to an abuse or neglect concern in relation to an adult with care and support needs who is unable to protect themselves from the abuse or neglect or the risk of it.

The Care Act requires the Local Authority to make enquiries, or cause enquiries to be made, in cases where the Local Authority *has reasonable cause to suspect* that an adult in its area:

- 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.

Local Authorities may choose to undertake safeguarding enquiries for people where there is not a section 42 duty, if the local authority believes it is proportionate to do so, and will enable the local authority to promote the person's wellbeing and support a preventative agenda. [14]

An Enquiry should be proportionate to the situation and the level of risk involved. This could be a conversation with the adult, or representative if they lack capacity, right through to a much more formal multi-agency plan or course of action.

There may need to be several different *enquiries* that would form part of the overall formal adult safeguarding Enquiry.

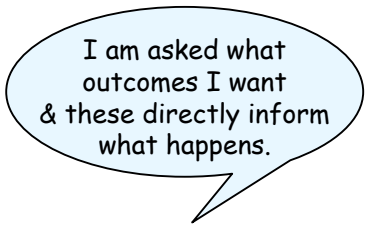
### 10.2. Purpose

The purpose of a Care Act s42 Adult Safeguarding Enquiry is to enable the Local Authority to decide whether any action is required in the adult's case, and if so, what and by whom.

The objectives of an Enquiry are to:

- establish 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; and
- enable the adult to achieve resolution and recovery.

What happens as a result of an Enquiry should reflect the adult's wishes wherever possible, as stated by them or by their representative or advocate. If they lack capacity it should be in their best interests if they are not able to make the decision, and be proportionate to the level of concern. [15]




[14] Paragraph 14.44 Care and Support Statutory Guidance 2016
[15] Paragraph 14.79 Care and Support Statutory Guidance 2016

### 10.3. Roles and responsibilities

The Local Authority cannot delegate its duty to conduct a formal s42 ***Enquiry***, but it can *cause others to make enquiries*. This means that the Local Authority may ask a provider or partner agency to conduct its own ***enquiries***, and report these back to the Local Authority in order to inform the Local Authority decision about whether and what action is required in the adult's case.

Where a crime has or may have been committed the Police are responsible for conducting a criminal investigation.

While the Local Authority has overall responsibility and the duty to conduct Enquiries, this does not absolve other agencies of safeguarding responsibilities. Relevant partner agencies involved in providing services to adults who may have care and support needs have a legal duty to cooperate in formal adult safeguarding Enquiries[16], unless doing so is incompatible with their own duties or would have an adverse effect on their own functions. This includes sharing information to enable the Enquiry to be made thoroughly, participating in the Enquiry planning processes, and undertaking enquiries when they have been 'caused' by the Local Authority to do so.

### 10.4. Timeliness & risk

*Initial risk assessment and interim safeguarding plan*- The target timescale for undertaking an initial assessment of risk, and for deciding what safety and protection actions need to be put in place while enquiries are undertaken (i.e. the interim safeguarding plan) is within 5 days of deciding a formal adult safeguarding Enquiry needs to take place. Some cases may have more immediate risks and need a swifter response.

*Completing enquiries*- This procedure does not outline any specified target timescale to complete enquiries. However, as with all adult safeguarding work, responses should be timely. Local guidance may outline specific timescales.

REMEMBER- It is important to respond at the pace that is right for the adult, and puts them in greatest control of what happens in their life.

### 10.5. Process

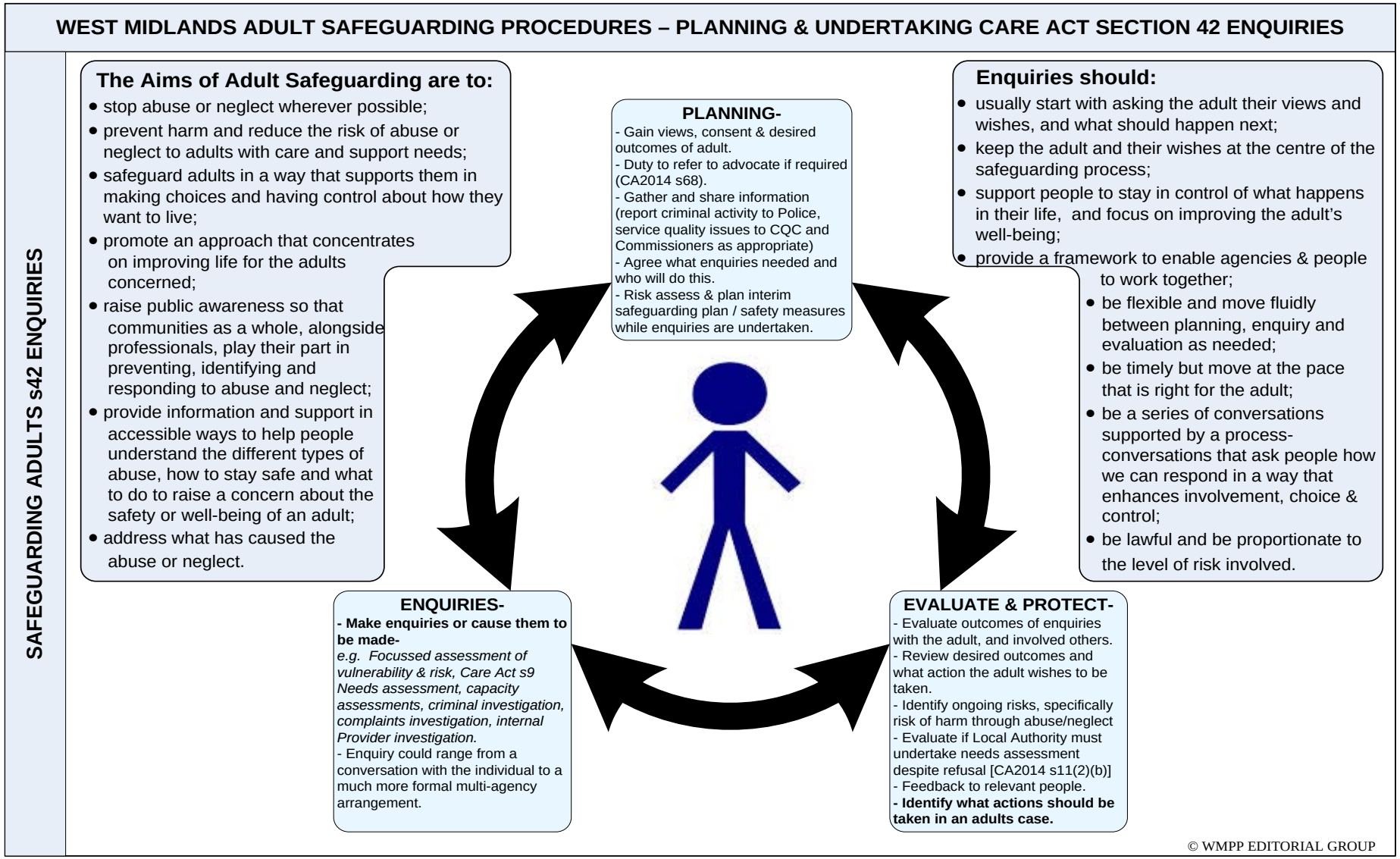
#### 10.5.1. ***Overview***

The process of undertaking enquiries should be tailored to the individual needs and circumstances of the adult. It should be proportionate to the level of risk involved, and take account of the adult's ability and capacity to make decisions for themselves. All enquiries undertaken must be lawful and take full account of the consent and wishes of the adult.

Enquiries will follow the model outlined in the diagram on the next page, and will generally move between **Planning**, **Enquiry** and **Evaluation** phases. Enquiries will need to be flexible and be able to move fluidly between planning, enquiry, and evaluation as the circumstances of the case require.

[16] Care Act 2014 sections 6&7

Fig 10a. ***Making Enquiries- Diagram***



10.5.2. ***Planning***

10.5.2.1. All enquiries need to be planned and coordinated. No agency should undertake enquiries prior to a planning discussion or meeting unless it is necessary for the protection of the adult or others or unless a serious crime has taken place or is likely to.

10.5.2.2. Planning should be seen as a process, not a single event. The planning process can be undertaken as a series of telephone conversations, or meeting/s with relevant people and agencies. In some cases the complexity or seriousness of the situation will require a Planning process to include a formal meeting/s. Urgency of response should be proportionate to the seriousness of the concerns raised, and the level of risk.

10.5.2.3. Planning processes should be tailored to the individual circumstances of the case, but should cover the following aspects-

- gaining the views, wishes, consent, and desired outcomes of the adult (or planning how these views and wishes will be gained);
- deciding if an independent advocate is required (or planning how information will be gained to enable this decision to be made);
- gathering and sharing information with relevant parties;
- agreeing what enquiries are needed and who will do these;
- assessing risks, and formulating an interim safeguarding plan to promote safety and wellbeing while enquiries are undertaken.

10.5.2.4. The Planning process will be led and coordinated by a Managing Officer from the local Lead Agency. Appropriate levels of information should be shared with, and involvement gained from, relevant partners.

10.5.3 ***Information sharing and who should be involved.***

10.5.3.1. Who is involved in planning will be dependent on the individual situation, and will be decided by the Managing Officer / Lead Agency. As a general principle, and as long as this does not cause undue delays, all relevant agencies and individuals who have a stakeholder interest in the concerns should be involved in the process in the most appropriate way (taking into consideration issues of consent, risk, and preserving evidence).

10.5.3.2. Deciding the most appropriate method of involvement for different stakeholders needs careful consideration, as not all stakeholders will need to be involved in all aspects of the Enquiry. In circumstances, for example, where an Enquiry relating to an adult also raises concerns about a service provider, the adult referred or their family have a right to be involved in all discussions and decisions relating to that adult, but it may not be appropriate for them to be involved in all discussions relating to the concerns in the service. Vice versa, commissioning and regulatory bodies need to be involved in discussions relating to the concerns in the service, but may not need to know all the details relating to the adult.

10.5.3.3. As a result, a face-to-face meeting with all concerned may not be the best approach, and separate meetings/contacts discussing different aspects of the concerns may be appropriate.

10.5.3.4. Information sharing between organisations is essential to safeguard adults at risk of abuse or neglect. 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 adult's consent, 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

10.5.3.5. There are some **key** partner agencies and individuals that should always be notified of concerns, and be involved where appropriate, in the following circumstances-

Fig 10b- ***Notifying key partner agencies/individuals***.

| | |
|---|---|
| **Where it is suspected that a crime has been or might be committed** | Police |
| **Where quality and safety concerns arise about a service registered under the Health and Social Care Act 2008.** | Care Quality Commission<br><br>Local Authority Contract and Commissioning service.<br><br>Local NHS Integrated Care Board if there is a health funded contract. |
| **Where quality and safety concerns arise about a NHS service or an Independent hospital.** | Care Quality Commission<br><br>Local Authority Contract and Commissioning service.<br><br>Local NHS Integrated Care Board if there is a health funded contract. |
| **Where disciplinary issues are involved** | Manager of relevant agency. |
| **Where there has been a sudden or suspicious death** | The local Coroner's office. |
| **Concern occurred in a health / social care setting, and involved unsafe equipment or systems of work.** | Health and Safety Executive (HSE) |

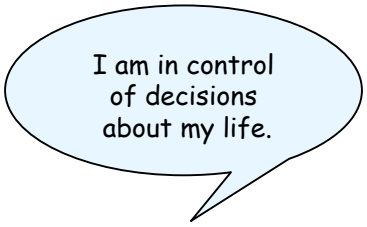
10.5.3.6. Local Authorities have a duty to involve the adult in a safeguarding Enquiry[17]. The adult (or their representative or advocate where indicated) must be involved in Enquiry processes, including in Planning the Enquiry, wherever this is appropriate and safe.

[17] Paragraph 7.6, 7.7. Care and Support Statutory Guidance 2016

10.5.4. ***Making safeguarding personal- focusing on the adult and their outcomes. Involvement, empowerment and personalisation.***

10.5.4.1. Practice approaches to adult safeguarding should be person-led and outcome-focused. The Care Act ethos and statutory guidance emphasise a personalised approach to adult safeguarding that is led by the individual, not by the process. It is vital that the adult feels that they are the focus and they have control over the process.

This is not simply about gaining an individual's consent, although that is important, but also about hearing their views about what they want as an outcome. This means, in essence, that they are supported and given an opportunity at all stages of the safeguarding process to say what they would like to be different and change; this might be about not having further contact with a person who poses risk to them, changing an aspect of their care plan, asking that someone who has hurt them apologises, or pursuing the matter through the criminal justice system.




10.5.4.2. Personalised practice approaches to adult safeguarding should seek to engage the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, well-being and safety.

10.5.4.3. Planning adult safeguarding enquiries should always start with gaining the views and wishes of the adult, unless there are reasons why doing this would cause increased risk of harm. In some circumstances, gaining the views and wishes of the adult will be the only enquiry needed to enable the local authority to decide what actions are required in that adult's case. In other circumstances, gaining the views and wishes of the adult will be the starting point to determine and undertake a much wider range of enquiries.

10.5.4.4. The adult's views, wishes and desired outcomes may change throughout the course of the Enquiry process. There should be an ongoing dialogue and conversation with the adult to ensure their views and wishes are gained as the process continues, and enquiries re-planned should the adult change their views.

10.5.4.5. Sometimes, people may have unrealistic expectations of what can be achieved through the safeguarding procedures, and they should be supported to understand from the outset how their desired outcomes can be met.

10.5.4.6. The views, wishes and desired outcomes expressed by the adult are important in determining the appropriate and proportionate response to the concerns raised, and what enquiries may be needed. The person's wishes and desired outcomes, however, are not the only consideration as sometimes actions are required without a person's consent, particularly where there are overriding public interest issues, or risk to others. In these circumstances, the practitioner will need to ensure that a sensitive conversation takes place with the adult to explain how and why their wishes have to be over-ruled, listening to their feelings and the impact this action will have on them, and seeking to provide them, wherever possible, with reassurance.

10.5.4.7. The views, wishes and desired outcomes of the adult are equally important should the adult lack mental capacity to make informed decisions about their safety and protection needs, or have *substantial difficulty* in making their views known and

participating in the Enquiry process. Personalised practice approaches should still be taken in such cases, including engaging with the persons representative/s, any best interest consultees, appointing an independent advocate where appropriate, using what information is known and finding out what the adult would have considered important in decisions about their life, and by following best practice as laid out in the Mental Capacity Act Code of Practice 2007.

10.5.5. ***Independent advocacy and "substantial difficulty".***

10.5.5.1. Local Authorities have a duty to involve the adult in a safeguarding Enquiry. Involvement requires supporting the adult to understand how they can be involved, how they can contribute and take part, and lead or direct the process[18]. As part of the Planning process, the Lead Agency must consider and decide if the adult has "*substantial difficulty*" in participating in the adult safeguarding Enquiry. The Lead Agency should make all reasonable adjustments[19] to enable the person to participate before deciding the person has "s*ubstantial difficulty*".




10.5.5.2. "*Substantial difficulty*" does not mean the person cannot make decisions for themselves, but refers to situations where the adult has "*substantial difficulty*" in doing one or more of the following-

- *understanding relevant information*,
  Many people can be supported to understand relevant information, if it is presented appropriately and if time is taken to explain it.

- *retaining that information*,
  If a person is unable to retain information long enough to be able to weigh up options, and make decisions, then they are like to have substantial difficulty in participating.

- *using or weighing that information as part of the process of being involved*,
  A person must be able to weigh up information, in order to participate fully and express preferences for or choose between options.

- *communicating their views, wishes or feelings.*
  A person must be able to communicate their views, wishes and feelings whether by talking, writing, signing or any other means, to aid the decision process and to make priorities clear.

10.5.5.3. Where an adult has "*substantial difficulty"*" being involved in the adult safeguarding Enquiry, the Lead Agency must consider and decide whether there is an appropriate person to represent them. This would be a person who knows the adult well, and could be, for example, a spouse, family member, friend, informal carer, neighbour, Power of Attorney. The identified person will need to be willing and able to represent the adult.

10.5.5.4. An appropriate person to represent the adult cannot be a person who is involved in their care or treatment in a professional or paid capacity. Where the adult has capacity to

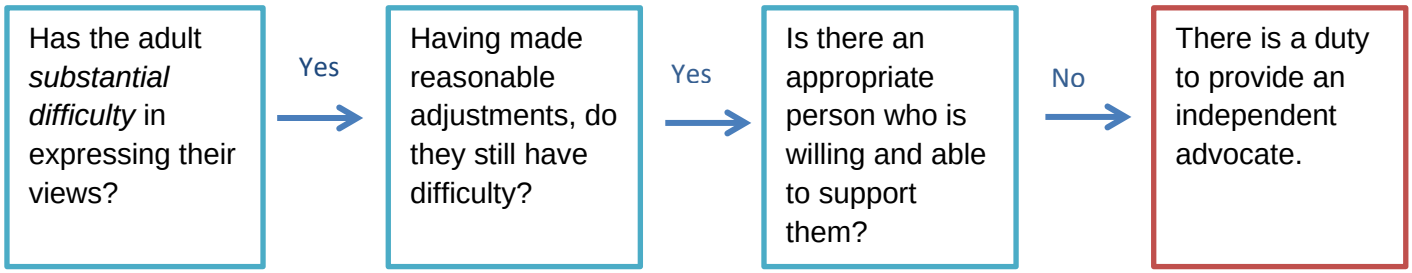
[18] Paragraph 7.6, 7.7. Care and Support Statutory Guidance 2016
[19] Equality Act (2010)

consent to being represented by that person, the adult must consent to being represented by them. If the adult lacks capacity to consent to being represented by that person, the Lead Agency must be satisfied that being represented by that person is in the adult's best interests.

10.5.5.5. The person who is thought to be the source of risk to the adult may be the most readily identifiable person to represent them, for example, if the person thought to be the source of risk is a spouse, next of kin, or person closest to the adult in their social network. In such circumstances, careful thought needs to be given to who is appropriate to represent the adult, but it is unlikely that the Lead Agency would consider that it is in the adult's best interests to be represented by a person who may pose a risk of harm to them.

10.5.5.6. Where an adult has "*substantial difficulty*" being involved in the adult safeguarding Enquiry, and where there is no other appropriate person to represent them, the Lead Agency must arrange for an independent advocate to support and represent them. See Fig 10c below. The Care and Support Statutory Guidance states that where the need for an independent advocate has been identified, the local authority must arrange for one to be provided[20].

Fig. 10c. ***Is there a duty to provide an Independent Advocate?***




10.5.5.7. If a safeguarding Enquiry needs to start urgently then it can begin before an advocate is appointed but one must be appointed as soon as possible.

10.5.5.8. If an independent advocate is appointed, they must be included fully in Enquiry planning and evaluation processes to represent the views and wishes of the adult in any decisions that are made.

10.5.6. ***Risk assessment and interim safeguarding plans***

10.5.6.1. The first priority in any Enquiry process should be the safety and wellbeing of the adult[21]. The Enquiry Planning process should consider the support and safety needs of the adult during the period of time it will take to carry out the necessary enquiries. The plan of safety measures and support provided for the adult at this stage of the process is called the ***interim Safeguarding Plan***.

10.5.6.2. For further information on Safeguarding Plans and the different types of actions and safety measures that can be considered, see Adult Safeguarding Plan section of this procedure.

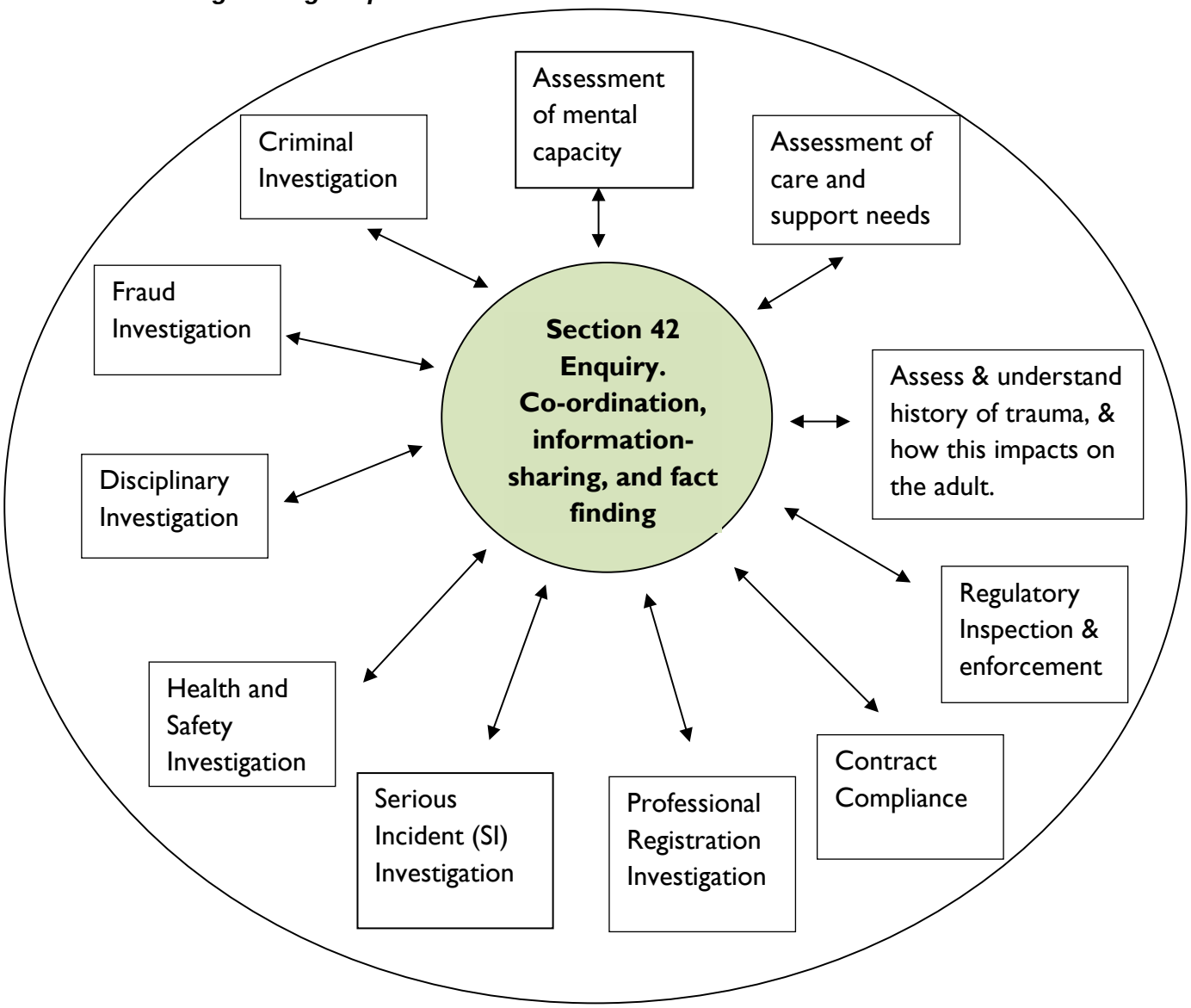
[20] Paragraph 14.10. Care and Support Statutory Guidance 2016
[21] Paragraph 14.95. Care and Support Statutory Guidance 2016

10.5.7. ***Making enquiries or causing enquiries to be made***

10.5.7.1. The Planning process will determine the scope and nature of the enquiries needed, and who should do these. Some situations require multiple enquiries to take place concurrently. Where several types of enquiries are proceeding simultaneously it is essential that the staff leading them keep in regular contact and that one enquiry process does not contaminate, obstruct or interfere with any other. It will be for the Managing Officer to ensure that this communication and co-ordination takes place.

10.5.7.2. An adult safeguarding Enquiry will need to establish the facts to an extent that decisions and plans for the adult's wellbeing and protection can be fully informed and take account of the context of the situation. An adult safeguarding Enquiry is not in itself an investigative process - the overall focus of a safeguarding Enquiry will be on the impact, & the current and future wellbeing of the adult, and less on proving whether abuse or neglect took place or not- but different formal assessments and investigations may need to take place as part of the overall *enquiries* needed. These should take account of the adults consent to the process, views and wishes. See Fig 10d below.

Fig. 10d**.** ***Examples of assessments and investigations that may form part of adult safeguarding Enquiries.***



10.5.7.3. Adult safeguarding Enquiries are undertaken in accordance with statutory duties but do not have any statutory powers to compel, enforce or sanction. Where this becomes necessary this will be the responsibility of those agencies that do have relevant powers (e.g. arrest; interview under caution; issue penalties and prosecute).

| **Good Practice Guide – Types of enquiries and who should do them.** | |
|---|---|
| Establishing the views, wishes and desired outcomes of the adult. | The most appropriate person in the situation. This could be the professional who knows the adult best and who the adult trusts- for example, GP, District Nurse, care worker, housing support worker, PCSO, CPN- or it could be a practitioner from the Lead Agency- for example, social worker.<br><br>Where an adult has substantial difficulty in being involved in the adult safeguarding Enquiry, an appropriate person should be identified to represent them, and if no appropriate person, an independent advocate must be appointed. |
| Care and Support Needs assessment / Carers assessment / assessment of Mental Health needs / other health assessment. | Social services / NHS ICB / mental health team / care trust. |
| Access to health and social care services to reduce the risk of abuse or neglect | Social services / NHS ICB / mental health team / care trust |
| Criminal (including assault, theft, fraud, hate crime, domestic violence, and abuse or wilful neglect) | Police |
| Domestic violence – serious risk of harm | Police coordinate the MARAC process |
| Antisocial behaviour (e.g. harassment, nuisance by neighbours) | Community safety services / local Policing (e.g. Safer Neighbourhood Teams). |
| Breach of tenancy agreement (e.g. harassment, nuisance by neighbours) | Landlord / registered social landlord / housing trust / community safety services |
| Bogus callers or rogue traders | Trading Standards / Police |
| Complaint regarding failure of service provision (including neglect of provision of care and failure to protect one service user from the actions of another) | Manager / proprietor of service / complaints department<br>Ombudsman (if unresolved through complaints procedure) |
| Breach of contract to provide care and support | Service commissioner (e.g. local authority, NHS ICB) |

| | |
|---|---|
| Fitness of registered service provider | CQC |
| Serious Incident (SI) in NHS settings | Root cause analysis investigation by relevant NHS Provider |
| Unresolved serious complaint in health care setting | CQC, Health Service Ombudsman |
| Breach of rights of person detained under the MCA 2007 Deprivation of Liberty Safeguards (DoLS) | CQC, Local Authority, 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 | HSE / CQC / Local Authority<br>Link to - 2018 MoU. |
| Misuse of enduring or lasting power of attorney or misconduct of a court-appointed deputy | OPG / Court of Protection / police |
| Inappropriate person making decisions about the care and wellbeing of an adult who does not have mental capacity to make decisions about their safety and which are not in their best interests | OPG / Court of Protection |
| Misuse of Appointeeship or agency | DWP |
| Safeguarding Adults Review (Care Act s44) | Local Safeguarding Adults Boards |

10.5.7.4. Where a crime is suspected and referred to the Police, then the Police must lead the criminal investigations, with the local authority's support where appropriate, for example by providing information and assistance. The local authority has an ongoing duty to promote the wellbeing of the adult in these circumstances.

10.5.7.5. A criminal investigation by the police takes priority over all other enquiries, although a multi-agency approach should be agreed to ensure that the interests and personal wishes of the adult will be considered throughout, even if they do not wish to provide any evidence or support a prosecution. The welfare of the adult and others, including children, is paramount and requires continued risk assessment to ensure the outcome is in their interests and enhances their wellbeing.

10.5.7.6. Although the local Lead Agency (who are responsible for discharging the local authority s42 duty) has the lead role for making Enquiries, it may require others to undertake enquiries (i.e. *cause enquiries to be made*). The local Lead Agency retains the responsibility for ensuring that the Enquiry is referred to the right place and is acted upon.

10.5.7.7. When causing an Enquiry to be made the Managing officer will identify the timescale within which the Enquiry should be completed, how the Enquiry outcomes will be fedback to the local Lead Agency (e.g. by written report, verbal account, or meeting), and to whom.

10.5.7.8. The local Lead Agency, in its lead and coordinating role, should assure itself that the enquiry satisfies the duty under section 42 to decide what action (if any) is necessary to help and protect the adult and by whom, and to ensure that such action is taken when necessary. In this role, if the local Lead Agency has asked someone else to make enquiries, it is able to challenge the body making the Enquiry if it considers that the process and/or outcome is unsatisfactory.

10.5.7.9. Where an Enquiry is to be undertaken by a relevant partner agency, this must be clearly communicated to an accountable person in the organisation, laying out the legal context of the request and the statutory nature of the duty to enquire.

10.5.7.10. There is a statutory duty of co-operation and in most cases there will be an expectation that Enquiry will be made as requested. The statutory duty does not apply if co-operation would be incompatible with its own duties or would have an adverse effect on its own functions.

10.5.7.11. If an organisation declines to undertake an Enquiry or if the Enquiry is not done, local escalation procedures should be followed.. The key consideration of the safety and wellbeing of the adult must not be compromised in the course of any discussions or escalation and it is important to emphasise that the duty to co-operate is mutual.

10.5.7.12. In many cases the organisation charged with an Enquiry will be a care provider service and it is essential that Managing Officers are satisfied that the provider has the skills and resources to undertake the Enquiry in a manner that will satisfy the statutory requirements in accordance with the Safeguarding Principles and in a manner that will promote the adult's wellbeing and independence.

10.5.8. ***Adult Safeguarding Enquiries in regulated care settings.***

10.5.8.1. Where abuse or neglect is carried out by employees or in a regulated setting, such as a care home, hospital, or college, the first responsibility to act must be with the employing organisation as provider of the service. However, social workers or counsellors may need to be involved in order to support the adult to recover.

10.5.8.2. When an employer is aware of abuse or neglect in their organisation, then they are under a duty to correct this and protect the adult from harm as soon as possible and inform the local authority, CQC and ICB where the latter is the commissioner.

10.5.8.3. Where a local Lead Agency has reasonable cause to suspect that an adult may be experiencing or at risk of abuse or neglect, then it is still under a duty to make (or cause to be made) whatever enquiries it thinks necessary to decide what if any action needs to be taken and by whom. The local Lead Agency may well be reassured by the employer's response so that no further action is required, or it may cause the provider service to undertake further internal enquiries or investigations. The local Lead Agency would have to satisfy itself that a provider's response has been sufficient to deal with the safeguarding issue and, if not, to undertake any enquiry of its own and any appropriate follow up action (e.g. referral to CQC, professional regulators).

10.5.8.4. The provider service should investigate any concern (and provide any additional support that the adult may need) unless there is compelling reason why it is inappropriate or unsafe to do this. This could be, for example, due to:

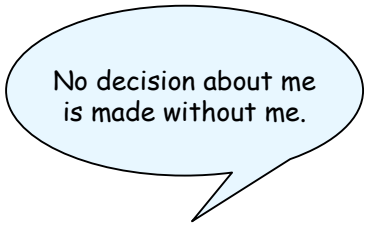
- a serious conflict of interest on the part of the employer,
- concerns having been raised about non-effective past enquiries or serious, multiple concerns,
- a matter that requires investigation by the police.

10.5.8.5. Concerns relating to services registered under the Health and Social Care Act 2008, and subsequent outcomes from adult safeguarding Enquiries, should be shared with the Care Quality Commission, the host local authority contract and commissioning service, and with the NHS ICB where there are health funded contracts.

10.5.9. ***Evaluate and protect***

10.5.9.1. Throughout adult safeguarding Enquiry processes, information and risk should be evaluated regularly, and the Enquiry plans adapted or changed as new information becomes available or if circumstances change. However, at some point, all necessary enquiries will have been made and the Lead Agency will be in a position to decide what action is required in the adult's case.

10.5.9.2. As with planning processes, evaluating the outcomes of Enquiries, and deciding what action is needed in the adult's case, should be done with the full participation of the adult, or their representative or advocate as appropriate.




10.5.9.3. When considering the management of any enquiry and evaluating what action is required in the adult's case, the following factors should be considered:

- the adult's needs 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;
- potential of action increasing risk to the adult;
- the risk of repeated or increasingly serious acts involving children, or another adult at risk of abuse or neglect;
- the responsibility of the person or organisation that has caused the abuse or neglect; and
- research evidence to support any intervention[22].

10.5.9.4. If the adult has the mental capacity to make informed decisions about their safety and they do not want any action to be taken, this does not preclude the sharing of information with relevant professional colleagues. This is to enable professionals to assess the risk of harm and to be confident that the adult is not being unduly influenced,

[22] Paragraph 14.99. Care and Support Statutory Guidance 2016

coerced or intimidated and is aware of all the options. This will also enable professionals to check the safety and validity of decisions made. It is good practice to inform the adult that this action is being taken unless doing so would increase the risk of harm.

10.5.9.5. When evaluating the adult's needs for care and support, if a needs assessment under section 9 of the Care Act 2014 has not already taken place, it will be necessary to evaluate whether a needs assessment should be offered, and in certain cases, undertaken despite refusal where it may appear that the adult has needs for care and support, and is experiencing or is at risk of abuse or neglect.[23]

10.5.9.6. In some cases, evaluating the outcomes of enquiries and deciding what action is needed will be straightforward. However, there will be complex cases that will require careful consideration and negotiation amongst involved parties to enable the Lead Agency to come to a decision about the action required in the adult's case. This could be, for example, due to conflicting views between involved people and agencies, finely balanced or high risk situations, outcomes the person wants that could interfere with the rights and freedoms of others.

10.5.9.7. A meeting may be required in order to gather relevant people together to discuss the outcomes of the enquiries and gain views on what actions are required in the adult's case. Meetings should be organised and planned carefully to promote meaningful involvement of the adult.

## Good Practice Guide – Involving adults in safeguarding meetings.

Effective involvement of adults and / or their representatives in safeguarding meetings requires professionals to be creative and to think in a person-centered way. Bear in mind these questions when planning the meeting:

- **How should the adult be involved?** Is it best for the adult to attend the meeting, or would they prefer to feed in their views & wishes in a different way, e.g. a written statement? Is it best to hold one big meeting, or a number of smaller meetings?
- **Where is the best place to hold the meeting?** Where might the adult feel most at their ease and able to participate?
- **How long should the meeting last?** What length of time will meet the adult's needs and make it manageable for them?
- **What is the timing of the meeting?** When should breaks be scheduled to best meet the adult's needs?
- **What time of the day would be best for the** adult**?** Consider the impact of a person's sleep patterns, medication, condition, dependency, care and support needs;
- **What will the agenda be?** Is the adult involved in setting the agenda?
- **What preparation needs to be undertaken with the adult?** How can they be supported to understand the purpose and expected outcome of the meeting?
- **Who is the best person to chair?** What can they do to gain the trust of the adult?
- **Will all the meeting members behave in a way that includes the adult** in the discussion? How can meeting members be encouraged to communicate and behave in an inclusive, non-jargonistic way?

[23] Care Act 2014. Section 11 (2)(b).

10.5.10. ***Deciding what action is required in the adult's case, and concluding the adult safeguarding Enquiry.***

10.5.10.1. The adult safeguarding Enquiry will conclude when the local Lead Agency has made a decision about-

- whether any action is required in the adult's case, and if so,
- what action and by whom.

As part of the decision making process to conclude the adult safeguarding Enquiry, the Lead Agency will also make a decision about whether a safeguarding plan is required, or not.

10.5.10.2. A safeguarding plan may not always be required, for example, the outcome of the Enquiry may be that no action is required in the adult's case, or that ongoing risks can be managed or monitored through single agency processes, e.g. assessment and support planning processes, community policing responses, health service monitoring.

10.5.10.3. Where no safeguarding plan is required in order to manage ongoing risk of abuse or neglect to the adult, this procedure will end. However, provision of information & advice and/or other actions may need to continue under other processes, for example, addressing potential risks from people who are employed in Positions of Trust, referrals to the DBS, ongoing contract compliance or regulatory inspection/action.

10.5.10.4. A safeguarding plan will usually be required where the risk of abuse or neglect is, for example:

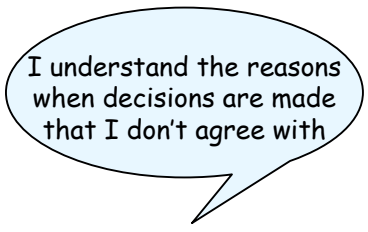
- ongoing,
- complex,
- unstable,
- risk of harm to the adult or others is significant,
- other factors such as coercion, undue influence, or duress add to the complexity and uncertainty of the risk,

and that the risk cannot be managed appropriately or adequately by other processes. These types of situations will require a greater level of scrutiny and review, usually within a multi-agency context.

10.5.10.5. Decisions about actions required should always be made with the full participation of the adult, or their representative or advocate if the adult has substantial difficulty or lacks mental capacity to participate in the decision making process.

The adult's desired outcomes should directly inform the decision making process, and wherever possible, decisions about actions should be led by and be designed to achieve these outcomes. Sometimes adults can express unrealistic outcomes, and there should be negotiation with the adult throughout the Enquiry process to support the adult to understand what outcomes are achievable, and fit with their views and wishes.

However, there will be occasions where the desired outcomes of the adult cannot be met or where doing so would cause unacceptable risk of harm to the adult or others. The duty of care to safeguard the adult will always need to be balanced with their right to self-determination. Such situations will require careful negotiation with the adult and involved others, and all decisions should be discussed and explained to the adult in a way they can understand.



In cases where the adult is not able to understand and make safe decisions, restrictions on the adult's choices and lifestyle may need to be considered. Any support or decision that is designed to restrict unsafe choices or behaviour needs to be lawful, proportionate, and the least restrictive. Positive risk taking frameworks and theory should be applied. For further information see Chapter 11- Adult safeguarding plans.

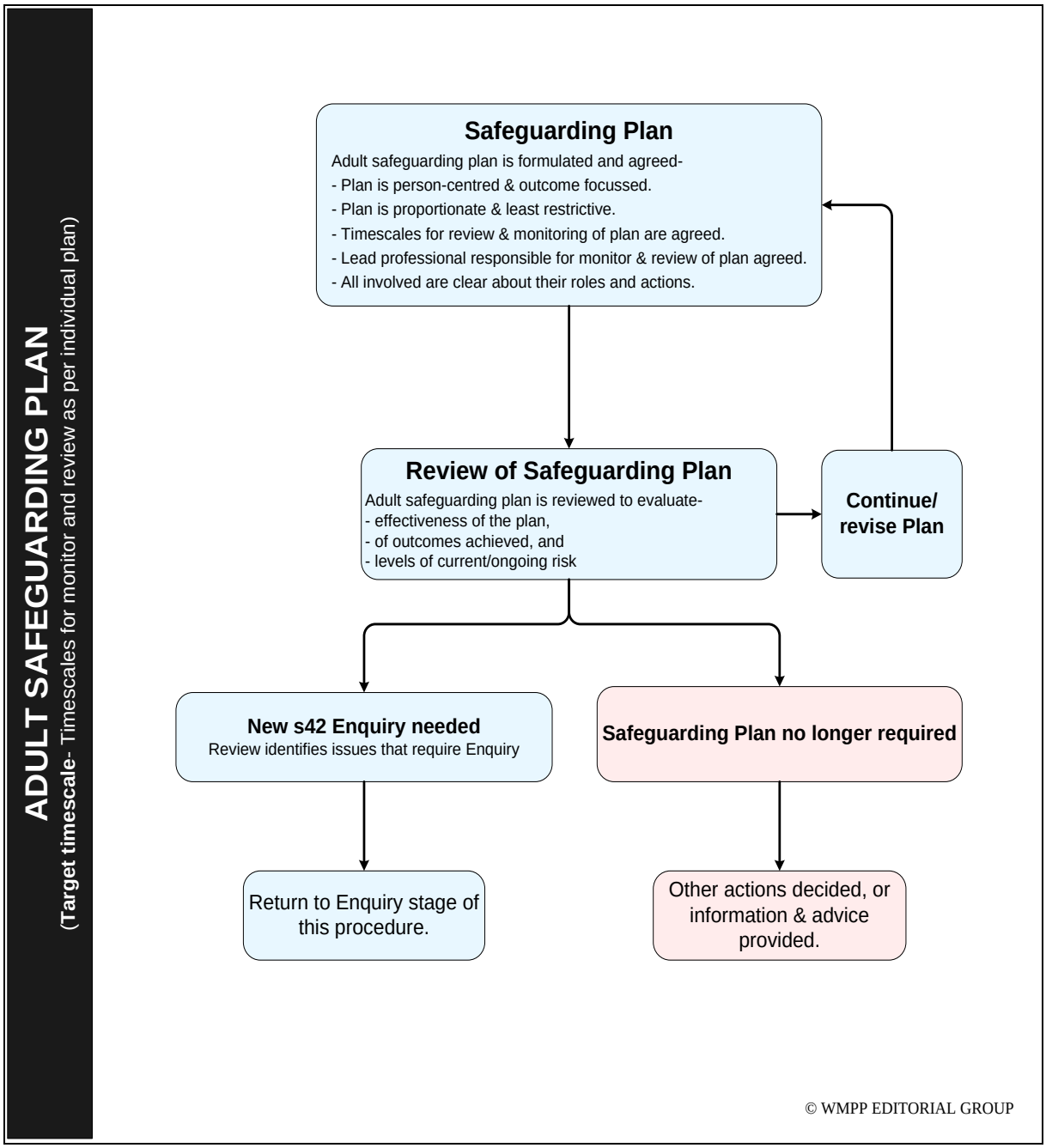
10.5.10.6. Conclusions of the adult safeguarding Enquiry and decisions about action required should be recorded clearly and be defensible. Defensible decision making means providing a clear rationale based on legislation, policy, models of practice or recognised tools utilised to come to an informed decision based on the information known at that time. Accurate, timely, concise, specific, appropriate recording will support your decision making and provide justification for actions taken.

10.5.10.7. When the adult safeguarding Enquiry is concluded, feedback on the outcomes should be shared with the following agencies/individuals as appropriate:

- The adult.
- Their representative or advocate.
- The person / agency who raised the adult safeguarding concern.
- The person / agency who were identified as the potential source of risk.
- Key partner agencies as outlined in Fig 10b above.
- Any other involved stakeholder agency/individual.

The consent of the adult to share information should be gained, and usual information sharing rules apply.

# 11. Adult Safeguarding Plans-



### 11.1. Definition

An adult safeguarding plan is the agreed set of actions and strategies that are designed to support and manage ongoing risk of abuse or neglect for an adult with care and support needs.

### 11.2. Purpose

The purpose of an adult safeguarding plan is to formalise and coordinate the range of actions to protect the adult, and to support the adult to recover from the experience of abuse or neglect.

Adult safeguarding plans should be individual, person-centred and outcome-focused.

In relation to the adult this should set out[24]:

- what steps are to be taken to assure their safety in future;
- the provision of any support, treatment or therapy including on-going advocacy;
- any modifications needed in the way services are provided (e.g. same gender care or placement; appointment of an OPG deputy);




- how best to support the adult through any action they take to seek justice or redress;
- any on-going risk management strategy as appropriate; and,
- any action to be taken in relation to the person or organisation that has caused the concern.

### 11.3. Roles and responsibilities

The local Lead Agency will take responsibility for organising and coordinating the formulation of the adult safeguarding plan. Care Act statutory guidance does not specify who or which agency should be responsible for monitoring and reviewing adult safeguarding plans. However, for all adult safeguarding plans, a lead professional should be identified who will monitor and review the plan. In most cases this will be the Managing Officer from the local Lead Agency.

The adult safeguarding plan should identify who is involved in the plan, and outline individual roles and responsibilities in relation to the plan.

Following an adult safeguarding Enquiry, where the Local Authority has decided that it should itself take further action, then it will be under a duty to do so[25].

### 11.4. Timeliness and risk

*Formulating the plan:* The adult safeguarding plan should follow naturally from concluding the adult safeguarding Enquiry and decisions on what actions are required in the adult's case. There should be no delay between concluding the Enquiry and formulating the plan.

[24] Paragraph 14.111. Care and Support Statutory Guidance 2016

[25] Paragraph 14.107. Care and Support Statutory Guidance 2016

*Monitoring and reviewing the plan:* This procedure does not specify specific timescales for monitor and review of the plan. Timescales for monitoring and review of the plan should be set individually when formulating the plan, and should reflect the circumstances and level of risk involved. Local guidance may outline more specific timescales.

## 11.5. Process

11.5.1. ***Formulating the plan***

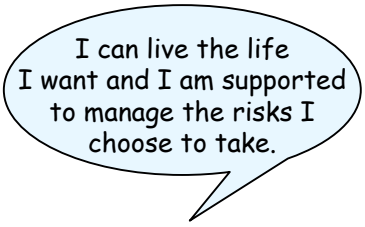
11.5.1.1. In most cases there will be a natural transition between deciding what actions are needed in the adult's case at the end of the Enquiry episode, into formalising what these actions are and who needs to be responsible for each action- this is the adult safeguarding plan. The plan should outline the roles and responsibilities of all individuals and agencies involved, and should identify the lead professional who will monitor and review the plan, and when this will happen.

11.5.1.2. Adult safeguarding plans should be person-centred and outcome-focused. Adult safeguarding plans should be made with the full participation of the adult, or their representative or advocate as appropriate. Wherever possible, adult safeguarding plans should be designed to reflect and aim to achieve the desired outcomes of the adult.

11.5.1.3. Adult safeguarding plans should not be paternalistic or risk averse. Plans should reflect a positive risk taking approach and be clear how the plan will promote the wellbeing of the adult.

11.5.1.4. The Mental Capacity Act directs that agencies **must** presume that an adult has the capacity to make a decision until there is a reason to suspect that capacity is in some way compromised; the adult is best placed to make choices about their wellbeing which may involve taking certain risks.

Where the adult may lack capacity to make decisions about arrangements for enquiries or managing any abusive situation, then their capacity must always be assessed and any decision made in their best interests. If the adult has the capacity to make decisions in this area of their life and declines assistance, this can limit the intervention that organisations can make. The focus should therefore be on harm reduction. It should not however limit the action that may be required to protect others who are at risk of harm[26].




11.5.1.5. As outlined in Chapter 10.5.10, there will be occasions where the desired outcomes of the adult cannot be met or where doing so would cause unacceptable risk of harm to the adult or others.

Adult safeguarding plans will need to balance the duty of care to safeguard the adult with their right to self-determination. In cases where the adult is not able to understand and make safe decisions, the adult safeguarding plan may need to include restrictions on the adult's choices and lifestyle. Any support or decision that is designed to restrict unsafe choices or behaviour needs to be lawful, proportionate, and least restrictive.

[26] Paragraph 14.108. Care and Support Statutory Guidance 2016

## Good Practice Guide – Positive risk taking and personalising choice & control

See: A positive approach to Risk and Personalisation: A Framework. West Midlands IEP

Risk is the probability that an **event** will occur with beneficial or harmful outcomes for a particular person or others with whom they come into contact.

**Positive risk taking** is a process which starts with the identification of potential benefit or harm. The desired outcome is to encourage and support people in positive risk taking to achieve personal change or growth.

Positive risk management does not mean trying to eliminate risk. It means managing risks to maximise people's choice and control over their lives.

Positive risk taking recognises that in addition to potentially negative characteristics, risk taking can have positive benefits for individuals, enabling them to do things which most people take for granted. In the right circumstances, risk can be beneficial, balancing necessary levels of protection with preserving reasonable levels of choice and control. A balance has to be achieved between the wishes of adults at risk of abuse or neglect, and the common law duty of care.

**Risk Assessment and Identification-**

Risk should be considered and assessed before it occurs. This should include identifying the probability of the risk occurring and the impact if it does. It should be remembered that the impact of a risk can be positive and that not all risks will require management.

Risk assessment practice is dynamic and flexible and should respond to change. Therefore it will:

- Include the views of individuals and those of their families/carers which should have prominent focus in the assessment, identification and management of risk.
- Have a focus on a person's strengths to give a positive base from which to develop plans that will support positive risk-taking. The strengths and abilities of the person, their wider social and family networks, and the diverse support and advocacy services available to them should inform a balanced approach.
- Be proportionate to the risk identified, potential impact and subject to ongoing monitoring and review.
- Use the principles of multi-agency working in proportion to risk and the impact on self and others.
- Use a person-centred approach to assess, identify and manage risk.
- Ensure that staff have access to appropriate training to support them to promote positive risk taking.
- Ensure that written assessments identify a review date and include the signatures of everyone involved in the assessment.
- Include historical information which is of value in the assessment and management of risk. Historical information should not prejudice a positive approach to risk taking in the future.

**Risk management and personalising choice & control-**

'The goal is to manage risks in ways which improve the quality of life of the person, to promote their independence or to stop these deteriorating if possible. Not all risks can be managed or mitigated but some can be predicted.'[27]

Risk management entails broad range of responses and may involve preventative, responsive and supportive measures to reduce the potential negative consequences of risk, and to promote the potential benefits of taking agreed risks. These will occasionally involve more restrictive measures and crisis responses where the identified risks have an increased potential for harmful outcomes.

Risk management strategies and measures should be personalised to the individual circumstances and context of the adult. Personalisation is not about maximising freedom. As the term implies it is primarily concerned with how to design support arrangements so they are more "personal" - which means they need to fit the person, and be suitable for them.

One of things you can personalise is *control* itself. Not only can you personalise control but *personalised control* is sometimes the key to excellent support.

Control can be personalised, just like any other aspect of a support service. But it must be justified with due regard for (a) mental capacity, (b) effectiveness, and (c) proportionality[28].

Personalised approaches to adult safeguarding are not just about gaining and focusing on the desired outcomes of the adult, although this is important. It is also about ensuring any support the adult needs to manage risk of abuse or neglect- including measures that may need to restrict or control an adult's choices and freedoms- is tailored to their individual circumstances, and takes account of their history, preferences, culture and values.

11.5.2. ***Interface between adult safeguarding plans and care & support plans.***

11.5.2.1. An adult safeguarding plan is not a care & support plan, and it will focus on care provision only in relation to the aspects that provide protection against abuse or neglect, or which offer a therapeutic or recovery based resolution. In many cases the provision of care and support may be important in addressing the risk of abuse or neglect, but where this is the intention the adult safeguarding plan must be specific as to how this intervention will achieve this outcome.

11.5.2.2. Where the adult requires assessment and provision of care and support services by the local authority, they must also have a care and support plan in line with the requirements of the Care Act 2014 (sections 24 & 25).

[27] *Nothing Ventured, Nothing Gained: risk guidance for people with dementia*, Department of Health, November 2010

[28] Content adapted from *Safeguarding and Personalisation*, v1.1, Jan 2009. Simon Duffy and John Gillespie.

11.5.3. ***What sort of actions should be included adult safeguarding plans?***

11.5.3.1. Adult safeguarding plans can cover a wide range of interventions and should be as innovative as is helpful for the adult. Care Act statutory guidance states that in relation to the adult, safeguarding plans should set out:

- what steps are to be taken to assure their safety in future;
- the provision of any support, treatment or therapy including on-going advocacy;
- any modifications needed in the way services are provided;
- how best to support the adult through any action they take to seek justice or redress;
- any on-going risk management strategy as appropriate; and,
- any action to be taken in relation to the person or organisation that has caused the concern.

11.5.3.2. Outcomes for adult safeguarding plans can be as high level or detailed as the circumstances require, and as the law allows. Actions should aim to be **S.M.A.R.T. -**

- **Specific -** try to be very clear about exactly what action is going to be taken. Name the person/people responsible for each action.
- **Measurable -** you should be able to clearly quantify or demonstrate that the action or outcome has been achieved.
- **Achievable -** you need to make sure that you are able to attain the action or outcome.
- **Realistic -** try to make sure that the action you are planning is the most practical way to achieve the improvement you want.
- **Time constrained -** make sure you state the time period in which each action will be accomplished.

11.5.3.3. The adult safeguarding plan should include, relevant to the individual situation:

- Positive actions to promote the safety and wellbeing of an adult, and for resolution & recovery from the experience of abuse or neglect; and,
- Positive actions to prevent further abuse or neglect by a person or an organisation. (See Good Practice Guide on the next page).

The Safeguarding Plan should also include consideration of what triggers or circumstances would indicate increasing levels of risk of abuse or neglect for individual/s, and how this should be dealt with (e.g. who to contact or how to escalate concerns).

11.5.3.4. Support measures for adults who have experienced abuse or neglect, or who are at risk of abuse or neglect, should be carefully considered when formulating the adult safeguarding plan. Mainstream support service provision (e.g. mainstream Domestic Abuse support services, Victim Support) should be considered as well as specialist support services (e.g. specialist psychology services).

11.5.3.5. The role of Police and related support measures should be considered where an adult may be going through the criminal justice process, including use of Intermediaries, Independent Domestic Violence Advocates (IDVA), and Independent Sexual Violence Advisors (ISVA).

11.5.3.6. Where there is a potential for criminal prosecution it is important to ensure that support provided to the adult (some types of counselling or psychology support in

particular) will not interfere with criminal processes and evidence. This should be discussed as part of planning processes, and guidance can be obtained from the Crown Prosecution Service on a case by case basis should this be a possibility.

## Good Practice Guide – Examples of positive actions for adult safeguarding plans

| **Actions to promote the safety and wellbeing of an adult, and for resolution & recovery from the experience of abuse or neglect.** | **Actions to prevent further abuse or neglect by a person or an organisation.** |
|---|---|
| • Provision of care and support services to promote safety and wellbeing (e.g. homecare, telecare).<br>• Security measures e.g. door locks and entry devices, personal alarms, telephone or pager, CCTV.<br>• Formalised arrangements for monitoring safety and wellbeing (e.g. Keeping in Touch plans- usually used where an adult with capacity will not accept any other form of support).<br>• Flags on agency systems.<br>• Activities / personal development / awareness raising that increase a person's capacity to protect themselves<br>• Support or activities that increase self-esteem and confidence.<br>• Advocacy services.<br>• Counselling and therapeutic support.<br>• Mediation or family group conferencing.<br>• Domestic abuse support services.<br>• Restorative justice.<br>• Circles of support.<br>• Befriending.<br>• Blocking nuisance calls or advice from Trading Standards.<br>• Neighbourhood watch. | • Reassessing and changing support provision for an adult with care & support needs who poses a risk of harm to other service user/s.<br>• Carrying out a carers assessment and providing services to decrease risk of harm<br>• Change of support services provided to an adult to decrease carer stress.<br>• Increased observation of and appropriate interventions to prevent harmful behaviour by other service users<br>• Meeting with an individual who poses a risk of harm, and negotiating changes to their behaviour.<br>• Family group conferencing to agree changes to behaviour that harms.<br>• Criminal prosecution.<br>• Enforcement action by CQC, including cancellation of registration<br>• Application for a Court Order e.g. restraining contact or an anti-social behaviour order.<br>• Application to the Court of Protection to change/remove a Lasting Power of Attorney<br>• Application to the Department of Work and Pensions to change / cancel appointeeship. |

| | |
|---|---|
| • Application for Criminal Injuries Compensation<br>• Appointeeship.<br>• Application to the Court of Protection for single decision or court appointed deputy<br>• Application to the High Court under inherent jurisdiction<br>• Domestic abuse prevention orders, forced marriage prevention orders.<br>• Civil injunctions.<br>• Guardianship order under the Mental Health Act e.g. to require residence or require access be given<br>• Support through the Criminal Justice system; Independent Domestic Violence Advocate (IDVA), ISVA, Intermediary Service.<br>• Support to recover from crime and for advice on the criminal justice system- Victim Support.<br>• Support to make visual evidence for later use if decide to make criminal complaint- Visual Evidence for Victims. | • Civil Law remedies e.g. suing for damages<br>• Prosecution by Trading Standards<br>• Referral to the relevant registration body (e.g. NMC, HCPC, GMC)<br>• Training needs assessment, supervision (of employee/volunteer) or disciplinary action following an internal investigation<br>• Organisational review (e.g. of staffing levels, policies/procedures, working practices, or culture) |

11.5.4. ***Monitoring and reviewing the plan.***

11.5.4.1. The identified lead professional should monitor the plan on an ongoing basis, and lead review processes within the timescales agreed on the plan. The purpose of the review process is to-

- evaluate the effectiveness of the adult safeguarding plan;
- evaluate whether the plan is meeting/achieving the adult's outcomes;
- evaluate levels of current and ongoing risk.

The local Lead Agency should be involved in any review of adult safeguarding plans, and decisions about plans should be communicated and agreed with the Lead Agency.

11.5.4.2. Following review processes, it may be determined that-

- **the adult safeguarding plan is no longer required**; or,
- **the adult safeguarding plan needs to continue.** Any changes or revisions to the plan should be made, new review timescales set and who will be the lead professional to monitor and review the plan; or,
- **a new adult safeguarding s42 Enquiry is needed**. This will usually be when new information comes to light that significantly changes the circumstances and risks, or introduces new risks. New adult safeguarding Enquiries will only be needed when the local Lead Agency determines that new enquiries are necessary to enable it to decide what action is needed in the adults case. If the local Lead Agency is satisfied that, despite new or changed risks, further enquiries are not necessary to enable it to decide what action is needed, then new or changed risks can still be managed through revision and monitoring of safeguarding plans.

11.5.5. ***Closing the adult safeguarding procedure.***

11.5.5.1. The adult safeguarding procedure can be closed following review or any time where the adult safeguarding plan is no longer required. The adult safeguarding plan will no longer be required when the adult is no longer at risk of abuse or neglect, or risks have reduced to the level that they can adequately and appropriately be managed or monitored through single agency processes, e.g. assessment and support planning processes, community policing responses, health service monitoring.

11.5.5.2. Decisions about concluding the adult safeguarding procedure should be made by, or in agreement with, the local Lead Agency, and should be clearly recorded with the rationale for the decision.

11.5.5.3. When the adult safeguarding procedure is concluded, feedback on the outcomes should be shared with the following agencies/individuals as appropriate:

- The adult.
- Their representative or advocate.
- The person / agency who raised the adult safeguarding concern.
- The person / agency who were identified as the potential source of risk.
- Key partner agencies as outlined in Fig 10b above.
- Any other involved stakeholder agency/individual.

The consent of the adult to share information should be gained, and usual information sharing rules apply.

# GLOSSARY AND ABBREVIATIONS.

**A&E (accident & emergency)** a common name in the UK and Ireland for the emergency department of a hospital.

**Abuse:** The Care Act Statutory guidance does not provide a general definition of what constitutes abuse or neglect so as not to limit thinking in this area. It is recognised that abuse or neglect can take many forms and the circumstances of the individual should always be considered. The following are identified as common types of abuse or neglect - physical, sexual, emotional, psychological, financial, material, neglect, acts of omission, discriminatory, organisational, domestic abuse, modern slavery and self-neglect (this list is not exhaustive).

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

**Adult Safeguarding:** the term used to cover all work undertaken to support adults with care and support needs to maintain their own safety and well being. It describes the preventative and responsive actions undertaken to support adults who are experiencing, or at risk of experiencing abuse or neglect

**Adult safeguarding process** refers to the decisions and subsequent actions taken on receipt of a concern. This process can include safeguarding meetings or discussions, enquiries, a safeguarding plan and monitoring and review arrangements.

**Adult with care and support needs:** someone 18 or above who has needs for care and support (whether or not the local authority is meeting any of those needs) and; is experiencing, or at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

**Advocacy:** support for people who experience substantial difficulty contributing to the safeguarding process to say what they want, secure their rights, represent their interests and obtain the services they need.

**Assessment and support planning:** the process of assessment of need, planning and co-ordinating care for adults with care and support needs to meet their long-term care needs, improve their quality of life and maintain their independence for as long as possible.

**Care and Support needs:** The mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems, and carers. Care and support includes assessment of people's needs, provision of services and the allocation of funds to enable a person to purchase their own care and support. It could include care home, home care, personal assistants, day services, or the provision of aids and adaptations.

**Carer** refers to unpaid carers for example, relatives or friends of the adult with care and support needs. Paid workers, including personal assistants, whose job title may be 'carer', are called 'staff'.

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

**Consent** the voluntary and continuing permission of the person to the intervention 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.

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

**CQC (Care Quality Commission)** responsible for the registration and regulation of health and social care in England.

**DH (Department of Health)** the government strategic leadership for public health, the NHS and social care in England.

**DHR (domestic homicide review)** a review of the circumstances in which the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by (a) a person to whom she or he was related or with whom she or he was or had been in an intimate personal relationship, or (b) a member of the same household as herself or himself. A DHR is held with a view to identifying the lessons to be learned from the death.

**DBS (Disclosure and barring service)** is a non-departmental public body of the Home Office of the United Kingdom. It supports organisations in the public, private and voluntary sectors to make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially that involve children or adults, and provides wider access to criminal record information through its disclosure service for England and Wales.

**DoLS (Deprivation of Liberty Safeguards):** is an amendment to the MCA (2005) and provides safeguards for people who lack capacity specifically to consent to treatment or care in either a hospital or care home that, in their own best interests can only be provided in circumstances that amount to a deprivation of liberty.

**Domestic Abuse** is any incident or pattern of incidents of controlling, coercive, 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. The abuse can encompass, but is not limited to: psychological, physical, sexual, financial, emotional

**DPA (Data Protection Act 2018)** an Act to make provision for the regulation of the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information.

**DVCVA (Domestic Violence, Crime and Victims Act 2004)** is an Act of the Parliament of the United Kingdom. It is concerned with criminal justice and concentrates upon legal protection and assistance to victims of crime, particularly domestic violence. It also expands the provision for trials without a jury, brings in new rules for trials for causing the death of a child or vulnerable adult (also known as an adult with care and support needs) and permits bailiffs to use force to enter homes.

**DWP (Department for Work and Pensions)** government department responsible for welfare and employment issues.

**Emergency duty officer** the social worker on duty in the emergency duty team (EDT) or out of hours service.

**Emergency duty team (EDT)** a social services team that responds to out-of-hours referrals where intervention from the council is required to protect a vulnerable child or adult with care and support needs, and where it would not be safe, appropriate or lawful to delay that intervention to the next working day.

**Enquiry** is a range of actions undertaken or instigated by the Local Authority under S42 of the Care Act in response to an abuse or neglect concern of an adult with care and support needs. As S42 requires the adult to have both care and support needs, the duty to undertake enquiries will not typically extend to carers unless they have care and support needs in their own right.

**FGM (female genital mutilation)** is defined by the **World Health Organisation** (WHO) as 'all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.'

**FGMA (Female Genital Mutilation Act 2003)** An Act to restate and amend the law relating to female genital mutilation.

**GP (general practitioner)** A general practitioner is a doctor who is responsible for diagnosing and treating a variety of injuries and diseases that fall under the general practice category. General practitioners (GPs) work in primary care.

**Healthwatch** is the independent consumer champion for health and social care, and the organisation has significant statutory powers to ensure the voice of the consumer is strengthened and heard by those who commission, deliver, and regulate health and social care services.

**HR (human resources)** The division of an organisation that is focused on activities relating to employees. These activities normally include recruiting and hiring of new employees, orientation and training of current employees, employee benefits, and retention. Formerly called personnel**.**

**HRA (Human Rights Act 2000)** legislation introduced into domestic law for the whole of the UK in October 2000, in order to comply with the obligations set out in European Convention of Human Rights. S73 of the Care Act 2014 extends the provisions of the Human Rights Act to protect people who are in receipt of personal care in the place where they reside at the time under the following circumstances. The care is arranged, or commissioned (partly or wholly) by a relevant Authority (public body currently covered by the Act).

**HSCA (Health and Social Care Act 2012)** provides legislative changes to the health and care system including giving GPs and other clinicians the primary responsibility for commissioning health care.

**HSE (Health and Safety Executive)** a national independent regulator that aims to reduce work-related death and serious injury across workplaces in the UK

**ICB**: NHS Integrated Care Boards - organisations established through the Health and Care Act 2022 to organise the delivery of NHS services in their area.

**IDVA (independent domestic violence adviser)** a trained support worker who provides assistance and advice to victims of domestic violence.

**Inherent jurisdiction:** Adults who have mental capacity are outside the jurisdiction of Mental Capacity Act 2005. The High Court can use its inherent jurisdiction in specific circumstances to intervene to protect adults with care and support when it is evidenced the adult is unable to make a decision that is free from influence or coercion from a third party.

**Intermediary** someone appointed by the courts to help a vulnerable witness give their evidence either in a police interview or in court.

**LPS (Liberty Protection Safeguards)** is a new process for authorising deprivations of liberty, introduced by the Mental Capacity (Amendment) Act 2019.

**Making safeguarding personal:** is a shift in culture and practice in response to what we now know about what makes safeguarding more or less effective from the perspective of the person being safeguarded. It is about having conversations with people about how we might respond in safeguarding situations in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. It is a shift from a process supported by conversations to a series of conversations supported by a process.

**Managing officer** a professional or manager (usually in a social work or mental health team) suitably qualified and experienced who has received adult safeguarding training. Managing officers are responsible for co-ordinating all adult safeguarding enquiries by organisations in response to an allegation of abuse.

**MAPPA (multi-agency public protection arrangements)** statutory arrangements for managing sexual and violent offenders.

**MARAC (multi-agency risk assessment conference)** the multi-agency forum of organisations that manage high-risk cases of domestic abuse, stalking and ‘honour’- based violence.

**Mental capacity** refers to whether someone has the mental capacity to make a decision.

**MCA (Mental Capacity Act 2005)** The Mental Capacity Act 2005 provides a statutory framework to empower and protect people aged 16 and over who lack, or may lack, mental capacity to make certain decisions for themselves because of illness, a learning disability, or mental health problems. The act was fully implemented in October 2007 and applies in England and Wales.

**Mental health team** a team of professionals and support staff who provide specialist mental health services to people within their community.

**National Health Service (NHS)** the publicly funded health care system in the UK.

**OPG (Office of the Public Guardian)** established in October 2007, the OPG supports the

Public Guardian in registering enduring powers of attorney, lasting powers of attorney and in supervising Court of Protection appointed deputies.

**PALS (Patient Advice and Liaison Service)** a body created to provide advice and support to National Health Service (NHS) patients and their relatives and carers.

**Personal budget (PB)** is money allocated for social care services, allocated based on the needs of the individual following an assessment. They could be managed by councils or another organisation (such as a Primary Care Trust or PCT) on behalf of individuals. They could also be paid as a direct payment, or a mixture of both.

**PIDA (Public Interest Disclosure Act 1998)** An Act to protect individuals who make certain disclosures of information in the public interest; to allow such individuals to bring action in respect of victimisation; and for connected purposes.

**PoT (Position of trust)** someone in a position of trust who works with or cares for adults with care and support needs in a paid or voluntary capacity. This includes 'shared lives' carers (previously known as adult foster carers).

**Police** the generic term used in this document covering the following forces: West Midlands, Warwickshire and West Mercia.

**Potential Source of Risk** the term used to describe the person or adult who is alleged to have caused abuse or harm.

**Public interest** a decision about what is in the public interest needs to be made by balancing the rights of the individual to privacy with the rights of others or society as a whole to protection.

**SAB (Safeguarding Adults Board)** the SAB represents various organisations in a local authority who are involved in adult safeguarding.

**Safeguarding Plan** a risk management plan aimed at removing or minimising risk to the person and others who may be affected if it is not possible to remove the risk altogether. It will need to be monitored, reviewed and amended/revised as circumstances arise and develop.

**SAR (Safeguarding Adults Review)** a review of the practice of agencies involved in a safeguarding matter. An SAR is commissioned by the Safeguarding Adults Board (SAB) when a serious incident(s) of adult abuse takes place or is suspected. The aim is for agencies and individuals to learn lessons to improve the way they work.

**Staff** paid workers, including personal assistants, whose job title may be 'carer', are called 'staff'. Volunteers are also classed as staff. See also *carer*.

**Volunteer** a person who works unpaid in a care setting/service.

**Wellbeing** The Care Act 2014 states "Wellbeing" is a broad concept, and it is described as relating to the following areas in particular: personal dignity (including treatment of the individual with respect); physical and mental health and emotional wellbeing; protection from abuse and neglect; control by the individual over day-to-day life (including over care and

support provided and the way it is provided); participation in work, education, training or recreation; social and economic wellbeing; domestic, family and personal relationships; suitability of living accommodation and the individual's contribution to society.

**YJCEA (Youth Justice and Criminal Evidence Act)** an Act to provide for the referral of offenders under 18 to youth offender panels; to make provision in connection with the giving of evidence or information for the purposes of criminal proceedings; to amend section 51 of the Criminal Justice and Public Order Act 1994; to make pre-consolidation amendments relating to youth justice; and for connected purposes. This includes special measures directions in case of vulnerable and intimidated witnesses.