



# LSAB

*Making safeguarding personal*

## Lincolnshire Safeguarding Adults Policy, Procedure and Process 2017

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## 1 Policy

### 1.1 Introduction

This resource reflects the commitment of organisations in Lincolnshire to work together to safeguard adults with care and support needs in line with the Care Act. 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 Lincolnshire 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 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 2014 is clear that the lead role sits with the Local Authority, section 6 of the Act is equally clear that the Local Authority and other relevant partner agencies have duties to co-operate with each other.

### 1.3 Individual implementation

This policy and procedures should inform individual organisations' adult safeguarding and related procedures such as fraud, disciplinary procedures and allegations management.

### 1.4 Legal framework

#### 1.4.1 The Care Act 2014

The Care Act 2014 sets out a clear legal framework for how local authorities and other statutory agencies should 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 clinical commissioning groups and the police assuring itself that local safeguarding arrangements are in place. Safeguarding Adults Boards must arrange Safeguarding Adult Reviews (SARs) as per defined criteria, and publish an annual report and strategic plan. All these initiatives are designed to ensure greater multi-agency collaboration as a means of transforming adult social care.

#### 1.4.2 Mental Capacity Act (Including DoLS) 2005

The Mental Capacity Act 2005 (MCA) reformed and updated legislation where decisions needed to be made on behalf of people who lack mental capacity. The MCA introduced statutory responsibilities and applies to everyone who works in health and social care and is involved in the care, treatment or support of

people over the age of 16 years, living in England or Wales, who are unable to make all or some decisions for themselves. The MCA came fully into force on 1 October 2007. The Deprivation of Liberty Safeguards (DoLS) came into force on 1 April 2009.

Whilst the Act had significant implications for health and social care, it is also positive step towards protecting the rights of vulnerable people and safeguarding practitioners and clinicians from liability.

The Mental Capacity Act 2005 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 and 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 some cases, people lack the capacity to consent to particular intervention by others as being in their best interests which will protect them from harm. Where this care might involve depriving people of their liberty in a hospital, care home or in the community extra safeguards have been introduced in law (the Deprivation of Liberty Safeguards , to protect their rights and ensure that the care or treatment they receive is in their best interests.

### 1.4.3 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 an individual's human rights, when providing a service or making decisions that have a decisive impact upon an individual's rights. The Care Act extends the scope of the Human Rights Act. 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 (Local Government Association, 2014). 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), public authorities have a positive duty to promote the human rights of individuals and this entails a duty to stop people or companies abusing an individual's human rights. For example, a public authority that knows an adult is being abused by their privately funded carer has a duty to protect the adult from inhuman or degrading treatment.

Regulation 13 of the Health and Social Care Act 2008) Regulated Activities) Regulations 2014, states that the Trust has a legal duty to safeguard service users from abuse and improper treatment.

Agencies have a legal duty under Section 6 of the Care Act (2014) to co-operate with the Local Authority in relation to a) their respective functions relating to adults with needs for care and support, (b) their respective functions relating to carers, and (c) functions of theirs the exercise of which is relevant to functions referred to in paragraph a) or (b). This includes Section 42-47 of the Care Act – “safeguarding adults at risk of abuse and neglect”.

Agencies have a duty under subsection 4 of the Domestic Violence, Crime and Victims Act (2004) in the establishment and conduct of domestic homicide reviews.

Agencies must recognise their responsibility to identify victims and perpetrators of abuse and crime as per the Serious Crime Act 2015) relating to the new offence of coercive and controlling behaviours section 4.5).

Section 26 of the Counter-Terrorism and Security Act (2015) places a duty on the Trust (Schedule 6 to the Act , in the exercise of their functions, to have “due regard to the need to prevent people from being drawn into terrorism”. The Act states that the Trust must have regard for the Prevent Duty guidance (issued under section 29) when carrying out the duty.

The Modern Slavery Act (2015) Schedule 3; section 43, places the Trust under a duty to co-operate with the Independent Anti-slavery Commissioner.

Agencies have a legal reciprocal duty to cooperate with the Police, Probation Trust and Prison Services as the “Responsible Authority” under Section 325(3) of the Criminal Justice Act 2003; in its task of assessing and managing risk.

The Serious Crime Act (2015) requires health and social care professionals to report “known” cases of Female Genital Mutilation (FGM) in under 18s which they identify in the course of their professional work to the police. ‘Known’ cases are those where either a girl informs the person that an act of FGM – however described – has been carried out on her, or where the person observes physical signs on a girl appearing to show that an act of FGM has been carried out and the person has no reason to believe that the act was, or was part of, a surgical operation within section 1(2)(a) or b) of the FGM Act 2003. There are notifications and alerts in place to support and report this requirement.

## 2 Value and Principles

### 2.1 Values

This Policy and associated procedures are based up on the principles that underpin the Care Act (2014) - those of promoting wellbeing, and putting service users at the centre of all adult safeguarding by making it personal to each individual. The 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. 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.

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 enquiry, a complaints process, a disciplinary process, a clinical governance response from within or by external bodies, commissioners and provider arrangements for reporting, addressing and monitoring poor care, the involvement of police, regulators, staff training or other activities.

### 2.2 Principles

#### 2.2.1 Well-being 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, whether 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 treating 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.

## 2.3 Making Safeguarding Personal

Safeguarding must respect the autonomy and independence of individuals as well as their right to family life. In the context of the Human Rights Act, Article 8, Lord Justice Munby, was speaking about people who are vulnerable or incapacitated, stated that:

*The fundamental point is that public authority decision making must engage appropriately and meaningfully both with P and with P's partner, relatives and carers. The State's obligations under Article 8 are not merely substantive; they are also procedural. Those affected must be allowed to participate effectively in the decision making process. It is simply unacceptable and an actionable breach of Article 8 for adult social care to decide, without reference to P and her carers, what is to be done and then merely to tell them to "share" with them the decision.*

What Price Dignity? Keynote address by Lord Justice Munby to the LGA Community Care Conference: Protecting Liberties (14 July 2010)

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 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.

## 3 Related Issues

### 3.1 Definition

An "adult safeguarding concern" describes the process where someone becomes aware of a concern or incident that indicates:

- An adult with care & support needs
- Is experiencing or is at risk of abuse or neglect,

AND

- As a result of their care support needs, are unable to protect themselves against abuse or neglect, or the risk of it, and having spoken with the adult takes action to respond, and to report the concern.

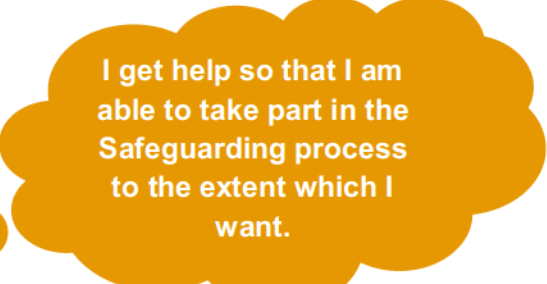
### 3.2 Consent

It is always essential in adult safeguarding to consider whether the adult is capable of giving 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 disregarded;
- 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.



I get help and support to report abuse or neglect.



I get help so that I am able to take part in the Safeguarding process to the extent which I want.

- 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 will be respected unless:

- There is an aspect of 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 Roles and Responsibilities

This section covers the roles and responsibilities of the statutory partners of the LSAB and other key roles in safeguarding.

### 4.1 Adults 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 their safeguarding activity unless there are exceptional circumstances that would increase the risk of abuse. This includes knowing a concern is being raised, 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 wherever appropriate, 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 appropriate person to support them, then the local authority must arrange for an independent advocate to represent them for the purpose of facilitating their involvement.

### 4.2 Carers (Family and Friends)

The Care Act recognises the key role of carers in relation to safeguarding. Carers may witness or report abuse or neglect; experience intentional or unintentional harm from the adult they are trying to support or a 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 Care Act emphasises the need to prevent 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.

## 4.3 Advocates

Local authorities must involve people in decisions made about them 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 at risk 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 'appropriate 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 'appropriate person' then the local authority has a duty to arrange for an independent advocate. Also 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 between the local authority and the person who is or may facilitate the adult's involvement. In this case, both must agree that an independent advocate would be beneficial.

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 adult's care or support.

## 4.4 Lincolnshire Safeguarding Adults Board (LSAB)

The LSAB has a strategic role that is greater than the sum of the operational duties of the core partners. It oversees and leads adult safeguarding across the locality and will be interested in a range of matters that contribute to the prevention of abuse and neglect. These will include the safety of patients in its local health services, quality of local care and support services, effectiveness of prisons and approved premises in safeguarding offenders and awareness and responsiveness of further education services. The LSAB needs intelligence on safeguarding in all providers of health and social care in the county, not just those with whom its members commission or contract. It is important that LSAB partners feel able to challenge each other and other organisations where it believes that their actions or inactions are increasing the risk of abuse and neglect. This includes commissioners, as well as providers of services.

The LSAB has a wide range of partners who contribute to the work of the Board, see the website for further details at: <https://www.lincolnshire.gov.uk/lsab/partners/131092.article>

## 4.5 The Local Authority

In Lincolnshire the Local Authority is Lincolnshire County Council. 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 / organisation to do so, whenever abuse or neglect are suspected in relation to an adult with care and support needs and the local authority thinks it necessary to enable it to decide what (if any) action is needed to help and protect the adult. This function cannot be delegated.

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.

### Non statutory safeguarding enquiries

The Local Authority is not required by law to carry out enquiries for those individuals who do not fit the section 42 criteria; however they may do so at their discretion.

## 4.6 Director of Adult Social Services (DASS)

As chief officer for the lead adult safeguarding agency, the DASS has a particularly important leadership and challenge role to play in adult safeguarding.

Responsibility for promoting prevention, early intervention and partnership working is a key part of a DASS's role and also critical in the development of effective safeguarding. Taking a personalised approach to adult safeguarding requires a DASS promoting a culture that is person-centred, supports choice and control and aims to tackle inequalities.

## 4.7 Councillors and Lead Members

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.

Local Authority Health Scrutiny Functions, such as the Council's Health Overview and Scrutiny Committee, Health and Wellbeing Boards (HWBs) and Community Safety Partnerships can play a valuable role in assuring local safeguarding measures and ensuring that Safeguarding Adult Boards are accountable to local communities.

Health and Wellbeing Boards (HWBs) provide leadership to the local health and wellbeing system. This ensures strong partnership working between local government and local NHS organisations; and that the needs and views of local communities are represented. Therefore, HWBs play a key role in assurance and accountability of SABs and local safeguarding measures.

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 at risk with care and support needs from abuse.

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.

## 4.8 The Safeguarding Adults Team

The Safeguarding Adults Team is part of Lincolnshire County Council and the team has responsibility for encouraging and supporting continuous improvement in safeguarding adults work.

The team will work with professionals, service users, carers and other groups and interested parties to ensure a consistent and effective response when dealing with adult safeguarding concerns.

## 4.9 Safeguarding Officers

Safeguarding Officers are the suitably qualified professionals working for the Local Authority responsible for co-ordinating all adult safeguarding enquiries. The Safeguarding 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;
- A decision is made in consultation with other relevant organisations to instigate the Adult Safeguarding process;
- The Lincolnshire Adult Safeguarding procedure is followed specific to the individual and their situation;
- The response of the organisations involved in the Adult Safeguarding process is co-ordinated, and information is shared in line with the information-sharing protocol;
- 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 the mental capacity to make decisions in this area;
- All safeguarding documentation is completed including monitoring information.

## 4.10 Emergency Duty Team EDT

The EDT operates out of normal working hours, at weekends and over statutory holidays.

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

A member of the EDT would not usually be responsible for a formal Adult Safeguarding enquiry but it may be necessary to interview the alleged victim where:

- The allegation is serious, i.e. 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 EDT worker will record their actions/decisions. Details of the concern raised will be recorded by the LCC Customer Service Centre and forwarded to the Safeguarding Team.

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 EDT if an immediate safeguarding plan needs to be put in place. If this action has been taken, the EDT 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 LCC Customer Service Centre on the next working day. They will also refer to the appropriate point in their own organisation.

#### 4.11 Lincolnshire Police

It is the policy of Lincolnshire Police to work together with the Lincolnshire Safeguarding Adults Board and other partner agencies to safeguard and promote the welfare of all adults at risk.

Living a life that is free from harm and abuse is a fundamental right of every person and we are committed to assisting adults who may be at risk of harm within our communities by helping to identify them, working in partnership with other agencies to ensure they receive the help and support they need, protecting them from anti-social behaviour and investigating allegations of abuse against them.

Lincolnshire Police recognises that the police are responsible for carrying out completely and exclusively any criminal investigation in a case of suspected injury or harm to an adult with care and support needs. Such investigations are as important as any other serious investigation and we shall treat it as such.

The responsibility to investigate suspected abuse of adults with care and support needs is shared between the Public Protection Unit and Adult Safeguarding.

Allegations of assaults committed towards adults in care settings or by those in a position of trust or with a responsibility of care towards the adult will be dealt with by a dedicated team of officers committed to the investigation and safeguarding of adults.

We shall ensure that officers investigating the abuse of adults with care and support needs are sufficiently trained to do so and thereby can make good decisions to keep them safe from harm.

It is our policy to work in partnership with other agencies to:

- Identify adults at risk within the community and accurately assess the risks to them, making appropriate referrals to partner agencies.
- Take any immediate action necessary to intervene and effectively safeguard adults at risk.
- Share information and participate in multi-agency decision making meetings to provide the best outcome for the adult.
- Fully investigate criminal offences and hold offenders to account through the criminal justice system.

#### 4.12 Lincolnshire Fire and Rescue Service

Lincolnshire Fire and Rescue Service carry out Safe and Well checks to targeted groups, many of whom access care and support services. Staff are trained to recognise and report concerns that an adult may be at risk, in line with Lincolnshire's Safeguarding Adults Policy and Procedures. In addition to this, all operational personnel, including the Officer cadre, carry out annual Safeguarding training. The training ensures that all personnel are aware and familiar with current safeguarding processes and procedures, and are able to support vulnerable members of the public. All safeguarding concerns raised are passed to The Service's Safeguarding Officer who liaises with LCC's Safeguarding Team via the Customer Service Centre.

## 4.13 Regulated professionals

Staff governed by professional regulation (for example, social workers, doctors, allied health professionals and nurses) should understand how their professional standards and requirements underpin their organisational roles to prevent, recognise and respond to abuse and neglect.

## 4.14 General Practitioners

GPs have a significant role in Safeguarding Adults. This includes:

- Raising safeguarding concerns 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 consortia should ensure that effective training and reporting systems are in place to support GPs and GP practices in this work.

## 4.15 East Midlands Ambulance Service NHS Trust (EMAS)

All EMAS Staff are required to act at all times to safeguard the health and well-being of children and vulnerable adults.

EMAS 'Front-line' workers are in a unique position, as they may be the first to be aware that patients, families or carers are experiencing difficulties and they may have valuable information about the home environment and the initial story. This contribution can be vitally important in the investigation and management of cases of suspected abuse. They have the opportunity to note important pre-disposing factors such as the home environment and the initial story. It is no longer considered enough to mention concerns to hospital staff or other health care workers as being sufficient to protect an adult from risk/suffering significant harm.

EMAS have a duty to ensure that the appropriate professionals are made aware of the concerns and not to investigate. In all cases of suspected abuse EMAS should hand over their concerns to the receiving staff at the hospital and raise a safeguarding referral. For patients who are left on scene all effort should be made to ensure their safety and signpost them to appropriate service.

EMAS have a duty to investigate allegations that have been raised against the trust under direction from the local authority.

## 4.16 Commissioners

Commissioners from the local authority, NHS and CCGs are all vital to promoting adult safeguarding. Commissioners have a responsibility to assure themselves of the quality and safety of the organisations they place contracts with and ensure that those contracts have explicit clauses that holds the providers to account for preventing and dealing promptly and appropriately with any example of abuse and neglect. 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 Lincolnshire 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 a concern and undertaking an enquiry 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;
- Maintain service quality and with a principle of prevention by putting in place processes for reporting, addressing and reviewing service quality issues.
- Ensure that commissioners (and regulators) regularly audit reports of service quality issues, risk of harm and require providers to address any issues identified.

## 4.17 Care Quality Commission

We help to safeguard people by:

- Using information we receive (particularly when concerns are raised about abuse, harm or neglect to look at the risks to people who use care services.
- Referring concerns to local councils and/or the police for further investigation.
- Carrying out inspections, where we talk to people who use services to help us identify safeguarding concerns.
- Publishing our findings on safeguarding in our inspection reports.
- Taking action if we find that care services don't have suitable arrangements to keep people safe.
- Working with partners such as the police, local councils, health agencies, other regulators and government departments.

## 4.18 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 representatives may participate in announced and unannounced 'enter and view' visits in services that deliver publically funded health or social care services. Healthwatch representatives need to be able to recognise and report safeguarding concerns in line with the local safeguarding procedures.

## 4.19 District Councils

District Council staff visit people in their own homes and are active in the community in the course of delivering a variety of services. Officers are trained to recognise and report concerns that an adult may be at risk of harm in line with local procedures. In cases where there is a concern they can discuss this with their line manager or the Council's nominated Safeguarding Officer, which will result in appropriate action including referral.

## 4.20 Probation

In 2013 the Government transformed Probation services resulting in the majority of its work transferring into the private sector. High Risk Cases are now managed by the National Probation Service (statutory criminal justice service) and Low and Medium risk cases are managed by the Community Rehabilitation Company (CRC). The National Probation Service is responsible for court work, MAPPA and deciding which cases go to the CRC.

The Community Rehabilitation Company (CRC) is responsible for the Community Payback Programme and from 1st May 2015 the Re-settlement Service.



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.

## 4.21 Prisons and Approved Premises

Prisons and approved premises have their own safeguarding duties to prisoners with needs of 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. Local authorities' Section 42 duties to make enquiries and Section 44 duties (to carry out a SAR) do not apply to prisons and approved premises.

## 4.22 NHS Trusts

As a publicly funded NHS body Lincolnshire NHS Trust's expect high standards from all of its employees and, in line with the key principles of the constitution. The Trust's aspire to the highest standards of excellence and professionalism in the people it employs, the education, training and development they receive and in the leadership and management of the organisation.

The NHS Trusts have a statutory duty to ensure that it makes arrangements to safeguard and promote the welfare of children and young people, to protect adults at risk from abuse or the risk of abuse and support the Home Office Counter Terrorism strategy CONTEST, which includes a specific focus on PREVENT (preventing violent extremism / radicalisation).

## 5 Supporting Processes

### 5.1 Information sharing to prevent and safeguard adults from abuse or neglect

Information sharing is key to the Government's goal of delivering better, more efficient public services that are co-ordinated around the needs of the individual. It is essential to enable early intervention and preventative work, for safeguarding and promoting wellbeing and for wider public protection.

Information sharing is a vital element in improving outcomes for all.

The Government understands that it is most important that people remain confident that their personal information is kept safe and secure and that practitioners maintain the privacy of the individual, whilst sharing information to deliver better services. It is therefore important that practitioners can share information appropriately, as part of their day-to-day practice and do so confidently.

#### 5.1.1 Decisions about Who needs to know and What needs to be known should be taken on a case by case basis within agency policies and the constraints of the legal framework

Personal information held by professionals and agencies is subject to a legal duty of confidentiality and should normally only be disclosed to third parties, including other organisations, with the consent of the subject of the information. However there may be times when it will be necessary to disclose information without the subject's consent.

#### 5.1.2 The Care Act 2014 and Supply of Information

Under Section 45 of the Care Act, if a Safeguarding Adults Board (SAB) requests a person to supply information to it or to some other person specified in the request, the person who receives the request must provide the information provided to the SAB if:

- The request is made in order to enable or assist the SAB do its job
- The request is made of a person who is likely to have relevant information, and then either:
- The information requested relates to the person whom the request is made and their functions or activities or
- The information requested has already been supplied to another subject to an SAB request for information.

Information may be used by the SAB, or other person to whom it is supplied under subsection (1), only for the purpose of enabling or assisting the SAB to exercise its functions.

## **Common Law Duty of Confidentiality**

The duty of confidentiality requires that unless there is a statutory requirement to use information that has been provided in confidence, it should only be used for purposes that the subject has been informed about and has consented to. This duty is not absolute, but should only be overridden if the holder of the information can justify disclosure as being in the public interest, that is, to protect others from harm.

## **Sharing information with families**

It is important to manage the expectations of what a family member/carer assumes will be made available during, and at the conclusion of, any safeguarding enquiry.

If an adult lacks capacity to consent to sharing information, then any information disclosed must comply with the Mental Capacity Act and Data Protection Act.

Family members requesting information regarding safeguarding incidents should be advised that any safeguarding incident will be dealt with through the safeguarding adults policy and procedures.

## **Seven golden rules for information sharing**

1. **Remember that the Data Protection Act is not a barrier to sharing information** but provides a framework to ensure that personal information about living persons is shared appropriately.
2. **Be open and honest** with the person (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
3. **Seek advice** if you are in any doubt, without disclosing the identity of the person where possible.
4. **Share with consent where appropriate** and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, that lack of consent can be overridden in the public interest. You will need to base your judgement on the facts of the case.
5. **Consider safety and wellbeing:** Base your information sharing decisions on considerations of the safety and wellbeing of the person and others who may be affected by their actions.
6. **Necessary, proportionate, relevant, accurate, timely and secure:** Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.
7. **Keep a record of your decision and the reasons for it** – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

## **5.2 Duty of Candour**

From October 2014, NHS providers are required to comply with the duty of candour, which requires that providers are open and transparent with service users about their care and treatment, including when it goes wrong.

The duty is part of the fundamental standard requirements for all providers. It applies to all NHS trusts, foundation trusts and special health authorities from October 2014 and for all other providers, including social care, from April 2015.

## **6 Procedure**

### **6.1 Introduction**

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.

The key principles which govern this procedure are set out in the Statement of Government Policy on Adult Safeguarding (DoH, May 2013):

- **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 un-intrusive 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).

The procedures are a framework. Adult safeguarding is a dynamic process that must be done 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 with the adult and implemented at any time in the adult safeguarding process. The multi-agency plan aims to:
  1. Prevent further abuse or neglect;
  2. 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;
  3. Support the individual to continue in the risky situation if that is their choice and they have the capacity to make that decision;
  4. Promote wellbeing and support 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 were appropriate and partner agencies. 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.

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.

## 6.2 Translating Policy into Procedure

Principles	'I' Statements
<b>Empowerment</b> - 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.
<b>Prevention</b> - 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.
<b>Proportionality</b> - 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.
<b>Protection</b> - 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.
<b>Partnership</b> - 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.
<b>Accountability</b> - Accountability and transparency in delivering safeguarding.	I am clear about the roles and responsibilities of all those involved in the solution to the problem.

## 6.3 Sharing information procedures

Before you share information you should ask yourself the following questions:

- Do I have permission of the person to disclose personal information?

**If not:**

- Do I have the legal power to disclose this information?
- Is there a duty to protect the wider public interest, are other people at risk?
- Am I proposing to share information with due regard to both common and statute law?
- Do I have the correct level of seniority to disclose this information?

**Legitimate Purposes to disclose information without consent include:**

- Preventing serious harm to an adult; including through prevention, detention and prosecution of a serious crime
- Providing urgent medical treatment to an adult
- Implementing the Care Act 2014 which aims to protect adults with care and support needs from abuse and neglect.

**Sharing information that may be in the public interest includes:**

- When there is reasonable cause to believe that an adult is suffering, or is at risk of suffering serious harm
- To prevent the adult from harming someone else
- To promote the wellbeing of the adult
- Detecting crime
- Apprehending offenders
- Maintaining public safety.

Breaching the Data Protection Act is extremely serious and could result in both the individual practitioner and the local authority being held accountable. The sharing of personal information must always be discussed with a manager, legal services or data protection officers within the authority.

### 6.3.1 Principles from Caldicott Report

When comparing the principles from the Caldicott Report with information sharing values we can see that:

- Information will only be shared on a need to know basis when it is in the best interest of the adult.
- Confidentiality must never be confused with secrecy.
- Informed consent should be obtained, but if this is not possible and others are at risk, it may be necessary to override this requirement.
- It is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in situations when other people may be at risk.

The information exchanged under this guidance will only be used for safeguarding adults' purposes and where it meets these conditions:

- A criminal offence has taken place
- It may prevent a crime
- The alleged victim is at risk of harm
- Staff, other adults, or the general public may be at risk of harm

- For the early intervention and identification of abuse
- For enquiries under safeguarding procedures.

## 6.4 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.

The Lincolnshire adult safeguarding procedures do not set definitive timescales for each element of the Safeguarding process; however, indicative timescales are provided. Timescales should reflect the ethos of the Making Safeguarding Personal agenda and be agreed according to the circumstances of the case.

The approach within the Lincolnshire procedures is as follows:

- Managing immediate risks - Some adult safeguarding concerns will require an immediate assessment and response to protect the adult. The policy and procedures set out some indicative timescales for responding to and managing immediate risks.
- Making decisions about safeguarding concerns and undertaking enquiries - There are some indicative timescales, however, as with all adult safeguarding work, responses must be timely.

## 6.5 Record Keeping

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 does 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?

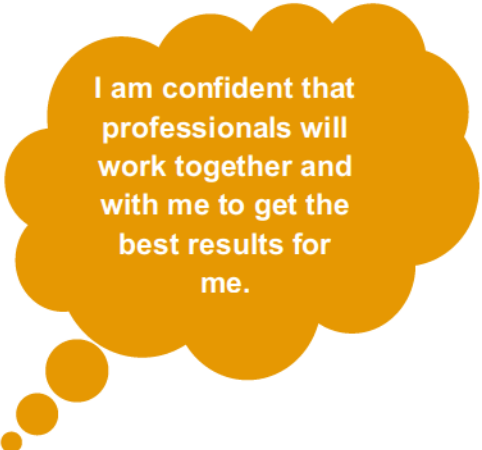
## 6.6 Co-operation

It is important within adult safeguarding for all partners to co-operate 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;



I am confident that professionals will work together and with me to get the best results for me.

- 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.

## 6.7 Risk Assessment and Management

Achieving balance between the right of the individual to control his or her support or 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 with care and support needs 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 strengths, 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:

- Presuming 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, their families, 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.

## 6.8 Cross-boundary and inter-agency adult safeguarding enquiries

Many people at risk live in residential settings outside their own placing area. In addition, a safeguarding incident might occur during a short-term health or social care stay, or on a trip, requiring police action in that area or immediate steps to protect the person while they are in that area.

It is recognised that there is an increased risk to adults who are experiencing or at risk of abuse or neglect, when they are in placements outside their local authority area. Risks may be increased by complicated cross-boundary arrangements, and it would be dangerous and unproductive for authorities, whether local authorities or NHS Bodies, to argue over whose responsibility it is to manage responses to cross-boundary safeguarding concerns and enquiries.

The respective roles of the placing authority responsible for commissioning and funding the placement and the host authority (the authority in the area the abuse occurred, whether or not the authority commissions services from the provider involved) are laid out in the ADASS Guidance on Out-of-Area Safeguarding Adults Arrangements.

<https://www.adass.org.uk/out-of-area-safeguarding-adult-arrangements>

### 6.8.1 The role of the host local authority

The initial lead in response to a safeguarding concern should always be taken by the host local authority where the incident occurred.

This might include taking immediate action to ensure the safety of the person, or arranging an early discussion with the police when a criminal offence is suspected. In terms of renegotiation, dispute resolution and uncertainty between two local authorities, this is the 'default' position.

The host local authority will:

- Receive the concern;
- Gather initial information;
- Take immediate steps to protect the individual;
- Notify the placing local authority and gather information from that authority;
- Involve the placing local authority's nominated link person in the decision-making processes;
- Co-ordinate the response to concerns or enquiry into any incident where care arrangements exist across boundaries.

### 6.8.2 The role of the placing authority

- The placing authority continues to have responsibilities to the person who is the subject of the adult safeguarding concern/enquiry, and will take action by:
- Negotiating the safeguarding arrangements that are included in any provider's service specifications and monitoring these;
- Reacting promptly when there is an concern, following these procedures and the ADASS Guidance;
- Nominating a 'link person' to liaise between the two local authorities;
- Providing information and other assistance to support the host authority's enquiries;
- Providing support for adults for whom they have responsibility towards and who are identified as at risk or harmed, whether perpetrators or victims;
- Commissioning independent advocates for those individuals who do not have someone to advocate for them in relation to safeguarding proceedings;
- Ensuring the adult, their family, carers and advocates are kept informed;
- Meeting any care needs that are identified by the enquiry and are within its responsibility.



Residents in an acute hospital setting - When hospitals provide clinical care to residents from a wide surrounding area, there may be negotiation about which local authority should take responsibility for adult safeguarding concerns and enquiries that come to light in the hospital but which actually occurred in the placing authority's area. In cases of dispute, the default position must apply.

Section 117 - Special rules apply to adults with care and support needs who are also subject to Section 117 (After Care) of the Mental Health Act (MHA) 1983. Case law has established that the duty falls in the first place on the authority for the area in which the patient was resident before being detained in hospital, even if the patient does not return to that area on discharge. If (but only if) no such residence can be established, the duty will fall on the authority for the area where the patient is to reside on discharge from hospital.

## 6.9 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.

Lincolnshire has arrangements and systems in place that are designed to respond to quality and safety concerns in provider services. There are for example regular information sharing meetings between the Local Authority, the CQC and Clinical Commissioning Groups and NHS England has a Quality Surveillance Group.

Lincolnshire's local contract monitoring and quality assurance frameworks will need to interface closely and work alongside responses under this procedure. Responses will need to reflect the individual circumstances of individual cases. The procedure could include, for example, sharing information arising from adult safeguarding concerns and enquiries with commissioners and regulators to inform quality monitoring and regulatory processes. This would help to address concerns raised that relate to service quality but which 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 or neglect in identifiable cases.

It is recognised that in a few critical cases where the service quality and safety concerns are so great and pose such a high risk to users of that service, that consideration should be given to the duty of Enquiry applying to all, or groups of individuals, within that service setting. 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.

## 6.10 Differentiating between poor care and potential safeguarding issues

Poor care may include:

- One-off medication error (although this could of course have serious consequences ;
- An incident of understaffing resulting in a person's incontinence pad being unchanged all day;
- Poor quality / unappetising food;
- One missed visit by a care worker from a home care agency.

Potential causes for concern may include:

- A series of medication errors;
- An increase in the number of visits to A&E, especially if the same injuries happen more than once;
- Changes in behaviour and demeanour of an adult with care and support needs;

- Nutritionally inadequate food;
- Signs of neglect such as clothes being dirty;
- Repeated missed visits by a home care agency;
- An increase in the number of complaints received about a service;
- An increase in the use of agency or bank staff;
- A pattern of missed GP or dental appointments;
- An unusually high or low number of safeguarding concerns

## 6.11 Pressure ulcers and Adult Safeguarding

All Grade 3 and 4 pressure ulcers, which occur in patients in receipt of NHS Funding, are reportable as a serious incident in accordance with NHS England's Serious Incident Framework (April 2015). The pressure ulcers should be reported through to the Federated Quality and Patient Safety Team (by telephone 01522 515304) working on behalf of the Lincolnshire Clinical Commissioning Groups.

For each serious incident reported a root cause analysis investigation should be undertaken within 60 working days. Support and guidance to undertake the investigation is available via the Quality Teams located within each of the Clinical Commissioning Groups.

As part of the incident investigation process a determination of how the pressure ulcer developed will be undertaken. Consideration will need to be given to::

Whether there has been rapid onset and / or deterioration of skin integrity;

Whether there has there been a recent change in medical condition e.g. skin or wound infection, other infection, pyrexia, anaemia or end of life care that could have contributed to a sudden deterioration of skin condition;

If reasonable steps have been taken to prevent skin damage

Whether the level of damage to the skin disproportionate to the person's risk status e.g. low risk of skin damage with extensive injury

If the patient is admitted into the Care Home with pressure damage (Grade 3 or 4 pressure damage), this should be communicated to the Federated Quality and Patient Safety Team to secure an investigation from the appropriate care provider, where appropriate.

Answers to the above question will support a further assessment of whether a referral to the Safeguarding Team is required.

## 6.12 Location of Abuse

Abuse can take place anywhere. For example:

- The person's own home, whether living alone, with relatives or others;
- Day or residential centres;
- Supported housing;
- Work settings;
- Educational establishments;
- Care homes;

- Clinics hospitals;
- Prisons;
- Other places in the community.

## 6.13 Who Might Abuse?

Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the adult with care and support needs. A wide range of people may harm adults. These include:

- A spouse/partner;
- An adult with care and support needs;
- Other family members;
- Neighbours;
- Friends;
- Local residents;
- People who deliberately exploit adults they perceive as vulnerable to abuse;
- Paid staff or professionals;
- Volunteers and strangers.

A lot of attention can be paid to targeted fraud or internet scams perpetrated by complete strangers, however it is far more likely that the person responsible for abuse is known to the adult and is in a position of trust and power.

## 6.14 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.

## 6.15 Allegations against carers who are relatives or friends

There is a clear difference between unintentional harm caused inadvertently and a deliberate act of either abuse or omission, however contact must be made with the police if a crime has been or may be committed.

In cases where unintentional harm has occurred this may be due to lack of knowledge or due to the fact that the carer's own physical or mental health needs make them unable to care adequately for the adult with care and support needs. The carer may also be an adult with care and support needs. In this situation the aim of adult safeguarding work will be to address risk and determine how the adult with care and support needs feels about any risks. It may be appropriate to help the carer to provide support and make changes in their behaviour in order to decrease the risk of further harm to the person they are caring for.

Assessment of both the carer and the adult they care for must include consideration of both their wellbeing. As such, a needs assessment or carer's assessment is an important opportunity to explore the individuals' circumstances and consider whether it would be possible to provide information, or support that prevents abuse or neglect from occurring, for example, by providing training to the carer about the condition that the adult they care for has or to support them to care more safely and take into account the following factors:

- Whether the adult for whom they care has a learning disability, mental health problems or a chronic progressive disabling illness that creates caring needs which exceed the carer's ability to meet them;
- The emotional and/or social isolation of the carer and the adult with care and support needs;
- Whether there is minimal or no communication between the adult with care and support needs and the carer either through choice, mental incapacity or poor relationship;
- Whether the carer is or is not in receipt of any practical and/or emotional support from other family members or professionals;
- Financial difficulties;
- Whether the carer has an enduring or lasting power of attorney or Appointeeship;
- Whether there is a personal or family history of violent behaviour, alcoholism, substance misuse or mental illness;
- The physical and mental health and wellbeing of the carer.

If a carer speaks up about abuse or neglect, it is essential that they are listened to and that where appropriate a safeguarding enquiry is undertaken and other agencies are involved as appropriate.

If a carer experiences intentional or unintentional harm from the adult they are supporting, or if a carer unintentionally or intentionally harms or neglects the adult they support, consideration should be given to:

- Whether, as part of the assessment and support planning process for the carer and, or, the adult they care for, support can be provided that removes or mitigates the risk of abuse. For example, the provision of training or information or other support that minimises identified stress experienced by the carer. In some circumstances the carer may need to have independent representation or advocacy; in others, a carer may benefit from having such support if they are under great stress or similar; and
- 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.

Other key considerations in relation to carers should include:

- Involving carers in safeguarding enquiries relating to the adult they care for, as appropriate;
- Whether or not joint assessment is appropriate in each individual circumstance;
- The risk factors that may increase the likelihood of abuse or neglect occurring; and
- 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.

## 6.16 Abuse by Children

If a child or children is or are 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 involve the local authority children's services.

## 6.17 Transitions (Care Leavers)

Where someone is over 18 but still receiving children's services and a safeguarding concern is raised, this should be dealt with as a matter of course through adult safeguarding procedures. Where appropriate, they should involve the local authority's children's safeguarding colleagues as well as any relevant partners (e.g. police or NHS) or other persons relevant to the case. This also applies where someone is moving to a different local authority area after receiving a transition assessment but before moving to adult social care.

Robust joint working arrangements between children's and adults' services should be in place to ensure that the medical, psychosocial and vocational needs of children leaving care are assessed as they move into adulthood and begin to require support from adult services.

## 6.18 Position of Trust

For the purposes of this policy a person in a position of trust is someone who works with or cares for adults with care and support needs in a paid or voluntary capacity and about whom allegations of adult abuse or neglect are made. This includes 'shared lives carers' (previously known as 'adult placement carers').

These cases involve an allegation or suspicion that a person working with adults with care and support needs has:

- Behaved in a way that has harmed or may have harmed an adult with care and support needs;
- Possibly committed a criminal offence against or related to an adult with care and support needs;
- Behaved towards an adult with care and support needs in a way that indicates she or he is unsuitable to work with such adults.

Adults with care and support needs can be subjected to abuse by those who work with them in any setting. All allegations of abuse, neglect or maltreatment of adults with care and support needs by somebody in a position of trust must be taken seriously and treated in accordance with consistent procedures. All adults with care and support needs are entitled to the same level and standard of protection from harm, regardless of whether they are receiving statutory or other services or if they are receiving none.

The scope of the Position of Trust procedures applies to all cases where concern, suspicion or allegation arises in connection with:

- The worker's own work/voluntary activity.
- The worker's life outside work (i.e. concerning adults with care and support needs in the family or the social circle, risks to children, whether the individual's own children or other children).

Concerns may be current or historical.

**Please refer to Figure 1 for Safeguarding Adults Process flowchart.**

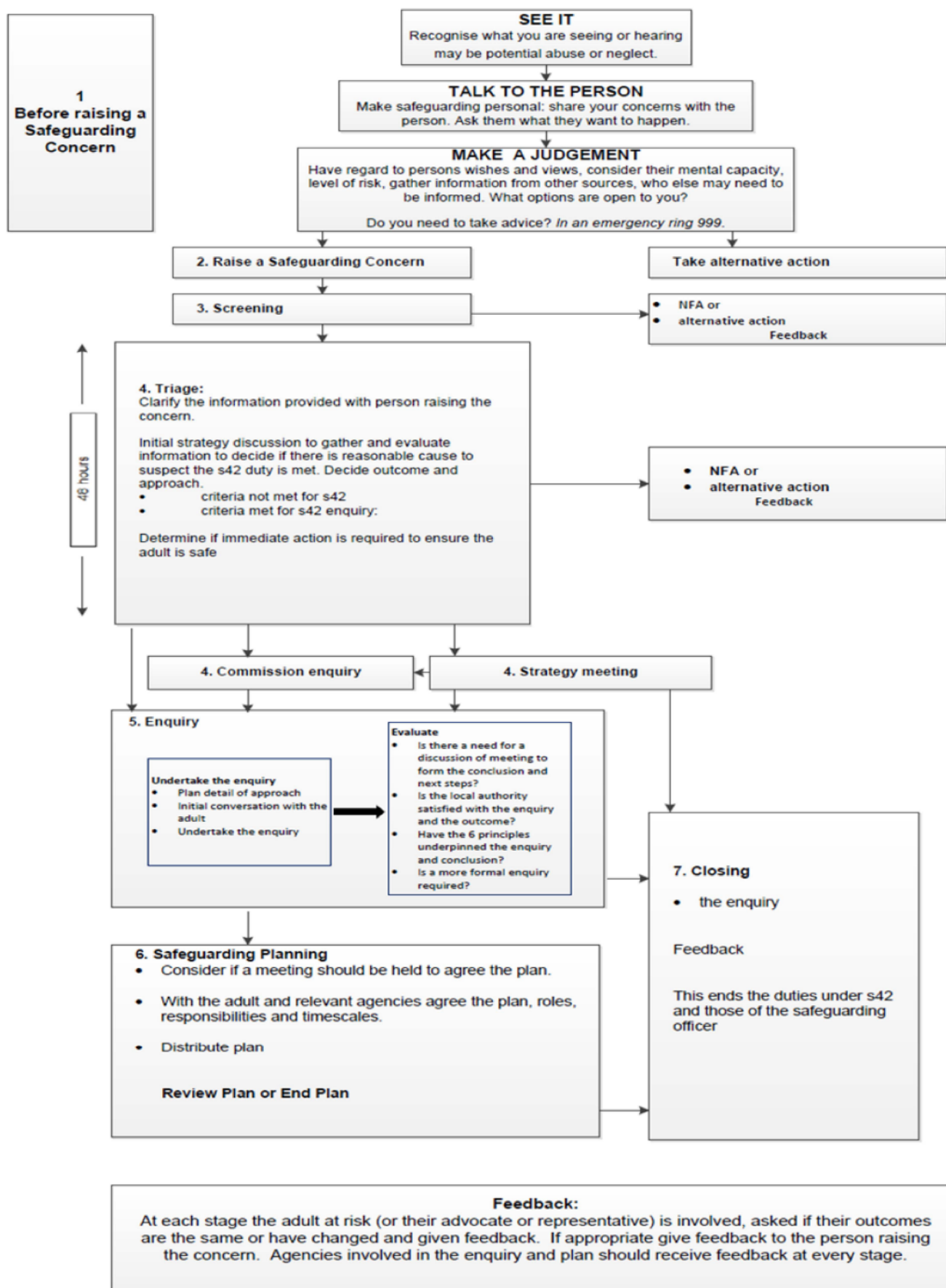
## 6.19 Allegations against people in positions of trust August 2017 – Currently under Review

All LSAB partners, and those providing care and support services, should have clear policies in line with those from the LSAB for dealing with allegations against people who work, in either a paid or unpaid capacity, with adults with care and support needs. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint.

Whilst the focus of safeguarding adults work is to safeguard identified adults with care and support needs, there are occasions when incidents are reported that do not involve a specific adult at risk but indicate, nevertheless, that a risk may be posed to adults with care and support needs by a person in a position of trust.

Where such concerns are raised, it will be necessary for the employer (or student body or voluntary organisation) to assess any potential risk to adults with care and support needs who use their services, and, if necessary, to take action to safeguard those adults.

## Figure 1 – Adult Safeguarding Procedure Flowchart



Examples of such concerns could include allegations that relate to a person who works with adults with care and support needs who has:

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

Employers, student bodies and voluntary organisations should have clear procedures in place setting out the process, including timescales, for investigation and what support and advice will be available to individuals against whom allegations have been made. Any allegation against people who work with adults should be reported immediately to a senior manager within the organisation. Employers, student bodies and voluntary organisations should have their own sources of advice (including legal advice) in place for dealing with such concerns.

If an organisation removes an individual from work with adults with care and support needs (or would have, had the person not left first) because the person poses a risk of harm to adults, the organisation must make a referral to the Disclosure and Barring Service (DBS). It is an offence to fail to make a referral without good reason.

Allegations against people who work with adults with care and support needs must not be dealt with in isolation. Any corresponding action necessary to address the welfare of adults with care and support needs should be taken without delay.

Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults or children at risk, and the rationale for decision-making should always be recorded.

When sharing information about adults and children at risk between agencies it should only be shared:

- Where relevant and necessary, not simply all the information held;
- With the relevant people who need all or some of the information;
- When there is a specific need for the information to be shared at that time.

## 6.20 Triage Service

The Safeguarding Adults Team operates a triage service. All safeguarding concerns raised through the Customer Service Centre are sent to the team for a decision to be made about whether the concern meets the criteria for an enquiry under s42 of the Care Act. A decision should be made within two working days of the concern reaching the Safeguarding Adults Team. To assist in making the decision the team will:

- Make lateral checks with other relevant agencies to gather background information about the concern
- Contact the adult who is the subject of the concern where appropriate to seek their views and wishes
- Consider whether the concern needs to go forward to a s42 enquiry or whether other actions are more appropriate
- Send concerns on to the appropriate LCC Adult Care team for further work with required actions to be carried out if not progressing under s42 and if necessary
- Contact the person raising the concern to acknowledge receipt and provide feedback.

### 6.20.1 Immediate need to safeguard an adult and commence a s42 enquiry

When the safeguarding concern meets the criteria for s42 enquiry and requires an immediate response the sharing of information and planning will be conducted through a discussion.

## 6.20.2 Large Scale s42 Enquiries

Large Scale s42 Enquiries are those involving concerns about organisational abuse in provider services e.g. care homes, health establishments and domiciliary care agencies. These can be complex and require a great deal of co-ordination and planning. The Safeguarding Adults Team will lead on these enquiries and liaise with relevant professionals in Health and Social Care, Police Commissioners, Quality Assurance teams and the CQC when the service is registered with them under the Health and Social Care Act 2008. A Safeguarding Officer from the Safeguarding Adults Team will co-ordinate and chair all meetings related to Large Scale Enquiries.

## 6.20.3 Safeguarding meetings

It will be necessary in some cases to arrange multi agency meetings to share information to

- Plan an enquiry
- Review the progress of an enquiry
- Agree a safeguarding plan following the enquiry.

These will be co-ordinated and chaired by a Safeguarding Officer or manager of the Safeguarding Adults team responsible for leading the enquiry.

A Safeguarding Officer or manager from the Safeguarding Adults Team will coordinate and chair a strategy meeting in the following circumstances:

- When it is a Large Scale s42 Enquiry;
- There is reason to believe that a serious crime has been committed;
- There is interest from the media;
- The concerns have complex interdependencies

A Safeguarding Officer from the Safeguarding Adults Team can attend other meetings outside of Section 42 Care Act 2014 to offer specialist safeguarding advice and information. This should be discussed with the Safeguarding Adults Team on a case by case basis.

## 7 Adult Safeguarding Concerns: Responding and Reporting

### 7.1 Purpose

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

- 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 and their desired outcomes;
- Report the concern to the LCC Customer Service Centre 01522 782155 (and to the Police where a criminal offence has occurred or may occur ,
- Report concerns to Children's Services 01522 782111 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 their best interest.




## 7.2 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 the following concerns:

- An abusive act is witnessed
- An adult makes a disclosure
- There is a third party disclosure
- Suspicion or concern that something is not right
- Evidence of possible abuse or neglect



I feel listened to and what I say is taken seriously.

## 7.3 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.
- Ensure your questions include:
  1. Tell Tell me more about'; Tell me what happened next
  2. Explain Explain what you mean by ; Explain how that would work
  3. Describe Describe what happened next ; Describe how you'd change....
- 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.
- Try and establish what the adult would like to see happen, or their desired outcomes
- Identify and document any risks to others including adults, children and staff.

## 7.4 Timeliness and Risk

Immediate actions may be required to protect 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.

If other professional are supporting the adult through other services, it is recommended that the referring agency make contact with those involved prior to referring to adult safeguarding.

**REMEMBER** see the policy section for guidance on timescales, 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.

**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 an early stage as possible to get their views and wishes on the concerns and what they want to happen. This should help 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 6.6.6 for guidance.

Adult safeguarding concerns should be reported to the LCC Customer Service Centre without delay. The indicative timescale for reporting the concern is within the same working day.

## 7.5 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.

### 7.5.1 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

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.

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. Good communication and sharing of information should continue throughout the enquiry and safeguarding planning process.

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.

Although the Local Authority has the lead role for making enquiries, it may require others to undertake enquiries (i.e. cause enquiries to be made). The Local Authority retains the responsibility for ensuring that the enquiry is referred to the right place and is acted upon.

When causing an enquiry to be made the Safeguarding Officer will identify the timescale within which the enquiry should be completed, how the enquiry outcomes will be fed back to the Local Authority e.g. by written report, verbal account, or meeting, and to whom.

The Local Authority, 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 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 are unsatisfactory.

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.

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.

If an organisation declines to undertake an enquiry without the agreement with the local authority or if the enquiry is not completed or there is unauthorised delays, the LSAB Escalation Policy 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.

In many cases the organisation charged with an enquiry will be a care provider service and it is essential that the lead Safeguarding Officer is 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.

## 7.5.2 – 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.



I know that  
professionals treat  
my personal and  
sensitive  
information in  
confidence.

### 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 service users 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; (body map available in appendix 1)
- 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.

### 7.5.3 Reporting your concern

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

**REMEMBER** the law gives protection to workers who have a reasonable belief there is wrong doing at work, and how to report. See Policy section on Whistleblowing.

### 7.5.4 Taking management action to respond to the concern

The organisation identifying the concern should decide on the most appropriate course of action without delay, this should include the following:

- Check & review actions already taken and decisions made;
- 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 complaints or 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;
- All organisations should provide enough information to help make the decision regarding s42 enquiry and the Local Authority may return the referral and raise with the safeguarding lead if the content does not contain enough detail.

### 7.5.5 Speaking to the adult who is experiencing or is at risk of abuse or neglect

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.

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. Talking through the options they have and what they want to do about their situation by asking questions "What do you want to happen?" "What's important to you?" "What could be done to make them

feel safer" "Is there anything that you don't want to happen?" should take place early on in the conversation.

Don't assume and fall into using regular phrases as they have different meanings for everyone for example domestic abuse, mental health.

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 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.

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 line manager or supervisor from an external agency as appropriate.

## Case Study Gaining the views of the adult at the concern stage

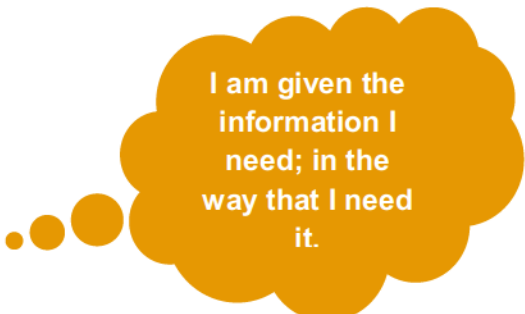
Mrs A is in her eighties and lives alone with her husband, Mr A. Mr A is also in his eighties and cares for his wife, with the support of three visits per day from a homecare agency. Mrs A has high physical care needs and she can be forgetful at times.

After a morning call, the home carer 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 keyworker / 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.

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;
- Ensure your questions include:
  1. Tell – 'Tell me more about'; 'Tell me what happened next'
  2. Explain – 'Explain what you mean by'; 'Explain how that would work'
  3. Describe – 'Describe what happened next'; 'Describe how you'd change....'
- 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;



I am given the information I need; in the way that I need it.

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

## 7.5.6 Capacity and Consent

### 7.5.6.1 Consent

In order for consent to be meaningful and legal, there are two criteria that need to be satisfied:

- The person must have the capacity to consent
- The consent must be their own choice and must be given freely and not through coercion, intimidation or pressure from family or professionals.

#### 7.5.6.1.1 Referring a Safeguarding Concern to the local authority without consent

Adults may not give their consent to sharing of safeguarding information for a number of reasons. For example, they may be unduly influenced, coerced, or intimidated by another person, they may be frightened of reprisals, they may fear losing control, they may not trust social services or agencies or may fear their relationship with the abuser will be damaged.

Reassurance and appropriate support may help to change their view on whether it is best to share information. If the individual refuses to give consent then best practice is to:

- Explore the reasons for the adults objections – what are they worries about, can this be overcome with reassurance from staff;
- Explain the concern and why you think it is important to share the information;
- Explain the benefits, to them and others, of sharing the 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 support is always available;
- Ensure they have an understanding of the safeguarding procedure and other options;
- Ensure they are aware of the level of risk and benefits of different options;
- Offer to arrange for them to have an advocate;
- Agree on and record the level of risk the adult is taking;
- Try to build trust to enable the adult to better protect themselves.

If, after this, the adult still refuses intervention to support them with a safeguarding concern, or requests that information about them is not shared with other safeguarding partners or the Police, in general, their wishes should be respected unless any of the following criteria apply:

- The adult lacks the mental capacity to make that decision – this must be properly explored and recorded in line with the Mental Capacity Act.
- Emergency or life threatening situations.
- Other people are, or may be, at risk, including children.
- Sharing information could prevent a serious crime or a serious crime has already been committed.
- The risk is unreasonably high and/or meets the criteria for MARAC.
- Staff providing regulated activities are implicated.
- There is a court order or other legal authority for taking action without consent.

- In your professional opinion the person remains unduly influenced/coerced/intimidated/frightened/etc.

Tell the adult you will be sharing anyway and the reason for this and consider if this poses additional risks

### **7.5.6.1.2 When an adult does not want information shared and there is a legal responsibility to do so**

Where an adult with capacity to make an informed decision about their own safety does not want any action taken, this does not override a professional's responsibility to raise a safeguarding concern and to share key information with relevant professionals e.g. where others are at risk, a criminal offence has been committed etc.

If there appears to be significant risk to the adult, and no one else, consideration would need to be given to whether their wishes should be overridden. The adult's wishes should not stop professionals from fulfilling their responsibilities in relation to duty of care, to continue to provide a service and regarding appropriate sharing of information.

In these situations the adult must always be:

- Advised about what information will be shared, with whom and the reasons for this.
- Advised that their views and wishes will be respected as far as possible by the local authority or other agencies in relation to any response they may have a duty to make
- Provided with information regarding what happens when a local authority is advised of a safeguarding concern.
- Assured by the professional passing this information to the local authority, that their lack of consent to the information being shared, and their views and wishes regarding actions they do or do not want taken in relation to the situation as far as it affects them directly, will also be explained to the local authority.

### **7.5.6.1.3 Where an offence may have been committed**

If it is suspected that an offence may have been committed, there should always be a conversation with the adult regarding whether they wish the police to be involved and advised that they may be required to give a statement to the Police.

If the adult does not want the police to be involved, this does not override a professional's responsibility to share information regarding a potential, or actual, offence with them.

Such situations should always be approached sensitively. The adult should be advised that the police will be contacted, and assured that the police will be informed that they do not wish to pursue this matter or speak to the police. It is for the police to determine if they feel it is necessary for them to speak to the adult, or if there is further action they may need to pursue. In some circumstances the Police may proceed with a victimless prosecution.

### **7.5.6.2 Capacity**

In every situation it is assumed that an adult has the mental capacity to make informed choices about their own safety and how they live their lives. Issues about mental capacity and the ability to give informed consent are central to decisions and actions in safeguarding adults. All interventions need to take 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;
- To take action themselves to prevent abuse;
- To participate to the fullest extent possible in decision making about interventions.

A person lacks capacity in relation to a matter if at the material time he/she is unable to make a decision for him/herself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.



Further, a person is unable to make a decision for him/herself if he/she is unable:

- To understand the information relevant to make the decision
- To retain the information
- To use or weigh that information as part of the process of making the decision, or
- To communicate his / her decision (whether by talking, using sign language or any other means (Mental Capacity Act 2005).

When the safeguarding concern is identified and discussed with the person and during the enquiry, it is essential that you are certain that the person fully understands the nature of the concerns and the choices facing them. You must ensure that you explain the decision in a way that an adult could understand. Avoid the use of jargon and consider easy read documents when appropriate.

It should never be assumed that because the person lacks capacity in respect to one aspect of their lives, this equates directly to another situation. A single assessment approach should be made in relation to the presenting issue.

A capacity assessment can be triggered in one of many ways, following the establishment of a need for a patient to make a specific decision, e.g.:

- a) The person's behaviour/responses suggest they may lack capacity
- b) The persons circumstances suggests they may lack capacity
- c) Someone else has raised concerns over capacity
- d) There have been capacity issues previously
- e) An unwise decision causes concern over capacity

#### **7.5.6.2.1 An assessment in respect of capacity should**

- Relate to the timing and nature of a particular incident
- Consider whether the person is able to understand or retain the information relevant to the decision to be made
- Consider whether the person is able to make a decision based on that information
- Be fully recorded in the case file.

#### **7.5.6.2.2 Circumstances where the person is considered to lack capacity might include those:**

- Where the person does not know that they have a decision to make.
- Where the person does not understand the choices available or the consequences of those choices.
- Where the person cannot communicate their decision. Every effort must be made to assist the person's understanding of the situation and the communication of their wishes.

If it is established that a person does not have capacity to make the specific decision at the specific time required, then a best interests decision must be determined on their behalf. When determining best interests you must comply with the Mental Capacity Act, bearing in mind the nature of the decision.

You may decide that you need to call a meeting. The purpose of this meeting is to ensure that all relevant factors are taken into account, including the person's wishes and feelings and that the relevant people have been consulted. Any decision made on behalf of the person must be in their best interest and be least restrictive of the person's rights.

All assessments of capacity and best interest decisions made on behalf of another person must be recorded on the relevant assessment of capacity and best interest decision form. If a best interest decision is appealed then legal advice must be sought.

### 7.5.6.2.3 Intimidation and coercion

There may be situations where a person seems able to make their own decisions in terms of their knowledge and understanding. However, they may be subject to undue pressure or too afraid to disagree with a particular course of action. If you feel this is the case the person should be offered distance from the situation in order to facilitate decision-making.

### 7.5.6.2.4 When a person has capacity

If it is decided that a person does have capacity and has taken an informed choice to live in a situation that puts them at risk, you should consult with:

- The person themselves
- Their community support
- Any other relevant organisations, service or individual. This will ensure all possible choices available to the person are offered to them.

The person may still choose to stay in the situation and live with that risk.

### 7.5.6.2.5 Adults who lack capacity to make relevant decisions

If the adult lacks capacity to make informed decisions about the incident, and their ability to maintain their safety, and they do not want a safeguarding concern to be raised, and / or other action to be taken, professionals have a duty to act in their best interests under the Mental Capacity Act 2005.

### 7.5.6.2.6 Independent Mental Capacity Advocate (IMCA)

The Mental Capacity Act 2005 makes provision for an Independent Mental Capacity Advocate (IMCA) to assist a person who lacks capacity to make decisions.

An IMCA must be instructed, and then consulted for people lacking capacity who have no-one else to support them, other than paid staff in relation to decisions proposing:

- Serious medical treatment
- Long term change of accommodation or
- In hospital for 28 days or longer.

### 7.5.6.2.7 Independent advocate

The Care Act requires that an independent advocate must be instructed to represent an adult who is the subject to a safeguarding enquiry or safeguarding adults reviews where the adult has 'substantial difficulty' in being involved in the safeguarding process and where there is no other suitable person to represent and support them. Advice about advocacy should be provided at the very start of an enquiry. Records must evidence that this has taken place.

## 7.5.7 Reporting Adult Safeguarding Concerns

Refer any safeguarding concern that meets the criteria at Section 6.1 to the LCC Customer Service Centre using the Safeguarding Concern referral form, in addition:

- If a criminal offence has occurred or may occur, contact Lincolnshire Police – 101;
- If a crime is in progress or life is at risk, dial emergency – 999;
- You must contact the Children's Services on 01522 782111) if a child is identified as being at risk of harm.

If you report the concern by telephone the referrer will be required to complete the Lincolnshire Safeguarding Adults Concern Referral form as written confirmation of their referral and send this via secure email [ASC@lincolnshire.gcsx.gov.uk](mailto:ASC@lincolnshire.gcsx.gov.uk)

Agencies will be notified of all outcomes in writing.

## 7.5.8 Anonymous reporting and protecting anonymity

### 7.5.8.1 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.

### 7.5.8.2 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 appropriate 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;
- The person causing harm may request to see information held about them under the Data Protection Act (DPA) 1998.

## Good Practice Guide Information Gathering

What information needs to be gathered?

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

Details of the person making the safeguarding concern referral

- Name, address and telephone number.
- Relationship to the adult if any.
- Name of the person raising the concern if different.
- Name of the organisation, if the concern is made from a care setting.
- Anonymous safeguarding concerns will be accepted and acted on. However, the person raising the concern should be encouraged to give contact details. All professionals from agencies/organisations are expected to give their details.
- Details of line manager

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 care and support 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 Safeguarding Concern referral.
- Whether the adult has consented to the Safeguarding Concern 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?
- What are the worries; the harm and impact, complicating factors, what will happen if nothing changes?
- What harm has occurred/suspected may occur?
- What is working well, the strengths of the adult or their networks?
- What resources are already in place?
- Are there any patterns?
- Is there any relevant information from records?
- 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)

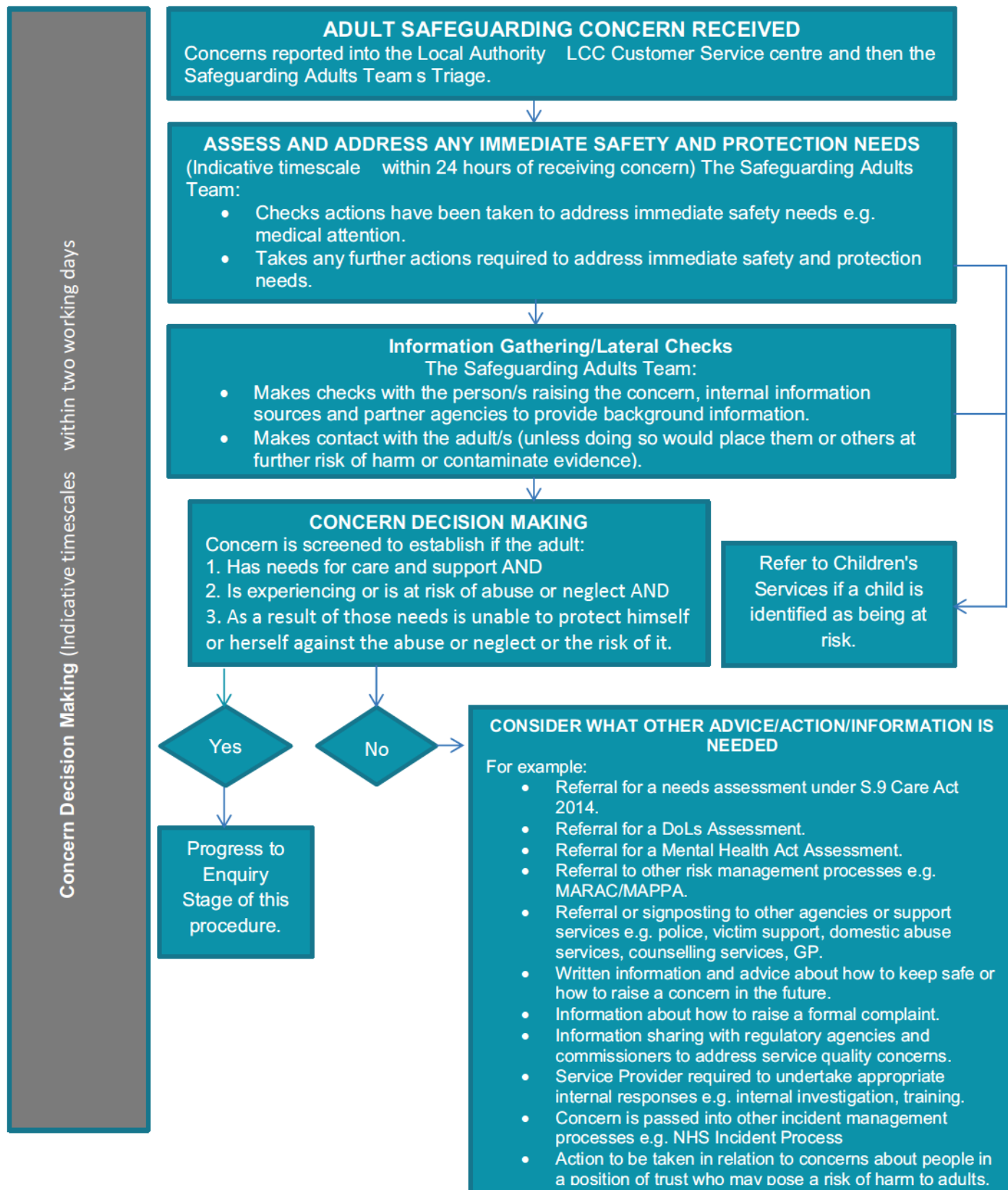
- Name, age and gender.
- What is their relationship to the adult?
- Are they the adult's main carer?
- Are they living with the adult?
- Are they a member of staff, paid carer or volunteer?
- What is their role?
- Are they employed through a Personal Budget / Direct Payment?
- Which organisation are 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?

## 8 Adult Safeguarding Concerns: Decision Making

(Pre-referral checklist available in appendix)




## 8.1 Concern Decision-Making Stage

The “concern decision-making” stage refers to the actions taken by the local authority, 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.

## 8.2 Purpose

When receiving a referral relating to an adult safeguarding concern, the Safeguarding Adults Team 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 where appropriate unless the professional reporting the concern has already done this or doing so would place the adult or others at further risk of harm, or contaminate evidence).



Whenever it is safe to do so, I am spoken to and asked my views.

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.

## 8.3 Roles and Responsibilities

The Safeguarding Adults Team will be responsible for undertaking the necessary checks and making a decision about the adult safeguarding concern.

## 8.4 Timeliness and Risk

### 8.4.1 Managing immediate risks

Some adult safeguarding concerns will require an immediate response to safeguard the adult. As an indicative timescale, an assessment of immediate risks and action needed should be undertaken within 24 hours of receiving the adult safeguarding concern.

### 8.4.2 Making the decision

This procedure does not outline any specified indicative 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 and a decision should usually be made within two working days. Professionals referring the safeguarding concern to the local authority should support the timely decision making by providing quality information to prevent or minimise delay.

**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.

## 8.5 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. If there are immediate risks to be managed the sharing and gathering of information and planning will be facilitated by a discussion led by the local authority Safeguarding Officer.

## 8.5.1 Check actions have been taken to address immediate safety needs

This means checking that the appropriate agencies have been contacted in an emergency.

### 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:
  1. The rights of the adult
  2. Issues of consent and capacity?
  3. The need to preserve forensic evidence
  4. The involvement of any family members or carers
  5. Who should accompany the adult and provide support & reassurance.

## 8.5.2 Make checks with the 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 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 sharing of information and a discussion 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.

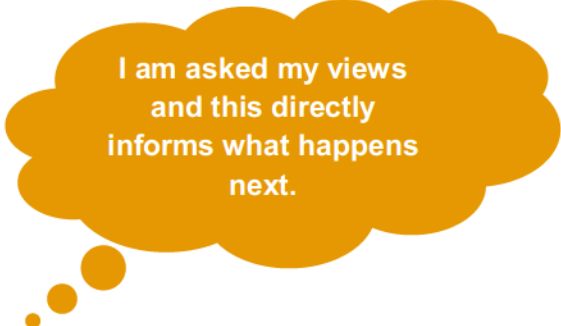
**REMEMBER** Involvement and engagement with the adult throughout is key to promoting personalised approaches to adult safeguarding. Speak to the adult and get their views as early in the process as it is possible and safe to do so.

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. When the safeguarding concern has been raised by a professional, the adult's views and consent should have been gained at the time and therefore the Safeguarding Adults Team won't always repeat this during the triage stage.



## 8.5.3 Make contact with the adult referred

As soon as possible after the triage process, the views of the adult should be gained. The Safeguarding Adults Team will make contact with the adult whenever it is appropriate to do so, however, this is usually best carried out by the most appropriate person. The Safeguarding Adults Team may ask others to do this, including the person who has raised the safeguarding concern. The adult's views should usually be gained by the professional who has reported the safeguarding concern and this should be of good enough quality that it does not need repeating at this stage.



I am asked my views  
and this directly  
informs what happens  
next.

Making contact with the adult 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.

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 line manager, and/or from an external agency as appropriate.

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).

Networking to gather information can be done by telephone and details of telephone calls/conversations must be recorded.

If the referral relates to a care provider careful consideration of the facts established should be considered prior to any contact with them. This should be decided on a case by case basis and the information gathered should inform further actions.

**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.

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

One of the criteria for undertaking a 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.

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 investigation through parallel processes (e.g. complaints, inquests, regulatory, commissioning, health and safety investigations).

Where an adult safeguarding concern is received for an adult who has died the same considerations will apply and an enquiry will only be made where there is a clear belief that other identifiable adults are experiencing, or are at risk of, abuse or neglect.

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.

### 8.5.5 Making a decision

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 Safeguarding Adults team 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:

- Has needs for care & support (whether or not the authority is meeting any of those needs) AND
- 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.

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

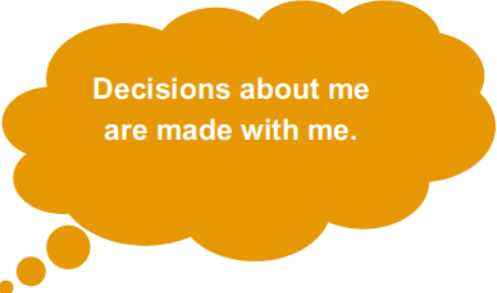
Where the above criteria for statutory enquiry are not met, for example in circumstances where:

- 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 Safeguarding Adults team will consider what other action, or provision of advice/information, is required to respond to the concern.

In some circumstances an enquiry may be co-ordinated by the Safeguarding Adults team with the involvement of the relevant Adult Care operational team because there is a reasonable cause to suspect that they may have care and support needs, or because the adult has already been assessed and has a care and support plan.

If the criteria for statutory enquiry are not met, when deciding what other action is required, the Local Authority or the organisation that is already involved should work in partnership with the adult affected, and the agreed actions should reflect the views and wishes of the adult wherever possible.



Decisions about me  
are made with me.

### Good Practice Guide Other types of advice/action or information

Where the criteria for statutory enquiry are not met, other types of action, or provision of advice/information, could be, for example:

- Referral for a needs assessment under S.9 of the Care Act.
- Referral for DOLS assessment.
- Request for a Mental Health Act assessment.
- Referral to other risk management processes, e.g. MARAC, MAPPA, PDP local harm reduction processes.

- Referral or signposting to other agencies or support services, e.g. Police, victim support, specialist 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 Incident process.
- Appropriate action is taken in relation to concerns about people in a position of trust who may pose a risk of harm to adults.
- Referral for Safeguarding Adults Review (Care Act S.44).
- 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.

## 8.5.6 Information Sharing

The Local Authority 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, CCGs, NHS England).

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

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

## 8.5.7 Recording

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

## 8.5.8 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.

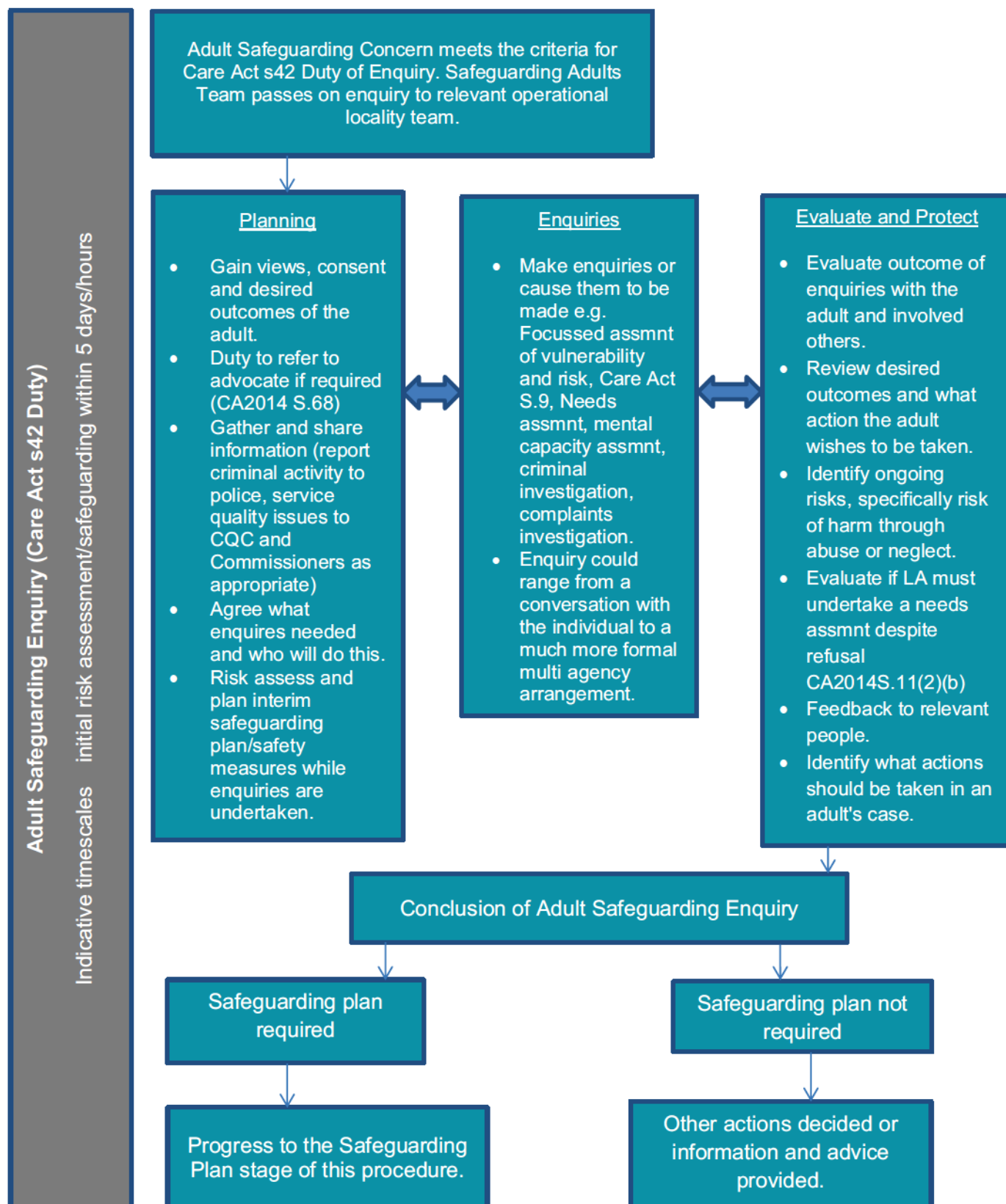
Organisations should have procedures for responding to such allegations that respect the rights of the individual, while protecting staff from the risk of unfounded allegations.

## 8.5.9 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 a judgement will need to be made about how to proceed on a case by case basis.

## 9 Adult Safeguarding Enquiries



## 9.1 Definition

An 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.

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 adult safeguarding s42 enquiry.


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.

## 9.2 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.



I am asked what outcomes I want and these directly inform what happens

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 notable to make the decision, and be proportionate to the level of concern.

## 9.3 Roles and Responsibilities

The Local Authority cannot delegate its duty to conduct a 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 s42 adult safeguarding enquiries, unless doing so is incompatible with their own duties or would have an adverse effect on their own functions. The cooperation 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.

## 9.4 Timeliness and Risk

### 9.4.1 Initial risk assessment and interim safeguarding plan

The indicative 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 s42 adult safeguarding enquiry needs to take place. Some cases may have more immediate risks and need a swifter response.

### 9.4.2 Completing enquiries

This procedure does not outline any specified indicative timescale to complete enquiries. However, as with all adult safeguarding work, responses should be timely and in most circumstances should be completed within 28 days. Those undertaking the enquiry on behalf of the local authority must keep the Safeguarding Adults Team informed of the progress of all enquiries.

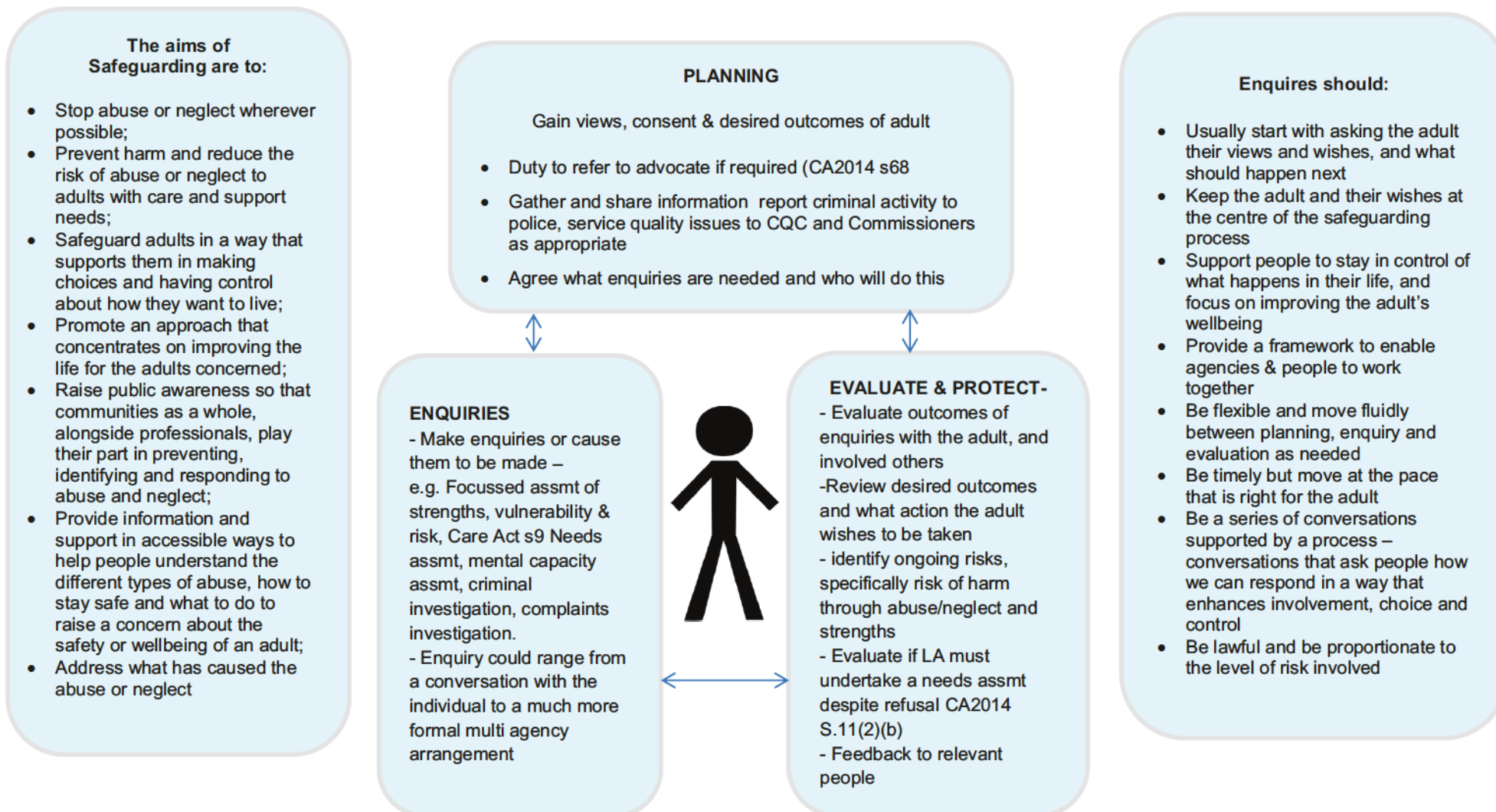
**REMEMBER** It is important to respond at the pace that is right for the adult and puts them in greatest control of what happens in their life.

## 9.5 Process

### 9.5.1 Overview

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.

## Lincolnshire Adult Safeguarding Procedures – planning and undertaking Care Act s42 Enquiries



## 9.5. Planning an enquiry

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.

Every enquiry will need a sharing of information and discussions to decide who will lead the enquiry; what are safeguarding concerns; the adult's wishes and how the safeguarding enquiry needs to proceed etc. This discussion will include the manager allocating the referral and all relevant or potential agencies involved in the safeguarding enquiry; e.g. police, health, complaints section, etc. However, if there are a number of enquiries indicated, which may need to run concurrently, a formal planning meeting will almost certainly be required.

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.

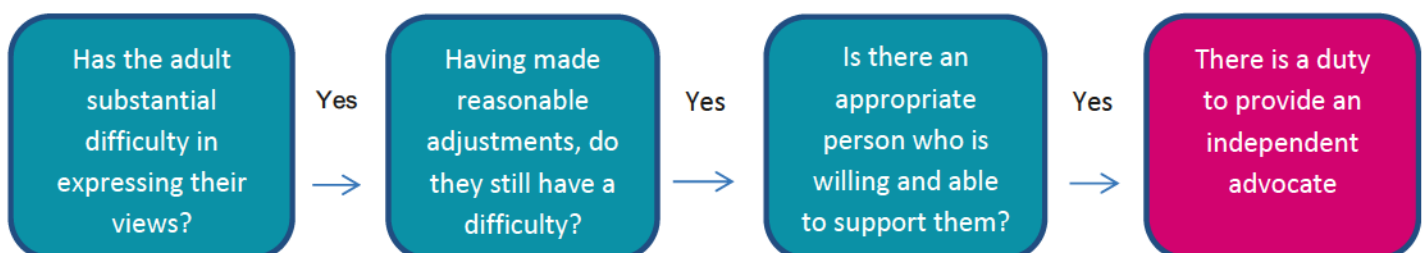
Planning processes should be tailored to the individual circumstances of the case, but should cover the following aspects:

- 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;
- Assessing risks, and formulating an interim safeguarding plan to promote safety and wellbeing while enquiries are undertaken.

The Planning process will be led and coordinated by a representative from the Safeguarding Adults team. Appropriate levels of information should be shared with, and involvement gained from, and provided by relevant partners. Attendance at planning meetings is mandatory and all organisations should be committed to attend when invited.

Guidance on formal meetings can be found at Appendix

### Fig.9b – Is there a duty to provide an Independent Advocate?



### 9.5.3 Information sharing and who should be involved

Who is involved in planning will be dependent on the individual situation, and will be decided by the representative from the Safeguarding Adults team. 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).

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.

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.

Information sharing between organisations is essential to safeguard adults at risk of abuse or neglect and the decisions about what information is shared and with who 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

If the adult has the 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 colleagues. This is to enable professionals to assess the risk of harm and to be confident that the adult is not being unduly influenced, 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.

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.9c – 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 Local Authority Contract and Commissioning service. Local Clinical Commissioning Group if there is a health funded contract.
Where quality and safety concerns arise about a NHS service or an Independent hospital.	Care Quality Commission Local Authority Contract and Commissioning service. Local Clinical Commissioning Group if there is a health funded contract.
Where disciplinary issues are involved	Manager of relevant agency. HR
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)

### 9.5.4 Risk assessment and interim safeguarding plans

The first priority in any enquiry process should be the safety and wellbeing of the adult. 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. As mentioned earlier, enquiry, planning and evaluation will be continuous throughout the safeguarding episode.

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.

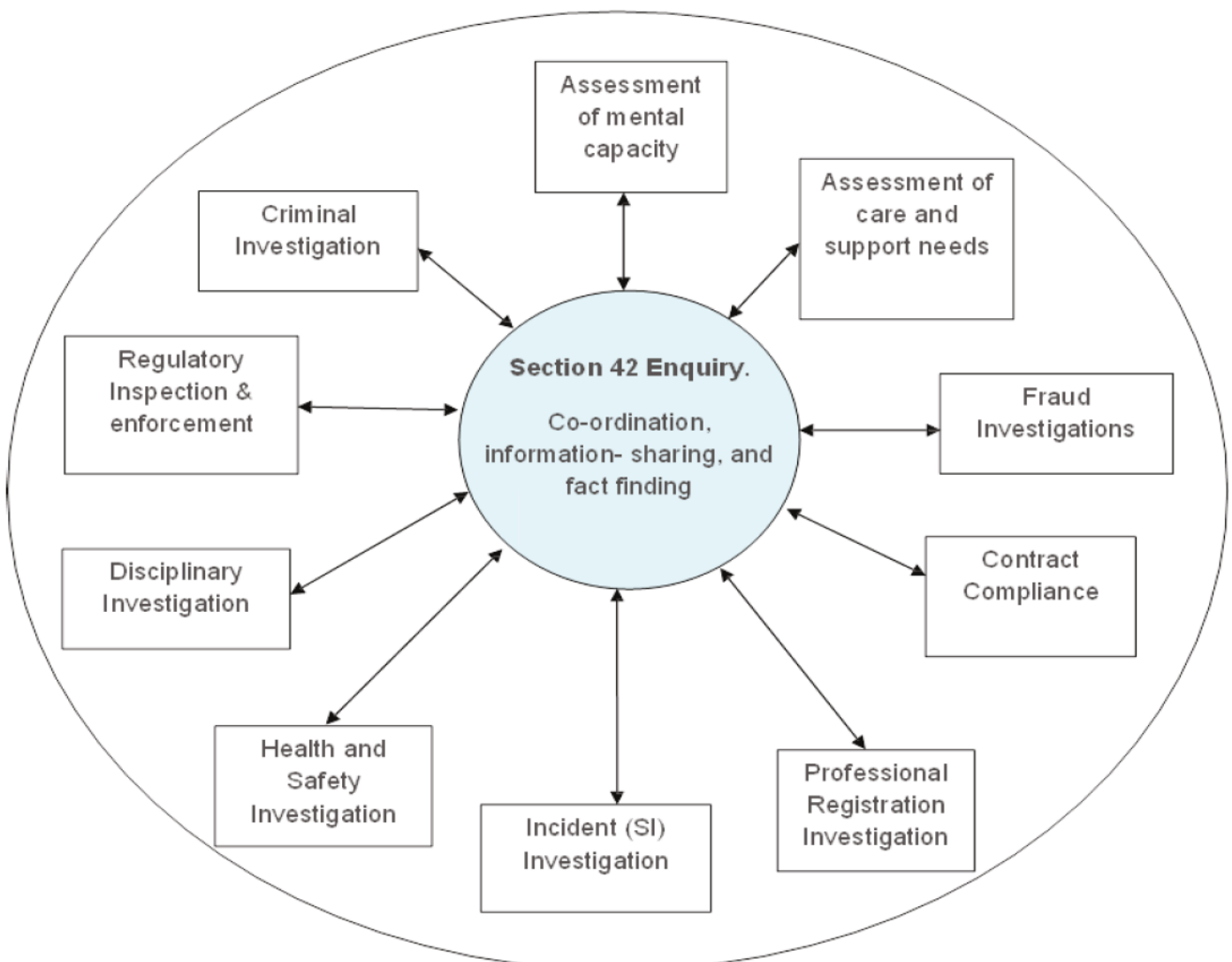
### 9.5.5 Making enquiries or causing enquiries to be made

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 preceding 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 Safeguarding Officer to ensure that this communication and co-ordination takes place.

#### Purpose of an enquiry

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 diagram below

**Fig.9d – Examples of assessments and investigations that may form part of adult safeguarding enquiries**



Good Practice Guide	Other types of advice/action or information
Establishing the views, wishes and desired outcomes of the adult.	
Care and Support Needs assessment / Carers assessment / assessment of Mental Health needs / other health assessment.	Social services / NHS CCG / mental health team / care trust.
Access to health and social care services to reduce the risk of abuse or neglect.	Social services / NHS CCG / mental health team / care trust
Criminal including assault, theft, fraud, hate crime, domestic violence, and abuse or wilful neglect).	Police
Domestic abuse 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 Ombudsman (if unresolved through complaints procedure)
Breach of contract to provide care and support	Service commissioner (e.g. local authority, NHS CCG)
Fitness of registered service provider	Care Quality Commission

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
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	Office of Public Guardian / Court of Protection
Misuse of Appointeeship or agency	DWP
Safeguarding Adults Review Care Act S.44	Safeguarding Adults Board
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 Ombudsman (if unresolved through complaints procedure)
Breach of contract to provide care and support	Service commissioner (e.g. local authority, NHS CCG)
Fitness of registered service provider	CQC
Incident (SI in NHS settings	Root cause analysis investigation by relevant NHS Provider

## 9.5.6 Adult Safeguarding enquiries in regulated care settings

The Local Authority 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 Authority 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).

The provider service should undertake enquiries or 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.

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 CCG where there are health funded contracts.

If it is decided that an enquiry will be undertaken by the organisation in which the concern arose, the manager within the organisation responsible for the enquiry must ensure that:

- The adult(s) at risk is protected by implementing an immediate safeguarding plan.
- Only essential information is shared within the organisation on a need-to-know basis.
- Staff or teams delivering services to the adult at risk are adequately resourced and are supported to implement the safeguarding plan.
- If the person causing the harm is also a service user, ensure that staff delivering services to them are adequately resourced and supported to deliver the safeguarding plan.
- The relevant enquiry officer's manager is kept informed of the progress of the enquiry and of the outcome and is given details of the safeguarding plan and all other relevant parties.
- The safeguarding plan is reviewed at regular intervals as long as the risk exists.
- Notify the local authority's Safeguarding Officer if the monitoring and reviews show that the safeguarding plan is not working.

If the concern was made by a service user or a member of the public about abuse or neglect within an organisation, the organisation's complaints procedure could form part of the enquiry and risk assessment. A decision will be made on a case-by-case basis as to whether the complaints process is suspended pending the outcome of the enquiry.

## **Responsibility of all organisations taking part in the enquiry**

Each organisation must designate a suitably trained and experienced member of staff to ensure that the organisation carries out its role and responsibilities in the plan agreed at the discussion/meeting stage. This will include ensuring that the organisation carries out agreed actions including conducting the enquiry, carrying out a risk assessment and implementing their part of the interim safeguarding plan. In addition, the manager of the organisation will ensure that:

- Actions to safeguard adults at risk are given top priority and they are supported throughout the process.
- Clear records are kept of any contact with, or actions taken to support or care for, the adult at risk.
- There is support and supervision for staff carrying out this work.
- The organisation actively cooperates with other organisations taking part in the enquiry, risk assessment and any interim safeguarding plan.
- The enquiry officer's manager and local authority's Safeguarding Officer is kept up to date and informed of any new information or changes in the situation or the plan as soon as possible.
- Any agreed enquiries are conducted without delay.
- Clear records are kept of any enquiries or investigation findings which emerge about the circumstances of the safeguarding adults concerns.

- A written report of the findings is prepared and sent to the safeguarding adults team, which will form the basis of the organisation's input into the enquiry and safeguarding plan (on some occasions the local authority's Safeguarding Officer co-ordinating the enquiry may request a verbal report of findings and in addition this followed up in a written report).

## 9.5.7 Evaluate and Protect

Throughout adult safeguarding enquiry processes, information and risk should be evaluated regularly, and the interim plan 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 Local Authority will be in a position to decide what action is required in the adult's case.

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.

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 and strengths to protect themselves or the ability of strengths and 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.

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.

In some cases, evaluating the outcomes of enquiries and deciding what further 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 Local Authority to come to a decision about any further 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, or outcomes the person wants that could interfere with the rights and freedoms of others.



## 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 centred 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 part of 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?

### 9.5.8 Deciding what further action is required in the adult's case and concluding the adult safeguarding enquiry.

The adult safeguarding enquiry will conclude when the Local Authority has made a decision about:

- Whether any further 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 Local Authority will also make a decision about whether a safeguarding plan is required, or not.

A safeguarding plan may not always be required, including when a criminal or disciplinary process has not been completed 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.

Where a safeguarding plan is not 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, NMC, GMC, ongoing contract compliance or regulatory inspection/action.

A safeguarding plan will usually be required where the risk of abuse or neglect is, for example:

- Ongoing
- Complex
- Unstable

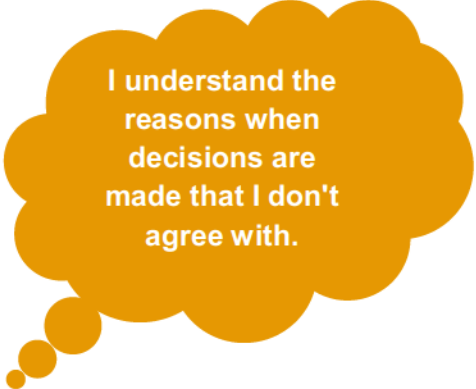
- Risk of harm to the adult or others is significant
- Other factors such as coercion, undue influence, or duress add to the complexity and uncertainty of the risk,
- and that the risk cannot be managed appropriately or adequately by other processes.

These types of situations will require a greater level of scrutiny and review, usually within a multi-agency context.

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.



I understand the reasons when decisions are made that I don't agree with.

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 10- Adult safeguarding plans**.

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.

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 was identified as the potential source of risk;
- Key partner agencies as outlined in Fig 9c on p69;
- Any other involved stakeholder agency/individual.

The consent of the adult to share information should be gained, and usual information sharing rules apply.

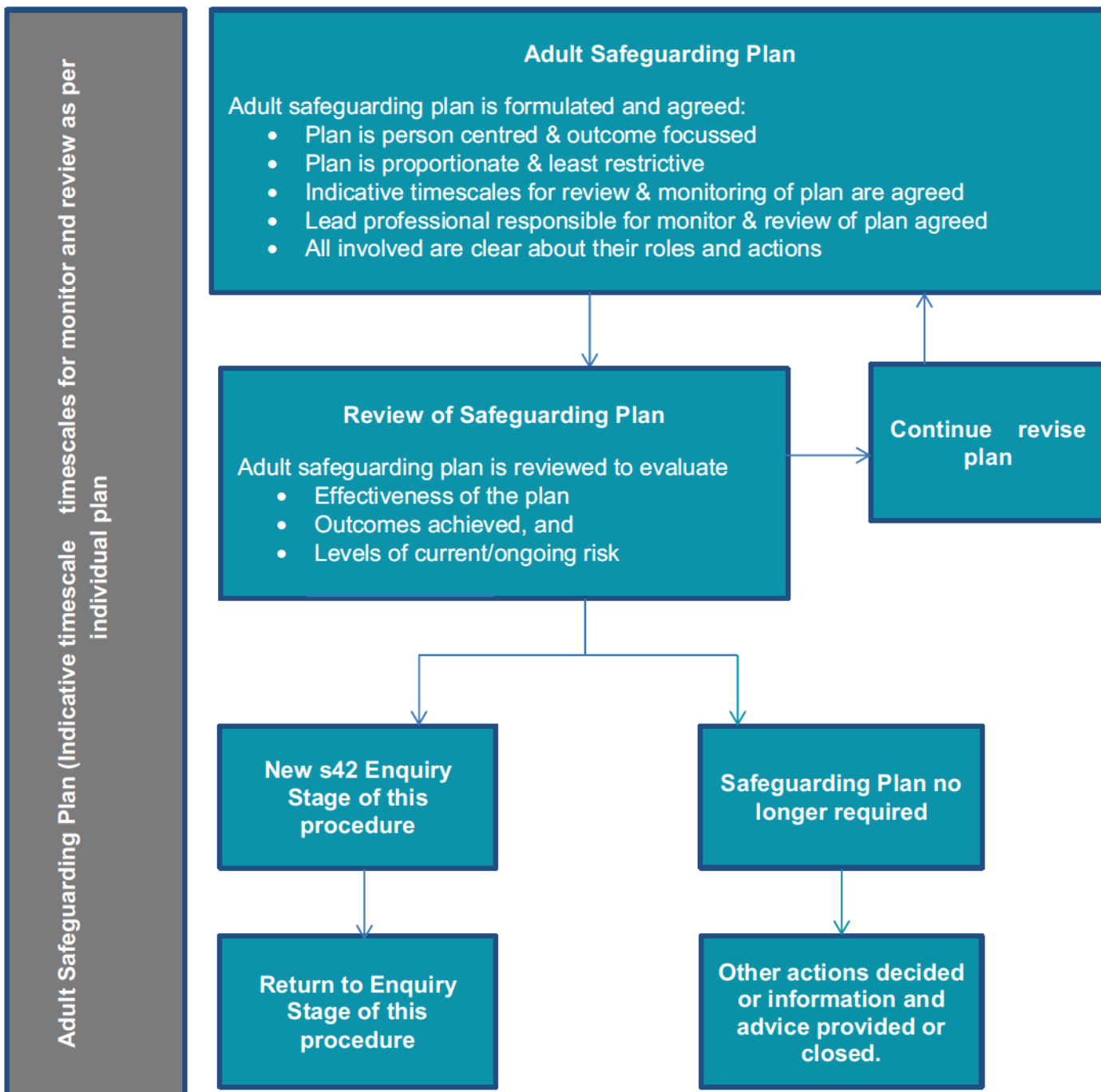
### **When other processes continue**

The safeguarding enquiry can be closed while other processes continue for example, a disciplinary or professional body investigation. It is also possible to close a safeguarding enquiry while awaiting the completion of a criminal investigation or the outcome of a court case. However this should only be done if a



robust safeguarding plan is in place, the adult is not at risk of further abuse or a safeguarding plan is not required because the adult is no longer at risk.

## 10 Adult Safeguarding Plans



### 10.1 Definition

An adult safeguarding plan is the agreed set of actions and services that are designed to support and manage ongoing risk of abuse or neglect for an adult with care and support needs.

### 10.2 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.

I understand the role of everyone involved in my life and so do they.

Adult safeguarding plans should be individual, person-centred and outcome-focused.

In relation to the adult this 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 (e.g. same gender care or placement);
- Appointment of an Office of the Public Guardian 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.



I am supported to get over bad experiences and to be safer in the future.

### 10.3 Organisation and Co-ordination of Safeguarding Plan

The Local Authority 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 Safeguarding Officer from the Local Authority.

The adult safeguarding plan should identify who is involved in the plan, and outline individual roles and responsibilities in relation to the plan. Organisations/partner agencies are responsible for contributing to the plan and implementing actions assigned to them.

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.

### 10.4 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.

**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.

### 10.5 Process

#### Formulating the plan

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.

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.

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.

As outlined previously, 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.

## **Good Practice Guide Positive risk taking and personalising choice and control**

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 and the strengths of the adult and their networks. 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 and control**

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.

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.

## 10.5.1 Interface between adult safeguarding plans and care and support plans

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.

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).

## 10.5.2 What sort of actions should be included in adult safeguarding plans

Adult safeguarding plans can cover a wide range of interventions and should be as innovative as is helpful for the adult. The 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 (e.g. same gender care or placement; appointment of an Office of the Public Guardian 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.

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.

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 - Examples of positive actions for adult safeguarding plans .

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).

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).

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).

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.

- Provision of care and support services to promote safety and wellbeing (e.g. homecare, telecare .
- Security measures e.g. door locks and entry devices, personal alarms, telephone or pager, CCTV.
- 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 .
- Flags on agency systems.
- Activities/personal development/awareness raising that increase a person's capacity to protect themselves
- Support or activities that increase self esteem and confidence.
- Advocacy services.
- Counselling and therapeutic support.
- Mediation or family group conferencing.

Actions to prevent further abuse or neglect by a person or an organisation.

- Reassessing and changing support provision for an adult with care & support needs who poses a risk of harm to other service user/s.
- Carrying out a carers assessment and providing services to decrease risk of harm
- Change of support services provided to an adult to decrease carer stress.
- Increased observation of and appropriate interventions to prevent harmful behaviour by other service users
- Meeting with an individual who poses a risk of harm, and negotiating changes to their behaviour.
- Family group conferencing to agree changes to behaviour that harms.
- Criminal prosecution.
- Enforcement action by CQC, including cancellation of registration
- Application for a Court Order e.g. restraining contact or an anti social behaviour order.
- Application to the Court of Protection to change/remove a Lasting Power of Attorney

<ul style="list-style-type: none"> <li>• Domestic abuse support services.</li> <li>• Restorative justice.</li> <li>• Circles of support.</li> <li>• Befriending.</li> <li>• Blocking nuisance calls or advice from Trading Standards.</li> <li>• Neighbourhood watch.</li> <li>• Application for Criminal Injuries Compensation</li> <li>• Appointeeship.</li> <li>• Application to the Court of Protection for single decision or court appointed deputy</li> <li>• Application to the High Court under inherent jurisdiction</li> <li>• Domestic abuse prevention orders, forced marriage prevention orders.</li> <li>• Civil injunctions.</li> <li>• Guardianship order under the Mental Health Act e.g. to require residence or require access be given</li> <li>• Support through the Criminal Justice system; Independent Domestic Violence Advocate (IDVA), ISVA, Intermediary Service.</li> <li>• Support to recover from crime and for advice on the criminal justice system Victim Support.</li> <li>• Support to make visual evidence for later use if decide to make criminal complaint Visual Evidence for Victims</li> </ul>	<ul style="list-style-type: none"> <li>• Application to the Department of Work and Pensions to change/ cancel Appointeeship.</li> <li>• Civil Law remedies e.g. suing for damages</li> <li>• Prosecution by Trading Standards</li> <li>• Referral to the relevant registration body (e.g. NMC, HCPC, GMC</li> <li>• Training needs assessment, supervision (of employee / volunteer) or disciplinary action following an internal investigation.</li> <li>• Organisational review e.g. of staffing levels, policies/procedures, working practices, or culture).</li> </ul>
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### 10.5.3 Monitoring and reviewing the plan

The identified lead professional or local authority Safeguarding Officer 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 Authority should lead the review of adult safeguarding plans.

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 Authority determines that new enquiries are necessary to enable it to decide what action is needed in the adult's case. If the Local Authority 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.

#### 10.5.4 Closing the adult safeguarding procedure

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 other processes, e.g. assessment and support planning processes, community policing responses, health service monitoring.

Decisions about concluding the adult safeguarding procedure should be made by, or in agreement with, the Local Authority be clearly recorded with the rationale for the decision.

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 that rose the adult safeguarding concern if appropriate.
- The person / agency that were identified as the potential source of risk.
- Key partner agencies as outlined in Fig 9c above.
- Any other involved stakeholder agency/individual.

The consent of the adult to share information should be gained, and usual information sharing rules apply.

## Appendix 1: Definitions

### 1.1 Adult(s) with Care and Support Needs

The adult safeguarding duties under the Care Act 2014 applies 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.

### 1.2 Abuse as defined by Care Act Guidance (2014)

- **Physical abuse** – including assault, hitting, slapping, pushing, misuse of medication, restraint or inappropriate physical sanctions.
- **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.
- **Psychological abuse** – including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.
- **Financial or material abuse** – including 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.
- **Modern slavery** – encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.
- **Discriminatory abuse** – including forms of harassment, slurs or similar treatment; because of race, gender and gender identity, age, disability, sexual orientation or religion.
- **Organisational abuse** – including neglect and poor care practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one's own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.
- **Neglect and acts of omission** – including ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, care and support or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating.
- **Self-neglect** – this covers a wide range of behaviour neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding.

Adult Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard in their views, wishes, feelings and beliefs in deciding on any action. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances Care Act Statutory Guidance (2014, p230).



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

- Psychological
- Physical
- Sexual
- Financial
- Emotional

Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour 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 definition includes so called 'honour' based violence, female genital mutilation FGM and forced marriage, and is clear that victims are not confined to one gender or ethnic group.' (Home Office 2013).

**Multi-Agency Risk Assessment Conference MARAC** In a single meeting, a domestic violence MARAC combines up to date risk information with a comprehensive assessment of a victim's needs and links those directly to the provision of appropriate services for all those involved in a domestic violence case: victim, children and perpetrator.

**Honour Based Violence** is a crime or incident, which has or may have been committed to protect or defend the honour of the family and/or community .

This definition is supported by further explanatory text:

"Honour Based Violence" is a fundamental abuse of Human Rights. There is no honour in the commission of murder, rape, and kidnap and the many other acts, behaviour and conduct which make up "violence in the name of so-called honour".

It is a collection of practices, which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour. Such violence can occur when perpetrators perceive that a relative has shamed the family and / or community by breaking their honour code.

Women are predominantly (but not exclusively) the victims of 'so called honour based violence', which is used to assert male power in order to control female autonomy and sexuality. Honour Based Violence can be distinguished from other forms of violence, as it is often committed with some degree of approval and/or collusion from family and/or community members (ACPO CPS, 2013).

**Forced Marriage** is a marriage conducted without the valid consent of one or both parties where duress is a factor. Forced marriage is a violation of human rights and is contrary to UK law (HM Gov, 2000).

A forced marriage is a marriage in which one or both spouses do not or in the case of some adults with learning or physical disabilities, cannot consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure. (HM Government 2008 .

**Female Genital Mutilation (FGM)** comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. It has no health benefits and harms girls and women in many ways. It involves removing and damaging healthy and normal female genital tissue, and hence interferes with the natural function of girls' and women's bodies. The practice causes severe pain and has several immediate and long-term health consequences, including difficulties in childbirth also causing dangers to the child (HMGov 2014).

**Mental Capacity** is the ability to make a decision. Capacity can vary over time and by the decision to be made. The inability to make a decision could be caused by a variety of permanent or temporary conditions,

for example, a stroke or brain injury, dementia, a mental health problem, a learning disability, confusion, drowsiness or unconsciousness because of an illness or the treatment for it; or due to alcohol or drug use/misuse.

**Multi-Agency Public Protection Arrangements (MAPPA)** . The Criminal Justice Act 2003 (“CJA 2003” provides for the establishment of Multi-Agency Public Protection Arrangements “MAPPA” in each of the 42 criminal justice areas in England and Wales. These are designed to protect the public, including previous victims of crime, from serious harm by sexual and violent offenders. They require the local criminal justice agencies and other bodies dealing with offenders to work together in partnership in dealing with these offenders (MoJ, 2012).

The term **Potentially Dangerous Person (PDP)** was introduced in the Association of Chief Police Officers (ACPO) Guidance, Protecting the Public: Managing Sexual Offenders and Violent Offenders ACPO Guidance, 2007 . For the purpose of this guidance, public protection was identified as ‘the policing function of reducing harm in the context of Multi-Agency Public Protection Arrangements (MAPPA) and through the identification, assessment and management of PDP’s who do not fall within MAPPA.’

The revised ACPO guidance (2010) has amended the definition for a Potentially Dangerous Person which is now as follows:

- A person who is not eligible for management under MAPPA but whose behaviour gives reasonable grounds for believing that there is a present likelihood of them committing an offence or offences that will cause serious harm.
- A present likelihood reflects imminence and that the potential event is more likely than not to happen.

**Serious harm** is defined in the Home Office (2002) Offender Assessment User Manual as ‘...a risk which is life-threatening and/or traumatic, and from which recovery, whether physical or psychological, can be expected to be difficult or impossible.’

There is no legislation that recognises the existence of PDPs and unlike offenders who fall within MAPPA there is no statutory multi-agency framework which governs the management of PDPs.

**Prevent** the Government’s counter-terrorism strategy is known as CONTEST. Prevent is part of CONTEST, and its aim is to stop people becoming terrorists or supporting terrorism. The strategy promotes collaboration and co-operation among public service organisations. The Office for Security and Counter Terrorism in the Home Office is responsible for providing strategic direction and governance on CONTEST.

CONTEST has four key principles:

- Pursue: to stop terrorist attacks
- Prevent: to stop people becoming terrorists or supporting terrorism
- Protect: to strengthen our protection against a terrorist attack
- Prepare: to mitigate the impact of a terrorist attack.

The aim of Prevent is to stop people from becoming terrorists or supporting terrorism. Three national objectives have been identified for the Prevent strategy:

- Objective 1: respond to the ideological challenge of terrorism and the threat we face from those who promote it
- Objective 2: prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support
- Objective 3: work with sectors and institutions where there are risks of radicalisation which we need to address.

Radicalisation refers to the process by which a person comes to support terrorism and forms of extremism leading to terrorism (HMGov, 2011).

Channel is a key element of the Prevent strategy. It is a multi-agency approach to protect people at risk from radicalisation. Channel uses existing collaboration between local authorities, statutory partners such as the education and health sectors, social services, children's and youth services and offender management services), the police and the local community to:

- Identify individuals at risk of being drawn into terrorism;
- Assess the nature and extent of that risk; and
- Develop the most appropriate support plan for the individuals concerned.

Channel is about safeguarding children and adults from being drawn into committing terrorist-related activity. It is about early intervention to protect and divert people away from the risk they face before illegality occurs (HMGov, 2012).

**Professional curiosity.** Building strong relationships with children, adults and their families, based on care and compassion, is crucial in promoting disclosure of abuse and to reducing environments where abuse and neglect exist. For this to occur there needs to be interest and curiosity into people's narratives, which needs to be part of the organisations and individual practitioner's mind sets. To work with families with compassion, but retain an open and questioning mind set, requires regular, challenging supervision and time for analysis and reflection of cases. People are more likely to make disclosures of abuse when they feel safe and listened to; sometimes this may only be a partial disclosure which requires professional curiosity to enquire further.

## Appendix 2: Other relevant legislation

### 2.1 The Human Rights Act 1998

Article 8.1 of the Act provides that:

'Everyone has the right to respect for his private and family life, his home and correspondence'.

This is a qualified right as Article 8.2 states:

'There shall be no interference by a public authority with the exercise of this right except in accordance with the law and as necessary in a democratic society in the interests of national security, public safety, or the economic wellbeing of the country, for the prevention of disorder or crime for the protection of health or morals or for the protection of the rights and freedoms of others'

### 2.2 Public Interest Disclosure Act 1998

The Act introduces the concept of 'protected disclosure'. This is a disclosure where the employee has the reasonable belief that one of the following is occurring:

- A criminal offence has or is likely to be committed
- A person has failed, is failing or is likely to fail to comply with any legal obligation
- A miscarriage of justice has occurred, is occurring or is likely to occur
- The health and safety of any individual has been, is being, or is likely to be endangered
- The environment has been, is being, or is likely to be damaged
- Information tending to show any matter falling within the any one of the above has been, is being, or likely to be deliberately concealed.

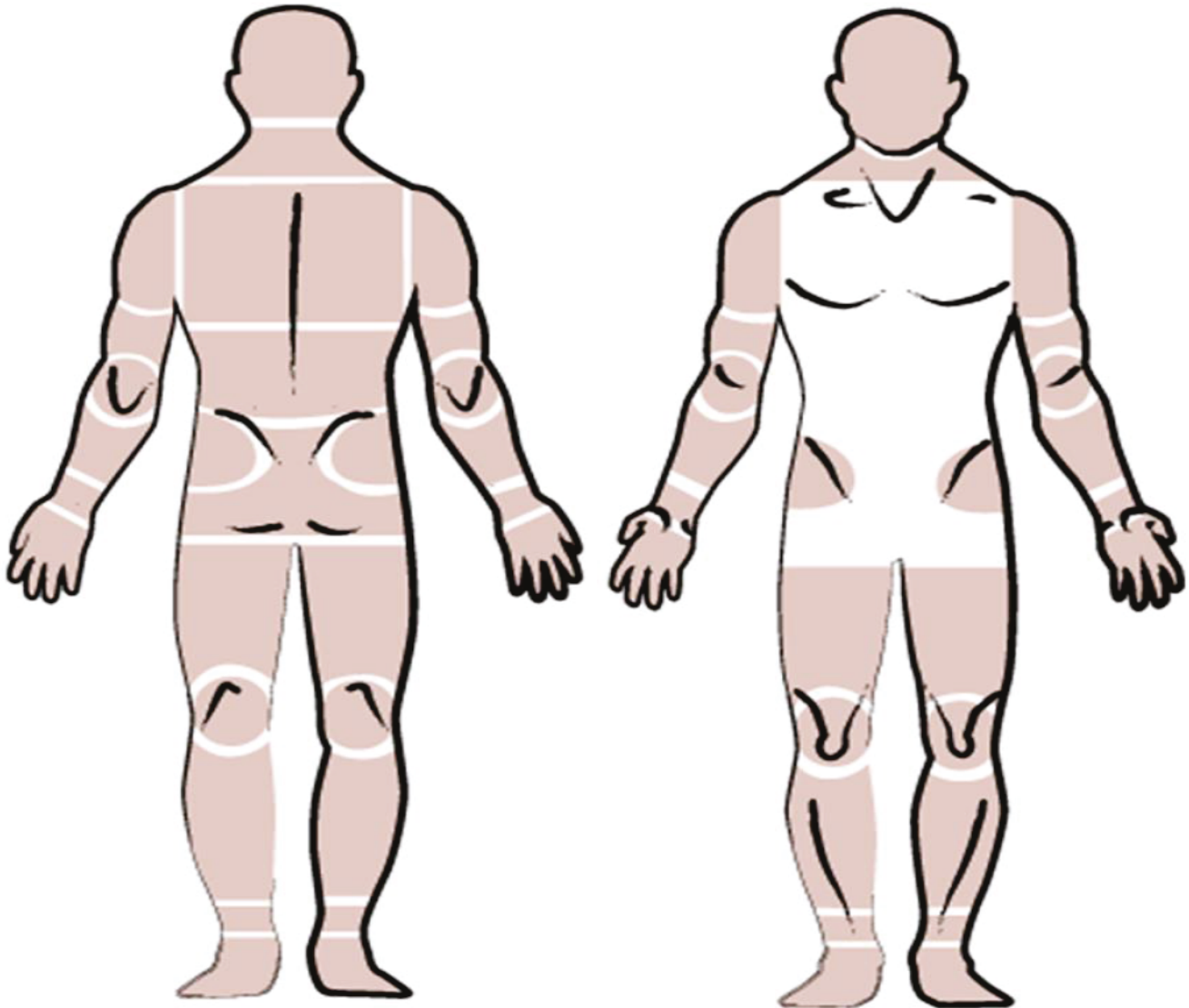
**Appendix 3: Body Map**

Individuals name: .....

DOB: .....

Site: .....

Room/Ward: .....



Signed: ..... (Person completing form)

Date: ..... Time: .....

## Appendix 4: Aide Memoire for Service Quality Concerns ([Click Here](#) for editable version)

If an incident does not meet the criteria for a safeguarding enquiry under Section 42 of the Care Act 2014, service quality issues must be challenged and other areas must be considered, recorded, resolved and monitored by the Provider.

Nature of the Incident: Person (s) Involved: Date: Name of person reviewing incident:	
Points for Consideration	Actions Taken
Complete a review of the care plan for those involved	
Complete a review of the relevant risk assessments	
Address any staff professional conduct concerns	
Address any professional boundaries	
Is a care assessment required	
Analyse staff competencies	
Address any identified training needs	
Provide supervision with relevant individuals	
Is there any internal disciplinary action to be taken	
Complete a review of relevant internal process	
Complete a review of any relevant policies and procedures	
Signpost to other agencies for additional support	
Notification to other agencies for further action if applicable	
Source further guidance	

Appendix 5: Lincolnshire Adult Safeguarding Concern Prompt Sheet ([Click Here](#) for editable version)

**Before completing the Safeguarding Concern form and submitting to the local authority the following is required to support the decision making:**

- **Is this an adult with care and support needs?**
- **AND as a result of those care and support needs the person is unable to protect themselves from either the risk of, or experience of abuse or neglect**
- **No care and support needs? Other procedures should be considered for example; Complaints, DASH, MARAC**

**What are your safeguarding concerns for this adult?**

- What are you worried about?
- Ensure the basic facts are established to avoid jumping to conclusions (Who, What, Where, When, How, Tell, Explain, Describe)
- You must talk with the person to establish their views, wishes and what they want to happen.
- Explain the concern and why you feel it is important to share information and any consequences for not sharing information.
- Talk through the options the person has and what they want to do about their situation.
- Determine if the person is able to weigh up choices and understand their potential consequences. If you don't know if the person has capacity you must consult with the person who knows them best to provide a view.
- What does information from records/files tell you about past incidents, concerns, patterns, risks and strengths?
- What actions have you or others taken to safeguard and support the person?
- Are there other adults or children involved or at risk? What are the risks to others?
- What are the needs for care and support and how do these prevent the adult from protecting themselves from either the risk of, or the experience of abuse and neglect?

**What resources/services are already in place?**

- Contact and talk with others (organisation, staff, family) where it is safe to and won't put the person at further risk
- What existing strengths and safety is already in place or could be accessed – for example your service, other services, family, friends, community?

**What needs to happen next?**

- What does the person (or their legal representative/family) want to happen?
- Does the person give consent to inform the local authority. Explain the reason for over-riding

their wishes and views or for not seeking consent.

- Should other procedures be used – complaints, poor practice concern, DASH, MARAC, referral to other agencies?
- What is the reason for referring to Adult Care now?
- What do you want agencies to do to decrease the safeguarding concern?
- What needs to change, how can this be done and who needs to do what to reduce risk and improve the wellbeing of adults.
- What can you or your agency/organisation do to reduce the risk?

## Details about the alleged person(s) posing a risk

- Relationship with person at risk e.g. spouse, friend, staff, family member, neighbour, part of a group/community network or residents
- Any immediate actions taken against them or to support them
- Any details from records/files about historic abuse involving the person alleged to be posing a risk

## Self-neglect and self-harm

Where the person is considered to have capacity they are entitled to refuse care, treatment and other health, social care or other agency recommendations. In these circumstances discuss with your organisation's safeguarding lead to consider an appropriate multi-agency co-ordinated approach.

If the person does not have capacity to weigh up choices and to understand their potential consequences of self-neglect then the law allows interventions to be made to protect them from risk.

## Share with consent and when to share if the person does not consent.

Be open and honest with the person (and/or their representative) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.

You may still share information without consent if, the adult, a child, or other adult is or may be at risk, the adult lacks mental capacity, there is a pattern of controlling, coercive or intimidating behaviour, a crime may have been committed, it is an emergency or life threatening situation, staff providing regulated activity are implicated, there is legal authority or court order for taking action without consent.

Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.



## [Appendix 6: Lincolnshire Safeguarding Adults Concern Form](#)

[Click here for Concern Form](#)

[Click here for Concern Form Guidance](#)

## Appendix 7: Enquiry planning meeting ([Click here](#) for editable version)

### Purpose of the planning meeting s)

A meeting is an inter-agency forum to share information and plan the process of the enquiry and any subsequent protection planning. This is a meeting of professionals to examine the information and evidence presented by the various agencies. This is a decision making forum in relation to the most appropriate way forward with the enquiry or other action outside of section 42.

This is the forum to:

- Assess the risk to individuals or groups
- Decide if an enquiry will be conducted
- Establish roles and responsibilities within the enquiry
- Decide which organisation will take the lead in the enquiry
- Develop safeguarding plans.

### The meeting will not provide any of the following:

Guidance on the initial stages of the enquiry process which should have been done in conjunction with your line manager. The enquiry should determine the outcomes, conclusion and the finding(s) shared through the appropriate channels. The meeting is not a vehicle to apportion blame.

### Timescale for planning meeting

If the networking process indicates that a meeting is required, then it should be called within five working days of the initial Safeguarding Concern received by the local authority. The reason for a longer timescale should be agreed and recorded at the initial meeting.

### Calling a planning meeting

Following the initial gathering of information there may be indicators to suggest that a formal meeting is required; this may include but is not exclusive to:

- Serious complex cases
- Multi-agency involvement with an individual
- Several agencies have concerns and the sharing and pooling of information is desirable
- Several individuals are or could be at risk
- There are indications that a number of safeguarding enquiries are being undertaken (or could be)
- The seriousness of the incident.

The Safeguarding Officer allocated to the safeguarding enquiry needs to give a list of those who should be invited to business support and the invitations will be made.

### Attendance at meetings

Attendance at meetings is mandatory. The question of who should attend meetings will depend on the nature of the allegation and who the alleged perpetrator is. It is good practice to include the adult and or their representative wherever possible. The manager and Safeguarding Officer responsible for the safeguarding enquiry will need to decide this on the basis of the information received from the networking process.

### Inviting provider agencies / commissioners

Thought must be given to the appropriateness of inviting provider agencies to meetings. It may not be appropriate to invite provider agencies to meetings if the organisation is implicated in any way with the issues of concern. Commissioners of service may need to be invited to the meeting.

## **Role of the chair**

The chair of the meeting has a number of significant roles to play in ensuring the aims and objectives of the meeting are met.

### **Before the meeting:**

- Familiarise themselves with the information
- Consider the need for a confidential slot
- Brief the minute taker of any difficult areas that may arise.

### **During the meeting, the chair should ensure the following:**

- Feedback information from previous related meetings
- Agenda is available
- Explain the purpose of the meeting and the remit the meeting is conducted under
- The confidentiality agreement has been stated
- Go through risk assessments and any reports
- Keep meeting focused and on track
- That a safeguarding plan is formulated
- Ensure wishes and feelings and outcomes which the adult wishes to achieve are integral to the enquiry
- Ensure all attendees are able to have a say
- Ensure the minute taker understands what is being said and is noting action points as appropriate.

## **Conflicts and disagreements**

Safeguarding is a collaborative process and agreement is normally reached through effective communication and open dialogue between organisations. If conflict or disagreement does occur this needs to be recorded in the minutes. Decisions should not be made by a voting process. The chair may need to consider legal advice when reaching decision. In the event that a consensus cannot be reached the chair will make a decision on the evidence presented, giving a clear rationale for the decision which will be documented. Decision making must be measured against information and evidence presented the legal framework and the duty of care.

## **Agenda for meetings**

An agenda for issues to be discussed at the meeting can be found in the appendices of this document. (See appendix 8 agenda for planning meetings.)

## **Record of meeting**

The meetings will be recorded and minutes will be sent out to participants within ten working days.

**Appendix 8: Enquiry planning meeting Agenda** [Click here for editable version](#)

Safeguarding Adults Planning Meeting	
<p>Agenda</p> <p>This meeting is being called under the LSAB Safeguarding Adults Procedure. Its purpose is to share information and plan the most appropriate proportionate and appropriate way forward.</p>	
No.	Item
1.	N.B Circulation of any reports should be prior to the meeting so full consideration can be given
2.	Introduction/apologies
3.	<p><b>Outline Purpose of Safeguarding Adults Planning Meeting which will be to :</b></p> <ul style="list-style-type: none"> <li>a) Ensure the Adult at Risk of harms wishes/desired outcomes have been gathered</li> <li>b) Discuss the concern</li> <li>c) Discuss whether the concern can be managed/resolved and exit Safeguarding procedures - if so, ensure desired outcomes/wishes have been met.</li> <li>d) Formulate a multi-disciplinary plan for a Section 42 Enquiry. Assess risk and any protection issues</li> <li>e) Determine and reach an agreement as to how the Enquiry will be carried out</li> <li>f) Ensure the Adult at Risk is engaged and informed/involved throughout the Enquiry.</li> <li>g) Determine how desired outcomes/wishes of the Adult at Risk of Harm will be met.</li> </ul>
4.	<b>State and check Details of Person (s) the meeting is in relation to.</b>
5.	<b>Minutes of last Meeting where applicable</b>
6.	<p><b>Details of concern/disclosure:</b></p> <ul style="list-style-type: none"> <li>a) <b>source of referral, time date, action to date</b></li> <li>b) <b>contact with the Adult at Risk and others, any safety or medical interventions</b></li> <li>c) <b>update from previous meeting were applicable</b></li> </ul>
7.	<p><b>Views of the Adult at Risk of Harm including consent and limitations on information sharing:</b></p> <ul style="list-style-type: none"> <li>• Has the consent of the person been sought? If not, or the person has refused to give consent state the reasons for overriding the wishes of the person</li> <li>• Has the Adult at Risk got mental capacity – is their ability specific to the decision that needs to be made?</li> <li>• If unsure what action will need to be taken to establish this</li> <li>• What does the Adult at Risk want to happen?</li> <li>• Is an Independent Advocate required?</li> </ul>
8.	<p><b>Information from agencies:</b></p> <ul style="list-style-type: none"> <li>• Have the police been contacted for intelligence if not present at the meeting. Please give</li> </ul>

	<p>details.</p> <ul style="list-style-type: none"> <li>• Are there other agencies we need to contact for information – please list.</li> <li>• Outline and Consider feedback from other agencies not present.</li> </ul>
9.	<p><b>Have any interim measures/plans/actions taken for immediate safeguarding of Adult at Risk or Others? Please give Details:-</b></p>
10.	<p><b>Are the Health &amp; Safety risks to staff?</b></p>
11.	<p><b>Are there other considerations that are needed:</b></p> <ul style="list-style-type: none"> <li>• Disciplinary, criminal, regulatory, case management, assessment of need etc.</li> <li>• Do we need to involve any specialist staff e.g. communication specialists.</li> </ul>
12.	<p><b>Decision:</b>  <b>s42 Enquiry</b>  <b>Police investigation only</b>  <b>Non statutory enquiry (adult does not have care and support needs)</b>  <b>No s42 Enquiry and exit safeguarding procedures</b></p>

**13. Actions from the Planning Meeting**  
 If Section 42 enquiry is to be undertaken confirm which agency will take the lead and the name of the local authority Safeguarding Officer.

Action	Agency	Who	When/Complete

14.	<b>Agree if and what information needs to be shared and with who. Consider who is taking responsibility for the sharing of any particular information, when and with who.</b>
15.	<b>Consider whether a further planning meeting is required and In what circumstances might a further Planning Meeting need convening.</b>
16.	<b>Consider date for the s42 enquiry Outcome meeting OR Give Reasons to exit Safeguarding Adult procedures.</b>

## Version Control

Version	Author	Date	Changes	Source
7.1	Michelle Morris	11.09.2018	<ul style="list-style-type: none"> <li>- pg 77: appendix 4 added a hyperlink to the document in a Word version</li> <li>- pg 78: appendix 5 added a hyperlink to the document in a Word version</li> <li>- pg 80: appendix 6 added a hyperlink to new LCC Adult Safeguarding Concern form and guidance</li> <li>- pg 81: appendix 7 added a hyperlink to the document in a Word version</li> <li>- pg 83: appendix 8 added a hyperlink to the document in a Word version</li> <li>- Version Control table added</li> </ul>	Changes made as a result from feedback from practitioners from LSAB training.